Public Health Act

Principal Act

Act. No. 1950-07

Commencement 1.4.1950
Assent 30.3.1950

Amending enactments	Relevant current provisions	Commencement date
Acts 1951-02	s. 287	
1954-18	s. 265(2)	
1955-07	s. 279	
1955-20	–	
1955-21	–	
1956-12	s. 1	
1957-06	ss. 2, 26, 55, 81, 153, 178(1), 236(1), 169	
1958-07	s. 279	
1959-11	s. 294	
1960-15	s. 303(1)	
1961-12	ss.19(1), 20(4), 24(3), 25(2), 26(3), 27(5), 28(3), 30(2), 36(1), 40(2), 58-60, 77(4), 82(2), 236(4), 255(2), 262(2), 284, 287(3), 293(6), 302(1), 302(1), 303(2)-(3), 306(2), 330	
1961-16	s. 143	
1961-21	–	
1963-03	s. 211(1)	
1963-19	–	
1964-07	–	
1964-13	s. 269	
1965-07	ss. 214, 250(2), 266(1)	
1965-30	s. 280	
1966-07	s. 218	
1967-12	–	
1968-04	ss. 214, 216, 280(10)	
1968-21	s. 294	
Order of 14.10.1969 25.11.1969 Regs. of 28.5.1970		
Acts 1971-02	s. 282	
1972-05	ss.13(12), 21(3), 25(3), 29(2), 30(3), 31(2), 32, 33(6), 37(4), 38(1), 39(2), 40(4), 41(2), 42(2), 43(2), 55(2), 61(3), 65(2), 66(3), 72(2), 77(1), 78(2), 83(2), 84(1), 94, 111, 124, 126(1), 127, 128(1), 129, 130(1), 131(2), 141, 143(4), 144(2),	

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	147, 154(2), 156(1), 157, 158(1), 159(3), 160(4), 163(3), 164, 165, 170(3), 173(4), 174(2), 190, 207, 233, 253(2), 254(2), 257, 259(2), 261(2)-(3), 263(3), 314, 321, 322(2), 330(6)	
1973-08	–	
1973-18	s. 242	
1974-04	s. 258	
1975-17	ss. 100(2), 103-109, 112(1), 116-117, 119-121, 124, 218, 258, 337	
1976-19	–	
1976-20	ss. 273, 275, 282(1), 294(1), (4)-(5), 295, 297(2)	
1977-03	ss. 113(3), 117(2), (4), 120(3), 271(1)-(2), 272(3), Schs. 1-3	
1977-14	–	
1977-28	s. 287(1)	
1978-13	–	
1978-19	–	
1979-05	–	
1980-06	–	
1981-07	Sch. 1	
1981-08	ss. 117(5)-(6), 277, 318(2)	
1981-10	s. 218(1), (4)-(5)	
1981-23	ss. 67-69, 71, 258	
1981-26	Sch. 1	
1982-10	Sch. 1	
1983-01	s. 218(5)	
1983-12	ss. 56(2), 57(1), 66(1), 83(1), (3), 145, 241, 265(2), 319	
1983-19	–	
1983-32	–	
1985-03	s. 280	24.1.1985
1985-04	Sch. 2	1.4.1985
1985-14	s. 294, Sch. 4	26.4.1985
"	s. 272(5)	1.7.1985
1986-08	s. 279	1.5.1986
"	Sch. 1	1.6.1986
1987-09	ss. 301A, 302, 302A, 303(5), 306(2)	19.2.1987
"	ss. 272(4) and 297(1A)	1.4.1987
1987-34	ss. 2, 72-74, 87, 144, 149-152, 155-158, 160, 162-163, 167-168, 168, 173(3), 174, 178(1), (1A), 182-185, 187-188, 190, 193-195, 197-204, 223-226, 228-230, 235,	1.2.1988
"	s. 178(1), (1A), (2)	31.3.1988
1988-07	ss. 110, 213A	23.6.1988

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"	s. 272(3)	1.7.1988
1988-36	ss. 117(2), 271(1), 272A, 275, 289(2)-(3), 291(2), 294(4), 297(1), (1A), 300(1)	15.12.1988
1989-21	s. 218(1)(b)	1.7.1989
1989-37	s. 48(5)	21.12.1989
1990-11	ss. 271(3), 273(1)-(2), (3)(a)-(b), (3)(d)-(f), (6), 279(j), 282(1), 294(4)	1.3.1990
1990-31	ss. 60(1), 67(1)-(2), 69(1)-(2), 258(a)-(c)	9.8.1990
1990-32	ss. 2, 4, 269(b), 271(4), 279(i), 293(3), 301A(1)(a)-(b), 308(1)-(2), 314, 316(1), 317(1)-(2), 320(1)-(3), (7)	1.11.1990
1991-07	ss. 8(3), 13(2), 15(5), 16(1), 21(3), 25(3), 29(2), 30(3), 31(2), 32(a)-(b), 33(5)-(6), 35, 37(4), 38(1), 39, 40(4), 41, 42(3), 43, 54-55, 61(3), 65(2), 66-67, 69, 71-72, 77(1), 78(2), 83(3), 84, 92, 94(1)-(3), 97(1), 107(4), 111(1)-(2), 112(1)(f), 117(1), 124, 126(1), 127(1)-(3), 128(1), 129, 130(1), 131(2), 141, 143(4), 144(2), 147-148, 149(2), 150(2), 151(4) 152(4), 153(3), 154(2), 155(4), 156(1), 157(1)-(3), 158(1), 159(3), 160(4), 163(3), 164-165, 170(3), 173(4), 174(2), 190, 220, 233, 253(2), 254(2), 257-258, 259(2), 261(2)-(3), 263(3), 288, 304(3), (5), 308(3), 309(1)-(3), 310(3), 314, 320(5), 321, 322(2), 330(6)(b), 337(b)-(d)	4.4.1991
1993-24	ss. 117(3), 272A(5)-(6)	9.12.1993
LN. 1994/115	ss. 95A-95H, 95J-95N, 95P, Schs. 4-11	27.10.1994
1994/129	Sch. 7	27.10.1994
1994/125	ss. 99(1)-(4), 110(1)-(7), 111(1), 114	17.11.1994
1994/132	Sch. 4A	1.12.1994
1994/122	ss. 2, 12, 13(1)(b), (3)(c), (4), 94(1)(b)-(c), (5), (7), 95(3)	3.12.1994
1995/003	Sch. 1	1.2.1995
1995/008	ss. 69(1)(b)-(c), 70(f)-(g)	18.2.1995
1995/092	ss. 98A-98S.	15.6.1995
1991-12	ss. 42(1), 45(2)(b)-(c)	17.8.1995
1995/117	ss. 192A-192H, 192J-192N, 192P-192W, Schs. 12-17	1.9.1995
1995/154	ss. 180A-180H, 180J-180N, 180P- 180X	8.1.1996
1996/020	ss. 5(1)-(3), 13(1)	1.3.1996
Act. 1997-02	ss. 192A, 192B(1), (2)(bb), (4), 192D(2)(c), 192KA-192KB, 192L(aa), 192M(2)(e), 320(1)(aa), Sch.11A	1.6.1997
1997-03	ss. 93A-93F, Schs. 5A-5G	1.6.1997

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1997-30	ss. 270, 277A, 289	1.7.1997
1997-25	ss. 2, 144, 149-150, 162-163, 168, 173(3), 174, 196, 203, 229-230.	21.8.1997
1997-30	ss. 271(4), 279(i),293(3)	1.7.1998
1998-32	ss. 192A, 192B(bbb), 192D(2)(d), 192JA.	13.8.1998
1999-02	Sch. 12	25.3.1999
1999-11	s. 250(4).	6.5.1999
1999-24	Sch. 3	1.7.1999
2000-12	ss. 192A, 192B(2), 192J(1), 192J(3)-(4), 192L(2)-(6).	28.9.2000
2000-11	ss. 95A-95P, Sch. 4A, 5-11.	30.11.2000
2001-19	ss. 99(1)-(2), 110(1), (3), (5), 111(1).	6.6.2001
2002-17	ss. 192B(3)(b), 192D(8), 192E(2)(a), 192E(8), 192F(1)-(2), 192KA(2), 192KB(1), (5)-(7), 192L(1)-(2). Schs. 12-13.	20.2.2003
2003-18	ss. 93A-93F.	1.8.2003
2003-20	ss. 192(B)(bbb), 192B(2)(d), 192JA.	1.8.2003
2004-10	s. 192KA(1)-(3), (5), (7)-(9), Sch. 11A	7.6.2004
2005-02	ss. 113(3), 117(2), Schs. 1-2	17.3.2005
2005-54	s. 279(k)	1.7.2005
"	s. 277A	1.10.2005
2005-71	s. 192M(2A)-(2E)	22.12.2005
2006-09	ss. 95A(1), 95B(3)(c)-(e), 95D(1), 95E(3A), (4)(b)(iii), (ba), 95F(8A)-(8B), 95G(1), (2), (3)(b), 95H(2)(c)-(d), (3), 95J(1), 95M(1) Schs. 6-9	20.4.2006
2007-23	ss. 117(7), 272(5), 277A	1.7.2006
2006-27	s. 95S(1)	9.11.2006
2007-23	Sch. 3	1.1.2007
2007-17	ss. 242-243, 271(3), 272(1)-(2), (4), 273(3), (7), 274(1)-(2), 275, 277(6), 282(1), 284(2)-(3), 289(1), (3), 293(4)-(6), 294(4), 296, 297(1), (3), 298(1), 299(1)-(3), 300(1), 301(1), 302(4), 302A(2), (5), 303(1)-(5), 308(4)	14.6.2007
2007-23	s. 19(1)(b)	28.6.2007
2009-36	s. 277A	1.7.2009
LN. 2010/092	s. 76(1)(b)	13.5.2010
Act. 2010-19	s. 277A(a)-(c), Sch. 3	1.7.2010
LN. 2011/052	ss. 192A, 192B(2)(bb), (e), (3), (3A), 192BA, 192C(3a) (aa)-(ac), (4)(a)-(d), 192D(2)(a)(ii), (1A), (2)(c)(iii), (iv), (3), (6), (6A), (8)(a)-(d), (9)-(10), 192DA, 192E(2), 192G-192H, 192KA(8). (8A)-(8B), 192KB-192KC, 192L, 192M(1), (1A)-(1C), (2)-(3), 192MA-192MC, 192U, 192W(1),	

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	(3), 192X-192Y, Schs. 11A-11B, 12-14, 14A-14C, 15	12.4.2011
Act. 2011-10	ss. 2, 36(2), 44-45, 47, 48(5)(a), 52, 54, 62(2), 63(1), 70, 76(2), 85(1)(a), 93(1), 94(1)(c), 95(1)-(3), 98C, 140(1), 143(3), 146, 152,(1), (5), 161, 174(1), 180, 192(5), 192J(5), 192N(1), 192W(1), 208(1), 211(1), 213, 213A, 214(1), 218(1), 219(1), 227, 236(1), 237(4), 238-239, 241-245, 264, 265(2)-(3), 269(a), 279(k), 290(1), (4), 305(1), 316(2), 319, 320(7), 323(3), 336, 337, (d), Sch. 5G	2.6.2011[1]
2012-07	s. 277A(b)	1.7.2011
LN. 2011/147	s. 329A	22.9.2011
2011/171	s. 192B(3)(a)	29.9.2011
2011/212	ss. 98A-98ZX, Schs. 19-21	27.10.2011
2011/213	ss. 192A, 192C-192D, 192JB-192JD, 192K, 192P, Schs. 16-17	27.10.2011
2011/226	ss. 98A, 98M(1), 98PA-98PB	3.11.2011
LN. 2013/010	s. 98A(1)	31.1.2012
Act. 2013-06	ss. 277A(b)-(c), 277C	1.7.2012
2012-07	s. 277B	1.10.2012
2013-06	ss. 277B(1)(a), (2)	1.10.2012
LN. 2013/042	ss. 192A(1), 192B(2)(bbb), 192D(11), Schs. 5A-5G	28.2.2013
2014/008	Sch. 6	15.2.2014
Act. 2014-18	ss. 269	12.6.2014
2014-27	s. 252A	23.10.2014
LN. 2015/078	ss. 95A(1), (3), (4), (7), 95B(1), (3), 95D, 95DA, 95E-95F, 95G(2), 95H, 95I(1)-(2), 95L(1), 95M, 95N(2), (4), 95O(3)(a)-(b), 95R(2A), (3), (3A)-(3B), (4), 95T-95U, Schs. 6, 8-10, 10A-10B, 11	1.6.2015
2015/204	ss. 99(1), 110A	12.11.2015
2016/098	Sch. 13	31.7.2016
Act. 2017-01	ss. 39(1), 192A(1), 192C(3)(a), 192D(2)(a)(iv), (2)(d), (4)(e), (f)(ii), (g), (6A), (7A), (8), (11), 192E(1A), (6), (6A), (9), 192JA, 192KB(4),(7), 192KC(2), 192P, 192Q(3), (5A)-(5C), (6), (7)(b)	23.2.2017
2018-14	ss. 273(3)(b), 279(j)	16.8.2018
2019-15	ss. 95QA, 95S(1)	10.6.2019
2018-19	ss. 192V(b), 273(4)	26.9.2019
LN. 2020/226	ss. 192A(1)-(3), 192B(3)(g)(v), 192BA(1)-(2), (2A)-(2B), (3)-(4), 192(3)(ab)-(ae), (4)(a)-(c),	

[1] *Commencement Notice LN. 2011/076*

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	192KC(3), 192L(1), (a), (aa), 192M(1B)(b)-(c), (ca)-(cb), (f)-(g), (2), 192MA(1)-(4), 192MC, 192W, Schs. 11B-11C, 13, 14A-14C	18.6.2020
2019/216	ss. 98D-98F, 98H-98J, 98M(1), 98N(1), 98O, 98PA(2)-(3), 98PB(1)(a), 98Q, 98R(1), 98U(1), 98W(1)-(2), 98X(1)(a)-(b), (2), 98Z(1)(a), (2), 98ZA(1)(a), 98ZB(1)(a), 98ZC(1), 98ZX, Sch. 19	1.1.2021
2020/531	ss. 192A(1), 192B(3)(g), 192BA(2)-(3), 192C(3)(c)(i), 192DA(5), 192JC(1), 192JD(1)-(3), 192KA(8), (8A), 192M(1B)(b), 192U, 192W(1), 192X-192Y	1.1.2021
Act. 2021-20	ss. 92A, 93(3), Sch. 21	30.7.2021
2023-11	s. 218(3)	15.1.2024
2024-17	ss. 180A-180X	23.12.2024
2024-29	ss. 95A-95U, Schs. 6-11	23.12.2024
LN. 2026/162	ss. 98A(1)-(2), 98AB, 98B(3), 98DA-98DB, 98I(3)(a), (4), 98J, 98K, 98KA, 98L(b)-(c), 98LA, 98M(2)(e)(i), (4)-(5), 98N(3)-(4), 98O, 98P(2)(a)-(c), 98PA(1)-(2), 98PAA-98PAB, 98S(c)-(e), 98T, 98U(3), 98W(3), 98X(3), 98Y(3), 98YA, 98ZE(2)(a), (e), (g), 98ZF(2)(a)-(b), 98ZG(2)(a)-(c), 98ZH(2), 98ZI(2)(b)-(d), 98ZK(b), 98ZL(2)(a), (c), 98ZLA-98ZLC, 98ZN(a)-(c), Sch. 20-21	15.7.2026
2026/173	s. 98ZX(b)	15.7.2026

Power to depute:
The power to depute conferred by s.41 of the Interpretation and General Clauses Act has been extended to the Accountant General in relation to the Public Health Act.

English sources:
Waterworks Clauses Act 1847 (10 & 11 Vict. c.17)
Towns Improvement Clauses Act 1847 (10 & 11 Vict. c.34)
Poor Rate Assessment and Collection Act 1869 (32 & 33 Vict. c.41)
Public Health Act 1875 (38 & 39 Vict. c.55)
Public Health Acts Amendment Act 1890 (53 & 54 Vict. c.59)
Public Health (London) Act 1891 (54 & 55 Vict. c.76)
Public Health Acts Amendment Act 1907 (7 Edw.7 c.53)
Venereal Diseases Act 1917 (7 & 8 Geo.5 c.21)
Public Health Act 1925 (15 & 16 Geo.5 c.71)
Rating and Valuation Act 1925 (15 & 16 Geo.5 c.90)
Road Traffic Act 1930 (20 & 21 Geo.5 c.43)
Public Health Act 1836 (26 Geo.5 & 1 Edw.8 c.49)
Housing Act 1936 (26 Geo.5 & 1 Edw.8 c.51)

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Water Act 1945 (8 & 9 Geo.6 c.42)
Local Government Act 1948 (11 & 12 Geo.6 c.26)
Veterinary Surgeons Act 1959 (11 & 12 Geo.6 c.52)
National Assistance Act 1959 (7 & 8 Eliz.2 c.52)
Noise Abatement Act 1960 (8 & 9 Eliz.2 c.68)
Public Health Act 1961 (9 & 10 Eliz.2 c.64)

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Transposing:

Directive 67/548/EEC
Directive 75/439/EEC
Directive 75/442/EEC
Directive 75/716/EEC
Directive 76/464/EEC
Directive 78/319/EEC
Directive 78/631/EEC
Directive 79/831/EEC
Directive 80/68/EEC
Directive 80/778/EEC
Directive 80/876/EEC
Directive 85/337/EEC
Directive 87/101/EEC
Directive 88/379/EEC
Directive 89/369/EEC
Directive 89/429/EEC
Directive 90/219/EEC
Directive 90/220/EEC
Directive 91/156/EEC
Directive 91/l57/EEC
Directive 91/271/EEC
Directive 91/689/EEC
Directive 91/692/EEC
Directive 93/86/EEC
Directive 94/15/EEC
Directive 94/31/EC
Directive 94/51/EEC
Directive 94/67/EC
Directive 96/59/EC
Directive 96/61/EC
Directive 96/82/EC
Directive 98/83/EC
Directive 1999/45/EC
Directive 2000/60/EC
Directive 2000/76/EC
Directive 2001/80/EC
Directive 2003/35/EC
Directive 2003/105/EC
Directive 2004/35/EC
Directive 2004/113/EC
Directive 2006/12/EC
Directive 2006/66/EC

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Directive 2008/1/EC
Directive 2008/99/EC
Directive 2009/31/EC
Directive 2012/18/EU
Directive 2015/1127/EU
Directive (EU) 2018/851

Implementing:
Regulation (EC) No 1013/2006
Regulation (EC) No. 1418/2007

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ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.

PART I.
SANITATION AND BUILDINGS.

General.

3. Interpretation of Part I.
4. Exemption of Government from scavenging and cleansing duties, etc., in Upper Rock.

Sewerage and sewage disposal.

5. General duty of Government to provide for sewerage.
6. Provision of public sewers and sewage disposal works.
7. Power of Government to agree to adopt sewer or drain or sewage disposal works at future date.
8. Power of Government to require proposed sewer or drain to be so constructed as to form part of general system.
9. Power of Government to alter, or close, public sewers.
10. General duty of Government to maintain public sewers.
11. Buildings not to be erected without consent over sewer or drain shown on deposited map.
12. Government to afford facilities for manufacturing premises to drain into public sewers.
13. Certain matters not to be passed into public sewers.
14. Duty of Government to keep map showing public sewers, etc.

Private sewers and drains and cesspools.

15. Right of owners and occupiers to drain into public sewers.
16. Right of Government to undertake the making of communications with public sewers.
17. New buildings to be provided with any necessary drains, etc.
18. Drainage of buildings in combination.
19. Provisions as to drainage, etc., of existing buildings.
20. Provisions as to soil pipes and ventilating shafts.
21. Notice to be given of intention to repair, reconstruct or alter underground drains.
22. Power of Government to alter drainage system of premises.

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Sanitary conveniences for buildings.

23. Closet accommodation to be provided for new buildings
24. Buildings having insufficient closet accommodation or closets so defective as to require reconstruction.
25. Buildings having defective closets capable of repair.
26. Sanitary conveniences in buildings used as workplaces.
27. Replacement of earthclosets, etc., by waterclosets at joint expense of owner and Government.

Supplemental provisions as to drains, sanitary conveniences, cesspools, etc.

28. Power of Government to examine and test drains, etc., believed to be defective.
29. Rooms over closets of certain types, or over ashpits, etc., not to be used as living, sleeping or workrooms.
30. Overflowing and leaking cesspools.
31. Care of closets.
32. Care of sanitary conveniences used in common.

Provisions with respect to buildings.

33. Special provisions as to buildings constructed of materials, which are short-lived, or otherwise unsuitable for use in permanent buildings.
34. Power to prohibit erection of buildings on ground filled up with offensive material.
35. Means of access to houses for removal of refuse, etc.
36. Yards and passages to be paved and drained.
37. Entrances to yards not to be closed or narrowed and goods not to be stored in yards, etc.
38. Owners to place gutters to eaves of houses or buildings.
39. Dangerous or dilapidated buildings and structures.
40. Exits, entrances, etc., in the case of certain public, and other buildings.
41. Safety of platforms, etc., erected or used on public occasions.
42. Hoards to be put up during progress of buildings, etc.
43. Houses to be numbered and names of streets exhibited.

Rules with respect to buildings and sanitation.

44. Rules for the construction of buildings.
45. Rules as to buildings and sanitation.
46. Application of certain rules to existing buildings.
47. Power of Government to relax requirements of rules.
48. Passing or rejection of plans, and power to retain plans, etc.

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49. Power to require removal or alteration of work not in conformity with rules, or executed notwithstanding rejection of plans, etc.
50. Deposit of plans to be of no effect after certain interval.
51. Determination of question by the magistrates' court.
52. Temporary operation of building rules.
53. Exemption of certain buildings from building rules.
54. Buildings, etc., not to be erected without Governor's consent.
55. Restriction on the letting of new buildings.

Removal of refuse, scavenging, keeping of animals, etc.

56. Removal of house refuse, cleansing of ashpits, etc.
57. Removal of trade refuse and other matters.
58. Power to provide dustbins.
59. Obligation to provide dustbins.
60. Refuse storage accommodation.
61. Provisions as to deposit and disposal of refuse, and for prohibiting interference with dustbins and refuse tips.
62. Sweeping and watering of streets.
63. Scavenging of common courts and passages.
64. Power to require removal of noxious matter by occupier of premises.
65. Removal of manure, etc., from stables, etc.
66. Power of Government to remove manure, and charges therefor.
67. Damaging neighbourhood amenities.
68. Preservation of neighbourhood amenities.
69. Unauthorized dumping.
70. Rules for controlling certain nuisances.
71. Penalties.

Filthy or verminous premises or articles, and verminous persons.

72. Cleansing of filthy or verminous premises.
73. Cleansing or destruction of filthy or verminous articles.
74. Cleansing of verminous persons and their clothing.
75. Provision of cleansing stations.

Public sanitary conveniences.

76. Provision of public conveniences.
77. Control over conveniences in, or accessible from, streets.
78. Power to require sanitary conveniences to be provided at inns, refreshment houses, etc.

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PART II.
NUISANCES AND OFFENSIVE TRADES AND TRADES LIKELY TO GIVE RISE TO MAJOR ACCIDENT HAZARDS.

Interpretation.

79. Interpretation of Part II.

General duty of the Government.

80. Duty of Government to cause inspection for detection of nuisances.

Nuisances which may be dealt with summarily.

81. Statutory nuisances.
82. Service of abatement notice.
83. Power of court to make nuisance order if abatement notice disregarded.
84. Penalty for contravention of nuisance order, and abatement of nuisance by the Government.
85. Costs of Government in abating, or preventing recurrence of, nuisance.
86. Proceedings where nuisance caused by acts or default of more than one person.
87. Identifying marks on tubs, barrels, etc.
88. Power of individual to make complaint as to statutory nuisance.
89. Government may take proceedings in Supreme Court for abatement of statutory nuisance.

Smoke nuisances.

90. Smoke nuisances.
91. Notice to occupier of existence of smoke nuisance.
92. Procedure with respect to smoke nuisances.
92A. Emission of dark smoke from vessels.
93. Rules as to smoke.

Large combustion plants.

93A to 93F *Repealed.*

Offensive trades.

94. Restriction on establishment of offensive trade.
95. Rules as to certain trades.

Noise.

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96. Noise or vibration nuisance.
97. Restriction of operation on highways, etc., of loudspeakers.
98. Saving for rules.

PART IIB - Transfrontier Shipment of Waste

Introduction

98A. Interpretation of Part IIB.
98AB. Meaning of the 2024 Regulation.
98B. Scope of this Part.
98C. Meaning of transport and person who transports waste.
98D. Competent authorities of despatch and destination.
98DA. Competent authority: additional functions.
98DB. Designation of correspondents.
98E. Correspondent authority of transit.
98F. *Repealed*.
98G. Notices.
98H. *Repealed*.

Gibraltar Plans for Shipments of Waste

98I. Gibraltar Plan for Shipments of Waste: continuation and changes.
98J. Objections to shipments of waste.

General requirements for shipment of waste

98K. Environmentally sound management.
98KA. Environmentally sound management: additional duties.
98L. Compliance with notification etc.
98LA. Electronic submission of information.

Shipment of waste between Gibraltar and EU countries

98M. Requirements for shipments of notifiable waste.
98N. Requirements for shipment of waste specified in Article 3(2) and (4).

Export of waste to non-EU countries

98O. Prohibition on export of waste for disposal other than to EFTA countries.
98P. Requirements for export of waste for disposal to EFTA countries.
98PA. Requirements for export of waste listed in Annex III or IIIA to non-EU, non-OECD Decision countries.

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98PAA. Prohibition on export of non-hazardous waste to non-OECD countries.
98PAB. Prohibition on export of plastic waste to non-OECD countries.
98PB. Requirements for export of waste classified under more than one entry in Annex III etc. to non-EU, non-OECD Decision countries.
98Q. Prohibition on export of certain waste for recovery to non-EU non-OECD Decision countries.
98R. Requirements for export of waste for recovery to non-EU OECD Decision countries.
98S. Miscellaneous prohibitions on export of waste.

Import of waste from third countries

98T. Prohibition on the import of waste for disposal.
98U. Procedure for import of waste for disposal from a non-EU country Party to the Basel Convention.
98V. Prohibition on import of waste for recovery.
98W. Requirements for import of waste for recovery from or through a non-EU OECD Decision country.
98X. Requirements for import of waste for recovery from a non-EU, non-OECD Decision country Party to the Basel Convention.
98Y. Requirements for import of waste from overseas countries or territories.
98YA. Obligations of competent authority of destination.

Transit of waste

98Z. Requirements for transit of waste for disposal.
98ZA. Requirements for transit of waste for recovery: non-EU, non-OECD Decision countries.
98ZB. Requirements for transit of waste for recovery: EU, OECD Decision countries.
98ZC. Requirements for transit of waste between EU or OECD Decision countries and non-EU, non-OECD Decision countries.

Additional duties

98ZD. Illegal shipments of waste brought to a facility.
98ZE. Duties on operators of facilities in respect of notifiable waste.
98ZF. Interim recovery or disposal operations.
98ZG. Duties on operators of facilities in respect of waste subject to general information requirements.
98ZH. Duties on consignees in respect of notifiable waste.
98ZI. Duties on consignees in respect of waste subject to general information requirements.
98ZJ. Duties on laboratories.
98ZK. Notifier's duty to keep documents.
98ZL. Duties on persons who arrange the shipment of waste.
98ZLA. Duties on carriers.

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98ZLB. Enhanced inspection plans.
98ZLC. Penalties for infringement.
98ZM. Charges by the competent authority etc..
98ZN. Costs of take-back etc.
98ZO. Approval of a financial guarantee.
98ZP. Supply of the financial guarantee.
98ZQ. Enforcement powers.
98ZR. Compliance with notices.
98ZS. Obstruction.
98ZT. Falsely obtaining consent etc.
98ZU. Offences by bodies corporate.
98ZV. Acts of third parties.
98ZX. Penalties.

PART III.
WATER SUPPLY.

General duties and power of Government.

99. Interpretation of Part III.
100. General powers of Government for supplying water.
101. Government to keep works in repairs.
102. Water collecting areas in Upper Rock.
103. Powers and duties of Government in respect of laying and maintaining water mains.
104. Power to lay service pipes, etc.
105. Cutting off supply.
106. Laying of supply pipes.
107. Laying of communication pipes, etc.
108. Power of Government to require separate service pipes.
109. Exemption from liability.

Potable water.

110. Purity of potable water.
110A. Radioactive substances in potable water.
111. Tanks, etc., for potable water to be provided in premises.
112. Power of Government to supply potable water.
113. Terms and conditions for supply of potable water.
114. *Repealed.*

Salt water.

115. Duty of Government to provide water for fire-fighting purposes.
116. Power to require premises to be provided with sufficient salt water.

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117. Salt water rate.
118. Liability to salt water rates where buildings supplied by common pipe.
119. Power to make agreed charges for salt water supplies.
120. Power to charge by meter for supply to certain premises and for certain purposes.
121. When supply may be cut off.

Provisions for preventing waste, etc., of water and as to meters and other fittings.

122. Power to require provision of cisterns in certain cases.
123. Power to test water fittings.
124. Power to enter premises to detect waste or misuse of water.
125. Power to repair supply pipes.
126. Penalty for waste, etc., of water by non-repair of water fittings.
127. Penalties for misuse of water.
128. Penalty for fraudulent use of water.
129. Penalty for interference with valves and apparatus.
130. Penalty for extension or alteration of pipes, etc.
131. Meters to be connected, or disconnected by Government.
132. Meters, etc., to measure water or detect waste.

General.

133. Charges for hire of and repairs to meters.
134. Register of meter to be evidence.
135. Notice of discontinuance.
136. Vesting of communication pipes and repair of such pipes and of supply pipes in public highways.
137. Provisions as to position, etc., of stop-cocks.
138. Duty of Government to give notice of certain works.
139. Water for public baths, washhouses, etc.
140. Rules.
141. Penalty for causing water to be fouled, etc.
142. Recovery of water charges, etc.
143. Control on importation of water.

PART IV.
NOTIFICATION AND PREVENTION OF DISEASES.

Notification of disease.

144. Obligation to notify certain diseases.
145. Supply of forms of certificates, and fees for certificates.
146. Power of Government to declare further diseases to be notifiable.

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Provisions for preventing spread of infection.

147. Penalty on exposure of persons and articles liable to convey notifiable disease
148. Person suffering from or being a carrier of notifiable disease not to carry on occupation to danger of others.
149. Child liable to convey notifiable disease may be ordered not to attend school.
150. Director may require list of day-scholars at school where notifiable disease exists.
151. Restrictions on sending or taking infected articles to laundry or public wash-house, or to cleaners.
152. Power to prohibit home work on premises where notifiable disease exists.
153. Restrictions on bringing certain articles into Gibraltar.
154. Restrictions on sales, etc., by persons collecting, or dealing in, rags, old clothes or similar articles.
155. Provisions as to library books.
156. Infectious matter not to be placed in dustbins.
157. Provisions as to the letting of houses, or rooms in hotels, after recent case of notifiable disease.
158. Persons ceasing to occupy house to disclose to owner any recent case of notifiable disease, and to disinfect.
159. Provisions as to use of public conveyance by persons suffering from notifiable disease.
160. Duty of owner, etc., of public conveyance in regard to case of notifiable disease.
161. Power of Government to make regulations as to disposal of dead bodies.
162. Power of justice to order dead body to be removed to mortuary or buried forthwith.
163. Restrictions in certain cases on removal of bodies of persons dying in hospital.
164. Avoidance of contact with body of person who suffered from notifiable disease.
165. Wake not to be held over body of person who suffered from notifiable disease.

Provisions as to disinfection of premises and articles, and the removal of infected persons.

166. Power of Government to provide disinfecting station.
167. Cleansing and disinfection of premises and articles therein.
168. Power of Government to remove temporarily inmates of infected house.
169. Provision for removal to hospital of persons suffering from notifiable disease where serious risk of infection being spread.
170. Power of justice to order detention in hospital of infected person without proper lodging to return to.

Provisions as to treatment of tuberculosis.

171 Removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.

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Provisions as to venereal diseases.

172. Prevention of the treatment of venereal disease otherwise than by qualified persons.
173. Restriction on advertisement, etc.

Miscellaneous.

174. Power of Director to call upon persons suffering from infectious diseases to attend and remain in hospital.
175. Power of Government to provide nursing attendance in certain cases.
176. Instruction, lectures, etc., on questions relating to health or disease.

Laboratories, ambulances, mortuaries, etc.

177. Provision of laboratories.
178. Provision of ambulances.
179. Authority to keep stock of vaccines, etc.

Rules for the prevention and treatment of infectious diseases.

180. Power of the Government to make rules.

PART V.
DESTRUCTION OF RATS AND MICE.

181. General duty of Government.
182. Duty to report infestations to Director.
183. Powers of Director and authorized persons.
184. Powers of Government to require work and treatment to be carried out for certain purposes.
185. Temporary closing of buildings.
186. Powers of demolition, etc., where infestation cannot be remedied.
187. Directions as to storage of rat-attracting material.
188. Control of rat destruction carried out otherwise than by the Government.
189. Recovery of expenses by Government.
190. Offences and penalties.
191. When owner of premises to be deemed occupier.
192. Defrayal of expenses.

PART VA
WASTE.

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192A. Interpretation.
192B. Application of Part VA and Schedules 11A to 18.
192BA. End-of-waste status.
192C. Competent authority.
192D. Waste licences.
192DA. Exemption from requirement for a licence.
192E. Registration of certain establishments and undertakings.
192F. Duty of holders.
192G. *Repealed.*
192H. *Repealed.*
192J. Provisions as to PCBs.
192JA. Provisions as to specific hazardous waste.
192JB. Waste batteries and waste accumulators.
192JC. Reporting of recycling efficiencies.
192JD. Export of waste batteries and accumulators.
192K. *Repealed.*
192KA. Meaning of hazardous waste.
192KB. Provisions as to hazardous waste.
192KC. Exemptions for household waste.
192L. Duty to keep records.
192M. Waste management plan.
192MA. Waste prevention programmes.
192MB. Evaluation and review of plans and programmes.
192MC. Bio-waste.
192N. Power to encourage waste reduction.
192P. Publicity.
192Q. Procedures for licence application.
192R. Charges by the Government etc.
192S. Offences by corporations etc.
192T. Defences.
192U. *Deleted*.
192V. Savings in respect of other provisions.
192W. Rules.
192X. *Deleted*.
192Y. *Deleted.*

PART VI.
VACCINATION AND IMMUNIZATION.

193 to 195. *Repealed.*
196. Notice of births to Director.
197 to 202. *Repealed.*
203. Immunization against diphtheria, etc.
204. Charges.

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205. Payment for vaccination by certain medical practitioners.

PART VII.
BATHS, WASHHOUSES, BATHING PLACES, ETC.

Provision of baths, etc.

206. Power of Government to provide baths, bathing places and washhouses.
207. Charges for use of baths, etc.
208. Rules for regulation of baths, etc.
209. Baths, etc., to be public places for certain purposes.
210. Use of baths and bathing places for swimming contests, etc., or by schools or clubs.
211. Closing of baths and bathing places, and use for other purposes.
212. Power of Government to lay pipes for purposes connected with baths, etc.

Public bathing.

213. Rules with respect to public bathing.
213A. Rules as to quality of sea bathing water.
214. Rules as to seashore.
215. Provision of bathing huts, etc.
216. Power to grant or refuse licences, etc.
217. Provision of life-saving appliances.
218. Rules as to seaside pleasure boats.

PART VIII.
CELLAR DWELLINGS, LODGING HOUSES, ETC.

Cellar dwellings.

219. Cellars not to be let or occupied as dwellings without permission.
220. Penalty for unlawful letting, etc., of cellars.
221. Power to close cellar in case of two convictions.

Common lodging-houses.

222. Definition of "common lodging-house".
223. No person to keep a common lodging-house unless registered in respect thereof.
224. Register of common lodging-house keepers and their houses.
225. Provisions with respect to registration.
226. Appeals against refusal of registration.
227. Rules as to common lodging-houses.
228. Management and control of common lodging-houses.

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229. Duty of keeper of common lodging-house to notify cases of infectious disease.
230. Power of justice to order medical examination of inmates of common lodging-house.
231. Power to remove to hospital inmate of common lodging-house suffering from a notifiable disease.
232. Power of court to order closing of common lodging-house on account of notifiable disease.
233. Offences in connection with common lodging-houses.
234. Power of court on conviction to cancel registration and to disqualify for re-registration.
235. Evidence in legal proceedings under Part VIII.

Dwelling houses.

236. Rules as to houses.

Tents, vans, caravans, sheds, etc.

237. Nuisances arising from, and rules and other matters relating to tents, vans, caravans, etc.

PART IX.
PUBLIC HIGHWAYS, ETC.

238. Duty of Government to maintain public highways.
239. *Deleted.*
240. Provisions as to extraordinary traffic.
241. The Government may declare streets to be public highways.
242. *Deleted.*
243. Power to purchase lands.
244. Government to pave and repair public highways, etc.
245. Lighting of streets.
246. Refuges, etc., in streets.
247. Shelters.
248. Statues and monuments.
249. Street bins.
250. Seats, etc., in streets.
251. Government may embellish streets.
252. Power to alter names of streets.
252A. Regulations.
253. Power to grant licences for bridges over streets.
254. Restriction on placing rails, beams, wires, etc., over streets.
255. Lopping of trees overhanging highways.
256. Repair of cellars, etc., under streets.
257. Unauthorized disturbance of street.

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258. Penalty for leaving litter, etc.
259. Breaking open of streets.
260. Damage to footway to be made good.
261. Lighting and fencing building materials and excavations.
262. Dangerous places to be repaired or enclosed.
263. Precautions during repairs, erection of bars and placing of lights.
264. Government authorized to take stone.

PART X.
RECREATION GROUNDS, ETC.

265. Power to provide places of public recreation.
266. Powers as to parks and pleasure grounds.
267. Power to appoint officers.
268. Power of Government to provide and light public clocks.
269. Alameda Gardens.

PART XI.
RATING AND VALUATION.

Rating.

270. Interpretation of Part XI.
271. Levy of and provisions as to general rates.
272. Operation and incidence of rate.
272A. Owner's liability if occupier in default.
273. Liability to be rated in respect of certain unoccupied property.
274. Amendment of rate.
275. When rates due and payable.
276. Demand note for rates.
277. Late payment of rates.
277A. Discount on rates of non-domestic hereditaments.
277B. Additional discount in certain cases following the commencement of the Smoke-Free Environment Act, 2012.
277C. Discount on rates of hereditaments occupied by new businesses.
278. No premises exempt because belonging to the Crown.
279. Exemption from assessment.
280. *Repealed.*
281. Advertising stations to be separate hereditaments in certain cases.
282. Power to order exemption from rates.
283. Officers for rates and expenses.
284. Rating of owners.
285. Recovery of rates from tenants and lodgers.

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286. Where owners omit to pay rates, the occupiers paying the same may deduct amount due from rent.
287. Proceedings for recovery of rates.
288. Penalty for leaving rates in arrears.
289. Contributions in lieu of payment of rates on premises of the United Kingdom Government.

Valuation.

290. Appointment of Valuation Officer.
291. Making and operation of new valuation lists.
292. Effect of valuation list.
293. Contents and form of valuation list.
294. Ascertainment of rateable value.
295. Superficial area.
296. Assessment of certain buildings occupied in parts.
297. Draft valuation lists.
298. Objections to draft lists.
299. Revision of draft lists.
300. Preparation of valuation list.
301. Publication of valuation list.
301A Rating review board.
302. Objections against valuation list.
302A. Appeals from the Rating Review Board.
303. Alteration of current valuation list.
304. Power of valuation officer to require returns.
305. Power of entry.

Miscellaneous.

306. Rate to be levied notwithstanding appeal.
307. Inclusion in one proceeding of separate hereditaments.
308. Inspection of documents.

PART XII.
GENERAL.

Supplemental as to powers of Government.

309. Expenses and Contractor companies.
310. Interpretation of "provide".
311. Power to require pipes, etc., in public highways to be moved.
312. Power of Government to execute certain work on behalf of owners or occupiers.
313. Power of Government to sell certain materials.

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314. Power of Government to require information as to ownership of premises.
315. Compensation to individuals for damage resulting from exercise of powers under Act.

Notices, etc.

316. Notices to be in writing; forms of notices, etc.
317. Authentication of documents.
318. Service of notices, etc.
319. Proof of resolutions, etc.

Entry and obstruction.

320. Power to enter premises.
321. Penalty for obstructing execution of Act.
322. Power to require occupier to permit works to be executed by owner.

Recovery of expenses, etc.

323. Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
324. Power to make a charge in respect of establishment expenses.
325. Recovery of expenses, etc.
326. Limitation of liability of certain owners.

Prosecution of offences, etc.

327. Summary proceedings for offences.
328. Continuing offences and penalties.
329. Inclusion of several sums in one complaint, etc.
329A. Liability of bodies corporate - general.

Appeals against notices.

330. Appeals against and enforcement of certain notices.

Other appeals to the magistrates' court and appeals to the Supreme Court.

331. Appeals and applications to magistrates' court.
332. Appeals to Supreme Court against decision of justices.
333. Effect of decision of court upon appeal.

Judges and justices.

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334. Judges and justices not to be disqualified by liability to rates.

Savings.

335. Powers of Act to be cumulative.
336. *Deleted.*

Rules.

337. Rules.

SCHEDULES 1-2
Repealed

SCHEDULE 3

SCHEDULE 4
General Rate

SCHEDULES 5 - 11
Repealed

SCHEDULE 11A
List of wastes pursuant to article 1(a) of Directive 75/442/EEC on waste and Article 1(4) of Directive 91/689/EEC on hazardous wastes

SCHEDULE 11B
Waste Hierarchy

SCHEDULE 11C
Examples of economic instruments and other measures to provide incentives for the application of the waste hierarchy referred to in Schedule 11B

SCHEDULE 12
Disposal operations

SCHEDULE 13
Operations, which may lead to recovery

SCHEDULE 14
Repealed.

SCHEDULE 14A
separate collection certain waste

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and collection targets

SCHEDULE 14B

SCHEDULE 14C
General minimum requirements for extended producer responsibility schemes

SCHEDULE 15
Repealed.

SCHEDULE 15A
examples of waste prevention measures referred to in article 29
of the directive

SCHEDULE 16
Waste Batteries and Accumulators:
Treatment and Recycling Requirements

SCHEDULE 17
Repealed.

SCHEDULE 18
Article 4 in the Marking Directive

SCHEDULE 19
Deleted

SCHEDULE 20
Application for approval of a financial guarantee

SCHEDULE 21
Enforcement powers

SCHEDULE 22

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AN ACT TO CONSOLIDATE CERTAIN ENACTMENTS RELATING TO PUBLIC HEALTH.

Short title.

1. This Act may be cited as the Public Health Act.

Interpretation.

2. In this Act, unless the context otherwise requires,–

"Authority" means the Gibraltar Health Authority;

"authorized officer" means an officer of the Government authorized by them in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter;

"bakehouse" means any place in which are baked bread, biscuits or confectionery, from the baking of which a profit is derived;

"building rules" means rules made under Part I with respect to buildings, works and fittings, and includes also rules made with respect to those matters under any corresponding enactment repealed by this Act;

"capital" means–

(a) every sum of money which the Government may be authorized to raise for any public purpose; and

(b) all moneys which under any enactment have been granted or which at any time hereafter may be granted to the Government for any public purpose out of the moneys provided by Parliament or from the Consolidated Fund and all other moneys which shall be payable to the Government, or come into their hands, and be applicable to the same purposes as capital which they may be authorized to raise;

"cesspool" includes a settlement tank or other tank for the reception or disposal of foul matters from buildings;

"closet" includes privy;

"drain" means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

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"dustbin" means a movable receptacle for the deposit of ashes or refuse;

"earthcloset" means a closet having a movable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

"establishment charges" mean all the expenses, disbursements and liabilities of the Government which they are not authorized by pay and defray out of capital, and which may relate to the transaction of their general business;

"expenses" include costs and charges;

"factory" means a factory within the meaning of the Factories Act;

"functions" includes powers and duties;

"Government premises" means all lands, tenements and premises being the property or in possession of the Government of Gibraltar;

"house" includes every messuage, part of a messuage, house, part of a house, building and construction whatsoever (including military guard rooms) whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or by night by man, whether beneficially or otherwise, or intended to be so inhabited or occupied; and every store, cellar, vault, shop, warehouse, stable, coachhouse, goatshed, tenement or other hereditament or premises whatsoever;

"land" includes any interest in land and any easement or right in, to or over land;

"manufacturing", as that word appears in sections 12, 13 and 94, includes the carrying on of any activity, including the carrying out of any process or the provision of any service, whether or not by way of trade or business and whether or not for profit, from which discharges, direct or indirect are made into a sewer or drain, and "manufacturing premises", "manufacturer" and "manufacturing process" shall be construed accordingly;

"notifiable disease" means any of the following diseases, namely cholera, plague, smallpox, epidemic typhus, yellow fever, dysentery, diphtheria, cerebro-spinal meningitis, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhoid, enteric or undulant and includes any infectious disease to which Part IV or any corresponding enactment repealed by this Act has been applied in the manner provided by that Part of that enactment;

"officer" includes servant;

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"prejudicial to health" means injurious, or likely to cause injury, to health;

"premises" includes messuages, buildings, lands, easements and hereditaments of any tenure whether the property of Her Majesty or of any person whomsoever, whether built on or not and whether public or private, inclosed or uninclosed;

"private sewer" means a sewer which is not a public sewer;

"public highways" means all the streets, ramps, roads, lanes, passages, alleys, steps, stairs and public places coloured green on the plan of the public highways of Gibraltar deposited in the offices of the Government or any street or part of a street which has from time to time been declared by the Government as a public highway for the purposes of this Act in pursuance of section 241 or any corresponding enactment repealed by this Act;

"public purpose" includes every purpose which the Government are authorized to effect by this Act, the cost of effecting which is chargeable, wholly or in part, against capital or against the Consolidated Fund, or against any rates, tolls, dues or other moneys which the Government may be authorized or enabled to levy, take, have, receive or recover;

"public sewer" means a sewer or sewage disposal work–

(a) vested in the Government;

(b) constructed by the Government at their expense or acquired by them;

(c) with respect to which a declaration of vesting has been made under section 5:

Provided that a sewer constructed by the Government for the purpose only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of this Act until it has been declared to be a public sewer:

"reserved ways" mean all Her Majesty's streets, roads, ramps, ways, parades or open spaces being upon land in the possession, occupation and use of the Ministry of Defence;

"sanitary convenience" means closets and urinals;

"sewer" does not include a drain as defined in this section but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings;

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"street" includes any public highway or other highway including a highway over a bridge and any road, lane, footway, square, court, alley, steps or passage, whether a thoroughfare or not;

"surface water" includes water from roofs;

"Public Health Director" means the registered medical practitioner appointed as such by the Authority,

"United Kingdom Government premises" mean all lands, tenements and premises being in the possession of the Ministry of Defence;

"venereal disease" means syphilis, gonorrhoea or soft chancre;

"vermin" includes stray cats, rats and mice, and also includes house-flies, mosquitoes, sandflies, lice, fleas, bugs, ticks and mites, and in its application to insects and parasites, includes their eggs, larvae and pupae; and "verminous" shall be construed accordingly;

"watercloset" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

"waterworks" includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying water, or used for protecting sources of water supply;

"workplace" does not include a factory but save as aforesaid includes any place in which persons are employed otherwise than in domestic service.

PART I.
SANITATION AND BUILDINGS.

General.

Interpretation of Part I.

3. (1) For the purposes of this Part and, so far as rules made thereunder may provide, for the purposes of those rules, any of the following operations shall be deemed to be the erection of a building, that is to say–

(a) the re-erection of any building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or

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burnt down, to within ten feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building;

(b) the re-erection of any frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building;

(c) the roofing over of any open space between walls or buildings;

and the word "erect" shall be construed accordingly.

(2) Any reference in this Part to plans deposited in accordance with building rules shall be construed as including a reference to any sections, specifications and written particulars deposited with the plans in accordance with the rules.

(3) Any reference in this Part to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumps or other accessories belonging to that drain or sewer, and any reference in this Part to sewage disposal works shall be construed as including a reference to the machinery and equipment of those works and any necessary pumping stations and outfall pipes.

(4) Any reference in this Part to the construction of a sewer or sewage disposal works shall be construed as including a reference to the extension of an existing sewer or of existing works.

(5) For the purposes of this Part, a building or proposed building shall not be deemed to have a sewer available unless-–

(a) there is within one hundred feet of the site of the building or proposed building, and at a level which makes it reasonably practicable to construct a drain to communicate therewith, a public sewer or other sewer which the owner of the building or proposed building is, or will be, entitled to use; and

(b) the intervening land is land through which he is entitled to construct a drain,

and shall not be deemed to have a sufficient water supply available unless it has a sufficient supply of water laid on, or unless such a supply can be laid on to it from a point within one hundred feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe:

Provided that, for the purposes of this definition, the limit of one hundred feet shall not apply if the Government undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing a drain to communicate with a sewer or, as the case may be, in laying and in maintaining and repairing a pipe for the purpose of obtaining a

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supply of water, as may be attributable to the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds one hundred feet.

Exemption of Government from scavenging and cleansing duties, etc., in Upper Rock.

4. The Government shall not be required to do, execute, carry out or perform any drainage, emptying of earthclosets, collecting of house refuse, scavenging or any other duty or work of the like nature within the area of land coloured red on the plan of the area known as the Upper Rock, deposited in the offices of the Government, anything in this Act to the contrary notwithstanding, but the Government shall destroy house refuse of the description usually removed by them from houses in Gibraltar brought from the said area to any refuse incinerating plant provided by them under section 61.

Sewage and sewage disposal.

General duty of Government to provide for sewerage.

5.(1) It shall be the duty of the Government to provide such public sewers as may be necessary for effectually draining Gibraltar for the purposes of this Act, and to make such provision, by means of sewage disposal works or otherwise, as may be necessary for effectually dealing with the contents of their sewers.

(2) The Government shall carry out or cause to be carried out the obligations of this section and sections 6 to 14 in such manner as to comply with the requirements of Council Directive 91/271/EEC Concerning Urban Waste Water Treatment, as amended from time to time, or such other Directive applicable in Gibraltar as may replace or supersede that Directive, and in accordance with regulations made under sub-section (3).

(3) The Government shall make regulations for the purpose of transposing Council Directive 91/271/EEC, as amended from time to time, or such other Directive applicable in Gibraltar as may replace or supersede that Directive, into Gibraltarian law and such regulations may create offences and impose penalties in respect of those offences.

Provision of public sewers and sewage disposal works.

6.The Government may–

(a) construct a public sewer–

(i) in, under or over any street, or under any cellar or vault below any street, subject, however, to the provisions of section 259 with respect to the breaking open of streets; and

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(ii) in, on or over any land not forming part of a street, after giving reasonable notice to every owner and occupier of that land;

(b) construct sewage disposal works in any land acquired, or lawfully appropriated, for the purpose;

(c) construct such ventilators and ventilating shafts on, against, or in any premises whatsoever in Gibraltar, as they may determine to be necessary for effectually ventilating any sewer or drain.

Power of Government to agree to adopt sewer or drain, or sewage disposal work at future date.

7. (1) The Government may agree with any person constructing, or proposing to construct, a sewer or sewage disposal works that, if the sewer or works is or are constructed in accordance with the terms of the agreement, they will upon the completion of the work, or at some specified date, or on the happening of some future event, declare the sewer or works to be vested in them, and any such agreement shall be enforceable against the Government by the owner or occupier for the time being of any premises served by the sewer or works.

(2) The foregoing provisions of this section shall apply also in relation to drains, but it shall be a condition of any agreement made under those provisions with respect to a drain that the declaration shall not be made before the drain has become a sewer.

Power of Government to require proposed sewer or drain to be so constructed as to form part of general system.

8. (1) Where a person proposes to construct a drain or sewer, the Government may, if they consider that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, require him to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required by them, to construct it, and it shall be his duty to comply with the requirements of the Government:

Provided that, if he is aggrieved by the requirements of the Government, he may within twenty-eight days appeal to the magistrates' court which may either disallow the requirements or allow them with or without modification.

(2) Where the Government exercise the powers conferred upon them by this section they shall repay to the person constructing the drain or sewer the extra expenses reasonably incurred by him in complying with their requirements and, until the drain or sewer becomes a public sewer, they shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to their requirements

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having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, that question may on his application be determined by the magistrates' court.

(3) A person who under this section has been required by the Government to construct a drain or sewer in a particular manner, constructs it otherwise than in accordance with the requirements of the Government, is liable to a fine at level 4 on the standard scale, but without prejudice to the right of the Government to avail themselves of any other remedy:

Provided that a sewer constructed by the Government for the purpose only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of this Act until it has been declared to be a public sewer.

Power of Government to alter, or close public sewers.

9. The Government may alter the size or course of any public sewer vested in them, or may discontinue and prohibit the use of any such public sewer, either entirely, or for the purpose of foul water drainage, or for the purpose of surface water drainage, but, before any person who is lawfully using the sewer for any purpose is deprived by the Government of the use of the sewer for that purpose, they shall provide a sewer equally effective for his use for that purpose and shall at their expense carry out any work necessary to make his drains or sewers communicate with the sewer so provided.

General duty of Government to maintain public sewers.

10.It shall be the duty of the Government to maintain, cleanse and empty all public sewers vested in them.

Buildings not to be erected without consent over sewer or drain shown on deposited map.

11. (1) Where plans of a building or of an extension of a building are, in accordance with building rules, deposited with the Government and it is proposed to erect the building or extension, as the case may be, over any sewer or drain which is shown on the map of sewers required by this Part to be kept deposited at the offices of the Government, the Government shall reject the plans, unless they are satisfied that in the circumstances of the particular case they may properly consent to the erection of the proposed building or extension, either unconditionally or subject to compliance with any requirements specified in their consent.

(2) Any question arising under subsection (1) between the Government and the person by whom or on whose behalf plans are deposited as to whether the site on which it is proposed to erect a building or an extension of a building is over any such sewer or drain as aforesaid, or whether, and if so, upon what conditions, a consent ought to be given by the Government, may, on the application of that person, be determined by the magistrates' court.

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Government to afford facilities for manufacturing premises to drain into public sewers.

12. Subject to the provisions of this Act, the Government shall give facilities for enabling manufacturers to carry the liquids from their manufacturing processes into a public sewer vested in the Government:

Provided that nothing in this section shall be construed as–

(a) requiring the Government -

(i) where separate sewers are provided for foul water and for surface water, to admit any such liquid into a sewer provided for surface water only; or

(ii) to admit into sewers any liquid which would affect prejudicially the sewers, or the treatment or disposal of the contents of the sewers, or would, from its temperature or otherwise, be prejudicial to health; or

(iii) to give such facilities as aforesaid where in their opinion their sewers or sewage disposal works are insufficient for the purpose, regard being had to the present and future domestic sewerage requirements of Gibraltar; or

(b) affecting the provisions of section 13.

Certain matters not to be passed into public sewers.

13.(1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer–

(a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical refuse or waste steam, or any liquid of a temperature higher than 43°C which, is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or pre judicial to health; or

(c) any petroleum spirit, or carbide of calcium;

(d) industrial waste water, as defined in regulations made under section 5(3) except in accordance with any relevant provisions of those regulations.

(2) A person who contravenes any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after conviction therefor.

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(3) In this section the expression "petroleum spirit" means any such–

(a) crude petroleum;

(b) oil made from petroleum, or from coal, shale, peat or other bituminous substances; or

(c) product of petroleum or mixture containing petroleum, as, when tested in accordance with Part III of Schedule 1 to the Chemicals (Hazard Information and Packaging) Regulations 1993 of the United Kingdom (SI 1993/1746) has a flash point of less than 21° C.

(4) In this section the expressions "affect prejudicially" and "prejudicial to health" shall include affecting by pollution and prejudicial to health as a result of pollution when pollution means the discharge by any person, directly or indirectly, of substances or energy where the results of the discharge of such substance or energy into the aquatic environment are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water and the discharge is other than in accordance with an authorisation provided for by rules made under section 95.

Duty of Government to keep map showing public sewers, etc.

14.(1) The Government shall keep deposited at their offices, for inspection by any person at all reasonable hours free of charge, a map showing and distinguishing all sewers and drains which are–

(a) public sewers;

(b) sewers with respect to which a declaration of vesting has been made under this Part but has not yet taken effect;

(c) sewers or drains with respect to which an agreement to make such a declaration in the future has been entered into.

(2) Where some of the public sewers are reserved for foul water only or for surface water only, the map referred to in this section shall show also the purposes which each such sewer is intended to serve.

Private sewers and drains and cesspools.

Right of owners and occupiers to drain into public sewers.

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15. (1) Subject to the provisions of this section the owner or occupier of any premises, or the owner of any private sewer, shall be entitled to have his drains or sewer made to communicate with the public sewers of the Government, and thereby to discharge foul water and surface water from those premises or that private sewer:

Provided that nothing in this subsection shall entitle any person–

(a) to discharge directly or indirectly into any public sewer–

(i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or

(ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment (including any enactment in this Act); or

(b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly–

(i) foul water into a sewer provided for surface water; or

(ii) except with the approval of the Government, surface water into a sewer provided for foul water; or

(c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.

(2) Subject to the provisions of section 259 with respect to the breaking open of streets, the owner or occupier of any premises may break open any street for the purpose of exercising his rights under this section and for the purpose of examining, repairing and renewing any drain or private sewer draining his premises into a public sewer.

(3) A person desirous of availing himself of the foregoing provisions of this section shall give to the Government notice of his proposals, and at any time within twenty-one days after receipt thereof, the Government may by notice to him refuse to permit the communication to be made, if it appears to them that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to their sewerage system, and for the purpose of examining the mode of construction and condition of the drain or sewer they may, if necessary, require it to be laid open for inspection:

Provided that any question arising under this subsection between the Government and a person proposing to make a communication as to the reasonableness of any such requirement of the Government, or of their refusal to permit a communication to be made, may on the application of that person be determined by the magistrates' court.

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(4) Where the Government do not under section 16 elect themselves to make the communication or to effect the examination, repair or renewal of the drain or private sewer the person making it shall, before commencing the work, give reasonable notice to any person directed by the Government to superintend the execution of the work and afford him all reasonable facilities for superintending the execution thereof.

(5) A person who causes a drain or sewer to communicate with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale and, whether proceedings have or have not been taken by them in respect of that offence, the Government may close any communication made in contravention of any of those provisions, and recover from the offender any. expenses reasonably incurred by them in so doing.

Right of Government to undertake the making of communications with public sewers.

16. (1) Where under section 15 a person gives to the Government notice of his proposal to have his drains or sewer made to communicate with a public sewer or to examine, repair or renew any drain or private sewer situated under any street the Government may, within fourteen days after the receipt of the notice or, if any question arising under the notice requires to be determined by the magistrates' court, within fourteen days after the decision of that question, give notice to that person that they intend themselves to make the communication or to effect the examination, repair or renewal of the drain or private sewer and, if after such a notice has been given to him, he proceeds himself to make the communication, or to effect the examination, repair or renewal he is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

(2) Where the Government have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication or to effect the examination, repair or renewal of the drain or private sewer until the cost of the work, as estimated by their surveyor, has been paid to them, or security for payment has been given to their satisfaction.

(3) If any payment so made to the Government exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.

(4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

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New buildings to be provided with any necessary drains, etc.

17. (1) Where plans of a building or of an extension of a building are, in accordance with building rules, deposited with the Government, the Government shall reject the plans unless either the plans show that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the Government are satisfied that in the case of the particular building or extension they may properly dispense with any provision for drainage.

In this section "drainage" includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rain water from roofs.

(2) Any question arising under subsection (1) between the Government and the person by whom, or on whose behalf, plans are deposited as to whether provision for drainage may properly be dispensed with, or whether any provision for drainage proposed to be provided ought to be accepted by the Government as satisfactory, may on the application of that person be determined by the magistrates' court.

(3) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made, as the Government, or on appeal the magistrates' court, may require, either to connect with a sewer, or to discharge into a cesspool or into some other place:

Provided that, subject to the provisions of subsection (4), a drain shall not be required to be made to connect with a sewer unless-–

(a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level which makes it reasonably practicable to construct a drain to communicate therewith, and, if it is not a public sewer, is a sewer which the person constructing the drain is entitled to use; and

(b) the intervening land is land through which that person is entitled to construct a drain.

(4) Notwithstanding anything in paragraph (a) of the proviso to subsection (3), a drain may be required to be made to connect with a sewer which is not within the distance mentioned in that proviso, but is otherwise such a sewer as is therein mentioned, if the Government undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.

If any question arises as to the amount of any payment to be made to a person under this subsection, that question may on his application be determined by the magistrates' court.

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Drainage of buildings in combination.

18. (1) Where the Government might, under section 17, require each of two or more buildings to be drained separately into an existing sewer, but it appears to the Government that those buildings may be drained more economically or advantageously in combination, the Government may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the Government may direct, or, if the Government so elect, by the Government on behalf of the owners:

Provided that the Government shall not, except by agreement with the owners concerned, exercise the powers conferred by this subsection in respect of any building for the drainage of which plans have been previously passed by them.

(2) Where the Government make such a requirement as aforesaid they shall fix the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or, in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the Government and shall forthwith give notice of their decision to each owner affected.

An owner aggrieved by the decision of the Government under this subsection may appeal to the magistrates' court; but, subject to any appeal, any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and those expenses, or, as the case may be, contributions thereto, may be recovered accordingly by the persons, whether the Government or owners, by whom they were incurred in the first instance.

(3) A sewer constructed by the Government under this section shall not be deemed to be a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the Government, or by reason of the fact that some part of those expenses is borne by them.

(4) Where, before the enactment of this Act, two or more houses belonging to different owners are connected with any public sewer by means of a private sewer, the Government may recover any expenses incurred by them in executing any work in connection with such private sewer under the powers conferred upon them by this Act from the owners of the houses in such proportions as the Government or (in case of dispute) the magistrates' court shall fix.

Provisions as to drainage, etc., of existing buildings.

19. (1) If it appears to the Government that in the case of any building–

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(a) satisfactory provision has not been, and ought to be, made for drainage as defined in section 17; or

(b) any cesspool, private sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or is broken or appears to be a danger to the public, or, in the case of a private sewer or drain manhole communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water; or

(c) any cesspool or other such work or appliance provided for the building is in such a condition as to be pre judicial to health or a nuisance; or

(d) any cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is pre judicial to health or a nuisance,

they shall, by notice, require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case maybe, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

The provisions of section 330 shall apply in relation to any notice given under this subsection.

(2) Subsections (3) and (4) of section 17 shall apply in relation to any drain which the Government require to be constructed under this section as they apply in relation to any such proposed drain as is mentioned in that section. .

Provisions as to soil pipes and ventilating shafts.

20. (1) No pipe for conveying rain, water from a roof shall be used for the purpose of conveying the soil or drainage from any sanitary convenience.

(2) The soil pipe from every watercloset shall be properly ventilated.

(3) No pipe for conveying surface water from any premises shall be permitted to act as a ventilating shaft to any drain or sewer conveying foul water.

(4) If it appears to the Government that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.

The provisions of section 330 shall apply in relation to any notice given under this subsection.

Notice to be given of intention to repair, reconstruct or alter underground drains.

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21. (1) No person shall–

(a) except in case of emergency, repair, reconstruct, or alter the course of any underground drain which communicates with a sewer, or with a cesspool or any other receptacle for drainage;

(b) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,

without giving to the Government at least twenty-four hours' notice of his intention so to do.

(2) While any such work is being executed, all persons concerned shall permit an environmental health officer, or any other authorized officer, of the Government to have free access to the work.

(3) A person who fails to comply with any requirement of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Power of Government to alter drainage system of premises.

22. (1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or is in the opinion of the Government otherwise objectionable, the Government may, at their own expense and on condition that they first provide in a position equally convenient to the owner of the premises a drain or sewer equally effectual for the drainage thereof and communicating with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.

(2) Where the Government propose to execute any work under this section they shall give notice of their proposals to the owner of the premises in question and, if he is aggrieved thereby, as regards either the position or the sufficiency of the drain or sewer proposed to be provided for the drainage of the premises, he may appeal to the magistrates' court.

Sanitary conveniences for buildings.

Closet accommodation to be provided for new buildings.

23. (1) Where plans of a building or of an extension of a building are, in accordance with building rules, deposited with the Government, the Government shall reject the plans unless either the plans show that sufficient and satisfactory closet accommodation consisting of one or more waterclosets or earthclosets, as the Government may approve, will be provided, or the

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Government are satisfied that in the case of the particular building or extension they may properly dispense with the provision of closet accommodation:

Provided that–

(i) unless a sufficient water supply and sewer are available, the Government shall not reject the plans on the ground that the proposed accommodation consists of or includes an earthcloset or earthclosets; and

(ii) if the plans show that the proposed building or, as the case may be, extension is likely to be used as a factory, workshop or workplace in which persons of both sexes will be employed, or will be in attendance, the Government shall reject the plans, unless either the plans show that sufficient and satisfactory separate closet accommodation for persons of each sex will be provided, or the Government are satisfied that in the circumstances of the particular case they may properly dispense with the provision of such separate accommodation.

(2) Any question arising under this section between the Government and the person by whom, or on whose behalf, plans are deposited as to whether–

(a) the provision of closet accommodation, or, as the case may be, the provision of separate accommodation for persons of each sex, may properly be dispensed with; or

(b) the closet accommodation proposed to be provided is sufficient and satisfactory or, as the case may be, sufficient and satisfactory for persons of either sex; or

(c) the provision of an earthcloset in lieu of a watercloset should in any particular instance be approved,

may on the application of that person be determined by the magistrates' court.

Buildings having insufficient closet accommodation or closets so defective as to require reconstruction.

24. (1) If it appears to the Government–

(a) that any building is without sufficient closet accommodation; or

(b) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,

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the Government shall by notice to the owner of the building require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either waterclosets or earthclosets, as may be necessary:

Provided that, unless a sufficient water supply and sewer are available, the Government shall not require the provision of a watercloset except in substitution for an existing watercloset:

Provided also that where sanitary conveniences are used in common by the inmates of two or more houses or if in the opinion of the Government they may be so used, they need not require the same to be provided for each house.

(2) For the removal of doubts, it is declared that the reference in the second proviso to subsection (1) to the use in common of sanitary conveniences, shall, in the case of the village of Catalan Bay, be deemed to include and to have always included, the use in common of public sanitary conveniences erected in that village under the powers conferred by section 76 or any corresponding enactment repealed by this Act.

(3) The provisions of section 330 shall apply in relation to any notice given under this section.

(4) This section shall not apply to a building to which section 26 applies.

Building having defective closets capable of repair.

25. (1) If it appears to the Government that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance, but that they can without reconstruction be put into a satisfactory condition, the Government shall by notice require the owner or the occupier of the building to execute such works, or to take such steps by cleansing the closets or otherwise, as may be necessary for that purpose.

(2) in so far as a notice under this section requires a person to execute works, the provisions of section 330 shall apply in relation to the notice.

(3) in so far as such a notice requires a person to take any steps other than the execution of works, he is, if he fails to comply with the notice, guilty of an offence and liable on summary conviction to a fine at level 3 on the standard scale and to a further fine of one tenth of the amount at level 3 on the standard scale for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the Government requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the building.

Sanitary conveniences in buildings used as workplaces.

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26. (1) Every building which is used as a workplace shall be provided with sufficient and satisfactory accommodation in the way of sanitary conveniences; regard being had to the number of persons employed in, or in attendance at, the building and also, where persons of both sexes are employed or in attendance, with sufficient and satisfactory separate accommodation for persons of each sex, unless the Government are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.

(2) if it appears to the Government that the provisions of subsection (1) are not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences as may be necessary.

(3) The provisions of section 330 apply in relation to any notice given under this section.

Replacement of earth-closets, etc., by water-closets at joint expense of owner and Government.

27. (1) If a building has a sufficient water supply and sewer available, the Government may, subject to the provisions of this section, by notice to the owner of the building require that any closets, other than waterclosets, provided for, or in connection with, the building shall be replaced by waterclosets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.

(2) A notice under this section shall either require the owner to execute the necessary works, or require that the Government themselves shall be allowed to execute them, and shall state the effect of subsection (3).

(3) Where under subsection (2) the Government require that they shall be allowed to execute the works, they shall be entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works, and, where they require the owner to execute the works, [he owner shall be entitled to recover from them one-half of the expenses reasonably incurred by him in the execution thereof.

(4) Where the owner of a building proposes to provide it with a watercloset in substitution for a closet of any other type, the Government may, if they think fit, agree to pay to him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been served by them under this section.

(5) The provisions of section 330 shall apply in relation to any notice under this section requiring a person either to execute works or to allow works to be executed, subject, however, to the modifications that no appeal shall lie on the ground that the works are unnecessary and

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that any reference in the provisions to the expenses reasonably incurred in executing works shall be construed as a reference to one-half of those expenses.

Supplemental provisions as to drains, sanitary conveniences, cesspools, etc.

Power of Government to examine and test drains, etc., believed to be defective.

28. (1) Where it appears to the Government that there are reasonable grounds for believing that a sanitary convenience, drain, private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance, or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water, they may examine its condition, and for that purpose may apply any test, other than a test by water under pressure, and, if they deem it necessary, open the ground.

(2) if on examination the convenience, drain, sewer or cesspool is found to be in proper condition, the Government shall, as soon as possible, reinstate any ground which has been opened by them and make good any damage done by them.

(3) if on examination the convenience, drain, sewer or cesspool is found to be in such a condition as to be prejudicial to health or a nuisance the Government shall by notice require either the owner or the occupier of the premises in connection with which the convenience, drain, sewer or cesspool is provided to do such work as may be necessary for renewing, repairing, cleansing, altering or amending the convenience, drain, sewer, or cesspool and may recover from such owner or occupier the expenses incurred by them in applying the test and in opening the ground.

The provisions of section 330 shall apply in relation to any notice given under this subsection.

Rooms over closets of certain types or over ashpits, etc., not to be used as living, sleeping or workrooms.

29. (1) A room which, or any part of which, is immediately over a closet, other than a watercloset or immediately over a cesspool, midden or ashpit, shall not be occupied as a living-room, sleeping room or workroom.

(2) A person who, after seven days' notice from the Government, occupies any room in contravention of the provisions of this section, or who permits any room to be so occupied, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale, and to a further fine of one tenth of the amount at level 3 on the standard scale for each day on which the offence continues after conviction therefore.

Overflowing and leaking cesspools.

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30. (1) if the contents of any cesspool soak therefrom or overflow, the Government may by notice require the person by whose act, default or sufferance the soakage or overflow occurred or continued to execute such works, or to take such steps by periodically emptying the cesspool or otherwise, as may be necessary for preventing the soakage or overflow:

Provided that this subsection shall not apply in relation to the effluent from a properly constructed tank for the reception and treatment of sewage, if that effluent is of such a character, and is so conveyed away and disposed of, as not to be prejudicial to health or a nuisance.

(2) in so far as a notice under this section requires a person to execute works, the provisions of section 330 shall apply in relation to the notice.

(3) In so far as such a notice requires a person to take any steps other than the execution of works, he is, if he fails to comply with the notice, guilty of an offence and is liable on summary conviction, to a fine at level 3 on the standard scale, and to a further fine of one tenth of the amount at level 3 on the standard scale for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the Government's requirements.

Care of closets.

31. (1) The occupier of every building in, or in connection with, which a watercloset or an earthcloset is provided shall, in the case of a watercloset, cause the flushing apparatus thereof to be kept supplied with water sufficient for flushing and shall, in the case of an earthcloset, cause it to be kept supplied with dry earth or other suitable deodorizing material.

(2) A person who fails to comply with any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

Care of sanitary conveniences used in common.

32.Where a sanitary convenience is used in common by the members of two or more families, the following provisions shall have effect:–

(a) a person who injures or improperly fouls the convenience, or anything used in connection therewith, or wilfully or by negligence causes an obstruction in the drain therefrom, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale;

(b) if the convenience, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the

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use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale and to a further fine of one fifth of the amount at level 1 on the standard scale for each day on which the offence continues after conviction therefor.

Provisions with respect to buildings.

Special provisions as to buildings constructed of materials which are short-lived, or otherwise unsuitable for use in permanent buildings.

33. (1) Where plans of a building are, in accordance with building rules, deposited with the Government, and the plans show that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the Government may, notwithstanding that the plans conform with the rule–

(a) reject the plans; or

(b) in passing the plans fix a period on the expiration of which the building must be removed and impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate.

(2) If a building in respect of which plans ought under the building rules to have been deposited, but have not been deposited, appears to the Government to be constructed of such materials as aforesaid, the Government, without prejudice to their right to take proceedings in respect of any contravention of the rules, may fix a period on the expiration of which the building must be removed and, if they think fit, impose such conditions with respect to the use of the building as might have been imposed under subsection (I) upon the passing of plans for the building and, where they fix such a period, shall forthwith give notice thereof, and of any condition imposed, to the owner of the building.

(3) The Government may from time to time extend any period fixed, or vary any conditions imposed, under this section:

Provided that, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.

(4) A person aggrieved by the action of the Government under this section in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to the magistrates' court.

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(5) The owner of any building in respect of which a period has been fixed under this section shall, on the expiration of that period or, as the case may be, of that period as extended, remove the building, and, if he fails to do so, the Government shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the Government to exercise that power, he is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day during which the building is allowed to remain after the conviction.

(6) A person who uses a building in contravention of any condition imposed under this section, or who permits a building to be so used, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after conviction therefor.

(7) The Government may by their building rules provide that the provisions of this section shall apply to any materials specified in the rules as being materials which are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.

(8) The provisions of this section shall apply in relation to any extension of an existing building as they apply in relation to a new building.

Power to prohibit erection of buildings on pound filled up with offensive material.

34. (1) Where plans for the erection or extension of a building are, in accordance with building rules, deposited with the Government, and the site on which it is proposed to erect the building or the extension, as the case may be, is ground which has been filled up with any material impregnated with faecal or offensive animal or offensive vegetable matter, or is ground upon which any such material has been deposited, the Government shall reject the plans, unless they are satisfied that the material in question has been removed, or has become or been rendered innocuous.

(2) Any question arising under this section between the Government and the person by whom or on whose behalf plans are deposited as to whether the Government ought to approve the erection of the building or of the extension, as the case may be, on the site in question may on the application of that person be determined by the magistrates' court.

Means of access to houses for removal of refuse, etc.

35. (1) Where plans for the erection or extension of a house are, in accordance with building rules, deposited with the Government, the Government shall reject the plans, unless it is shown to them that satisfactory means of access from the house to a street for the purpose of the removal of refuse and faecal matter can, and will, be provided.

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Any question arising under this subsection between the Government and the person by whom, or on whose behalf, plans are deposited as to whether any means of access proposed to be provided can be provided and ought to be accepted by the Government as satisfactory may on the application of that person be determined by the magistrates' court.

(2) it shall be unlawful for any person except with the consent of the Government to close or obstruct the means of access by which refuse or faecal matter is removed from any house, and the Government in giving their consent may impose such conditions as they think fit with respect to the improvement of any alternative means of access, or the substitution of other means of access.

A person who contravenes the provisions of this subsection is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after conviction therefor.

Yards and passages to be paved and drained.

36. (1) if any court or yard appurtenant to, or any passage giving access to, a house is not so formed, flagged, asphalted, or paved, or is not provided with such works on, above, or below its surface, as to allow of the satisfactory drainage of its surface or subsoil to a proper outfall, the Government may by notice require the owner of the house to execute all such works as may be necessary to remedy the defect.

The provisions of section 330 apply in relation to any notice given under this subsection.

(2) The foregoing provisions of this section shall apply in relation to any court, yard or passage which is used in common by the occupiers of two or more houses, but is not a public highway or a street.

Entrances to yards not to be closed or narrowed and goods not to be stored in yards, etc.

37. (1) Except with the consent of the Government–

(a) no entrance to any court or yard of any house shall be closed, narrowed, reduced in height or otherwise altered or obstructed so as to impede the free circulation of air through the entrance;

(b) no permanent structure shall be erected so as to impede the free circulation of air through any entrance to any such court or yard;

(c) no court, yard or passage of any house shall be used for the storage of materials or goods used for or in connection with any trade or business.

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(2) The Government in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.

(3) A person aggrieved by the refusal of the Government to give a consent under this section, or by any conditions imposed by them, may appeal to the magistrates' court.

(4) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale, and to a further fine of one tenth of the amount at level 3 on the standard scale for each day on which the offence continues after conviction therefor.

Owners to place gutters to eaves of houses or buildings.

38. (1) The owner of every house or building abutting upon or adjoining any public highway or street shall put up and keep in good condition, a gutter under the eaves of such house or building and shall connect the same either with a similar gutter on the adjoining house or with a pipe so constructed as to carry the water from the roof thereof into a suitable reservoir or receptacle, or into a surface gutter communicating with a sewer or drain in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the public highway or street or flow over the footway and in default of compliance, within ten days, next after service with any notice in writing of the Government for that purpose, such owner is guilty of an offence and is liable on summary conviction to a penalty at level 1 on the standard scale for every day that he shall so make default.

(2) If the owner of any such house or building is not known, or does not reside or cannot be found in Gibraltar, the magistrates' court, upon complaint in that behalf, may order and require either the occupier or the person having the custody thereof, to put up and keep in good condition in manner aforesaid such gutter and pipe, and such occupier or person shall be entitled to deduct the expenses thereby incurred by him from the rent payable by him to the owner of the house or building.

Dangerous or dilapidated buildings and structures.

39. (1) If it appears to the Government that any building or structure, or part of a building or structure–

(a) is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises; or

(b) is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood,

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the Government may apply to the magistrates' court, and the court may–

(i) in the first mentioned case–

(a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof to execute such work as may be necessary to obviate the danger or, if he so elects, subject to the prior approval, and in accordance with any conditions imposed on any approval, of the Development and Planning Commission, to demolish the building or structure, or any dangerous part thereof, and remove any rubbish resulting from the demolition;

(b) where danger arises from overloading of the building or structure, make an order restricting the use thereof until the magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction;

(ii) in the second mentioned case, make an order requiring the owner of the building or structure to execute such works of repair or restoration or, if he so elects, subject to the prior approval, and in accordance with any conditions imposed on any approval, of the Development and Planning Commission, to take such steps by demolishing the building or structure or any part thereof and removing any rubbish resulting from the demolition, as may be necessary for remedying the cause of complaint.

(2) If the person on whom an order is made under subsection (1) for the execution of works, or the demolition of a building or structure or of any part of a building or structure, and the removal of any rubbish resulting from the demolition, fails to comply with the order within the time therein specified, the Government may execute the order in such manner as they think fit and may recover the expenses reasonably incurred by them in so doing from the person in default, and without prejudice to the right of the Government to exercise those powers, he is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale and to a daily penalty of one tenth of the amount at level 5 on the standard scale.

(3) If the Government are satisfied that any building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises, and that immediate action should be taken for the protection of those persons or any of them, the Government may shore up or fence off the building or structure, and may recover from the owner thereof the expenses of any action reasonably taken by them under this subsection.

Exits, entrances, etc., in me case of certain public, and other buildings.

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40. (1) Where plans of a building or of an extension of a building are, in accordance with building rules, deposited with the Government and the building or, as the case may be, the building as extended will be a building to which this section applies, the Government shall reject the plans unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the Government deem satisfactory, regard being had by them to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort thereto at anyone time:

Provided that any question arising under this subsection between the Government and the person by whom, or on whose behalf, plans are deposited as to whether the means of ingress or egress or passages or gangways already existing, or proposed to be provided, ought to be accepted by the Government as satisfactory may on the application of that person be determined by the magistrates' court.

(2) If it appears to the Government that any building to which this section applies is not provided with such means of ingress and egress and passages or gangways as the Government deem satisfactory, regard being had by them to the purposes for which the building is used and the number of persons likely to resort thereto at any one time, the Government shall by notice require the owner of the building to execute such work and make such provision in regard to the matters aforesaid as may be necessary.

The provisions of section 330 shall apply in relation to any notice given under this subsection.

(3) If the Government are satisfied that the safety of the public requires that immediate action should be taken in the case of any buildings as respects which they have given a notice under subsection (2), they may apply to the magistrates' court and the court may make such temporary order as it thinks fit for the closing of the building to, or for restricting its use by, the public.

(4) The person having the control of any building to which this section applies shall take steps to secure that the means of ingress and egress and the passages and gangways are kept free and unobstructed while persons are assembled in the building, except in so far as the Government may otherwise approve, and, if he fails to do so, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

(5) This section applies to–

(a) any theatre, and any hall or other building which is used as a place of public resort;

(b) any restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed;

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(c) any club required to be registered under the provisions of the Clubs Act;

(d) any school not exempted from the operation of building rules; and

(e) subject as hereinafter provided, any church, chapel or other place of public worship:

Provided that this section does not apply to a private house to which members of the public are admitted occasionally or exceptionally, or to a building which was used as a church, chapel or other place of public worship immediately before the commencement of this Act.

Safety of platforms, etc., erected or used on public occasions.

41. (1) Whenever large numbers of persons are likely to assemble on the occasion of any show, entertainment, public procession, open-air meeting or other like occasion, every roof of a building, and every platform, balcony or other structure or part thereof, let or used or intended to be let or used for the purpose of affording sitting or standing accommodation for a number of persons, shall be safely constructed or secured to the satisfaction of the Government.

(2) A person who uses or allows to be used in contravention of this section, any roof of a building, platform, balcony or structure not so safely constructed or secured, or who neglects to comply with the provisions of this section in respect thereof, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

Hoards to be put up during progress of buildings, etc.

42. (1) Every person intending to build or take down any building, or to alter, renovate or repair the outward part of any building in any street, court or other public place, shall comply with the requirements of rules prescribing the conditions to be satisfied and the fees to be paid in respect of the closeboard hoarding or fencing of such a building.

(2) A person shall not use any hoarding or similar structure which is in, or abuts on, any public highway, for any purpose unless it is securely fixed to the satisfaction of the Government and has been previously sanctioned by the Commissioner of Police.

(3) A person who fails to comply with any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a daily penalty of one tenth of the amount at level 4 on the standard scale.

Houses to be numbered and names of streets exhibited.

43. (1) The Government shall from time to time cause the houses in all or any of the streets and reserved ways in which any house may be situate to be marked with numbers in a separate series for each such street or reserved way, and shall cause to be put up or painted on a

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conspicuous part of some house or place, at or near each end, corner or entrance of every such street and reserved way, the name by which the same is to be known.

(2) A person who destroys, pulls down or defaces any such number or name, or puts any number or name different from the number or name assigned by the Government is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale for every such offence.

(3) The owner, and in default of the owner the occupier of such houses shall mark the same on the outside door thereof or in such place and in such manner as shall be directed by the Government with the numbers assigned by the Government, and shall renew such numbers as often as they become obliterated or defaced. An owner or occupier, as the case may be, who fails, within one week after notice for that purpose from the Government, to mark his house with the number assigned by the Government or to renew such number when obliterated, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale, and the Government shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to the Government by the owner or occupier and in default may be recovered summarily as a civil debt:

Provided that the occupier shall be entitled to deduct any expense incurred by him under this section from the rent payable by him to the owner of the house.

Rules with respect to buildings and sanitation.

Rules for the construction of buildings.

44.The Government may make rules to regulate and govern the construction of all buildings in Gibraltar, and may specify in such rules the shape and proportions in which and the heights to which all houses shall in future be constructed.

Rules as to buildings and sanitation.

45. (1) The Government shall make rules for regulating all or any of the following matters:–

(a) as regards buildings–

(i) the construction of buildings, and the materials to be used in the construction of buildings;

(ii) the space about buildings, the lighting and ventilation of buildings, and the dimensions of rooms intended for human habitation;

(iii) the height of buildings; the height of chimneys not being separate buildings, above the roof of the building of which they form part;

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(b) as regards works and fittings–

(i) sanitary conveniences in connection with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; cesspools and other means for the reception or disposal of foul matter in connection with buildings;

(ii) ashpits in connection with buildings;

(iii) wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;

(iv) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as rules with respect to such matters are required for the purposes of health and the prevention of fire;

(v) private sewers; communications between drains and sewers and between sewers.

(2) Rules made under this section may include provisions as to–

(a) the giving of notices and the deposit of plans, sections, specifications and written particulars; and

(b) the inspection of work; the testing of drains and sewers, and the taking by the Government of samples of materials to be used in the construction of buildings, or in the execution of other works;

(c) the fees payable in respect of matters dealt with in paragraphs (a) and (b).

Application of certain rules to existing buildings.

46. (1) Rules under sub-paragraphs (a) (i), (ii) and (iii) of section 45(1) may be made with respect to–

(a) structural alterations or extensions of buildings, and buildings so far as affected by alterations or extensions;

(b) buildings or parts of buildings in cases where any material change, within the meaning of this section, takes place in the purposes for which a building or, as the case may be, a part of a building is used,

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and so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the rules came into force but, save as aforesaid, shall not apply to buildings erected before that date.

(2) For the purposes of this section, there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if–

(a) a building or a part of a building, being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house; or

(b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied by two or more families; or

(c) where rules contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose becomes so used.

Power of the Government to relax requirements of rules.

47. Where the operation of any building rules in force would be unreasonable in relation to any particular case, the Government may relax the requirements of the rules or dispense with compliance therewith:

Provided that notice of any such proposed relaxation or dispensation shall be given in such manner and to such persons, if any, as the Government may direct, and the Government shall not give its consent before the expiration of one month from the giving of the notice and after taking into consideration any objection which may have been received by it.

Passing or rejection of plans, and power to retain plans, etc.

48. (1) Where plans of any proposed work are, in accordance with building rules, deposited with the Government, the Government shall, subject to the provisions of any other section of this Act which expressly requires or authorizes them in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those rules and, if the plans are defective or show that the proposed work would contravene any of those rules, they shall reject the plans.

(2) The Government shall give notice to the person by whom or on whose behalf the plans were deposited whether or not they are passed, and–

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(i) a notice of rejection shall specify the defects on account of which, or the rule or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected; and

(ii) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the rules and of any such section of this Act as is referred to in subsection (1).

(3) Any question arising under this section between the Government and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the rules, may on the application of that person, be determined by the magistrates' court:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.

(4) The Government may retain one copy of any plans or other documents required to be deposited in pursuance of building rules whether or not the plans are passed.

(5) (a) The Government may by rules provide for the charging of fees in respect of any plans referred to in subsection (1).

(b) Without derogation of the generality of paragraph (a) above, the rules may provide–

(i) for the inclusion in the fees of reasonable costs of the examination of such plans by experts employed by the Government for the purpose,

(ii) for a deferral of the examination of the plans or withholding of a notice under this section, until such fees have been paid.

Power to require removal or alteration of work not in conformity with rules or executed notwithstanding rejection of plans, etc.

49.(1) If any work to which building rules are applicable contravenes any of those rules, the Government without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the rules.

(2) If, in a case where the Government are by any section of this Act other than section 48 expressly required or authorized to reject plans, any work to which building rules are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which

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the Government passed the plans, the Government may by notice to the owner either require him to pull down or remove the work, or require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements which they might have made under the section in question as a condition of passing plans.

(3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as the magistrates' court may on his application allow, the Government may pull down or remove the work in question, or effect such alterations therein as they deem necessary, and may recover from him the expenses reasonably incurred by them in so doing.

(4) No such notice as is mentioned in subsection (1) or subsection (2) shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the Government to give such a notice on the ground that the work contravenes any building rule or, as the case may be, does not comply with their requirements under any such section of this Act as aforesaid, if the plans were passed by the Government, and if the work has been executed in accordance with the plans and of any requirement made by the Government as a condition of passing the plans.

(5) Nothing in this section shall affect the right of the Attorney- General, or any other person, to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any rule or any enactment in this Act, but if the work is one in respect of which plans were deposited and the plans were passed by the Government, and if the work has been executed in accordance with the plans, the court on granting an injunction shall have power to order the Government to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall, in accordance with rules of court, cause the Government, if not a party to the proceedings, to be joined as a party thereto.

Deposit of plans to be of no effect after certain interval.

50.Where plans of any proposed work have, in accordance with building rules, been deposited with the Government, and the plans have been passed by the Government, and the work to which the plans relate has not been commenced within three years from the deposit of the plans, the Government may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is given, this Act and the rules made thereunder shall as respects the proposed work have effect as I no plans had been deposited.

Determination of question by the magistrates' court.

51.If any question arises between the Government and a person who has executed or proposes to execute, any work–

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(a) as to the application to that work of any building rules; or

(b) whether the plans of the work are in conformity with those rules; or

(c) whether the work has been executed in accordance with the plans as passed by the Government,

the question may, on an application of that person be determined by the magistrates' court.

Temporary operation of building rules.

52. Subject as hereinafter provided any building rules made by the Government under this Part shall cease to have effect on the expiration of ten years from the date on which they were made:

Provided that the Government may by order extend the period during which any rules mentioned in this section are to remain in force.

Exemption of certain buildings from building rules.

53.Nothing in the foregoing provisions of this Part with respect to building rules, or in any building rules made thereunder, shall apply in relation to any buildings to be built, rebuilt, extended or altered by the Government, the Ministry of Defence, or the Department of the Environment.

54. *Deleted.*

Restriction on the letting of new buildings.

55. (1) No new building or extension of a building and no building which has been rebuilt in whole or in part and no building or part of a building where any material change, within the meaning of section 46, takes place in the purposes for which the building, or as the case may be, the part of the building is used, shall be let or allowed to be occupied unless a certificate has been obtained from the Government that such building or part of a building is fit for such occupation.

(2) A person who omits to comply with the requirement of this section is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day such building or part of a building is occupied without such certificate.

Removal of refuse, scavenging, keeping of animals, etc.

Removal of house refuse, cleansing of ashpits, etc.

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56. (1) The Government shall undertake the performance of the following services, that is to say–

(a) the removal of house refuse;

(b) the cleansing of earthclosets, privies, ashpits and cesspools or any of them.

(2) If the Government receive notice from the occupier of any premises requiring them to remove any house refuse from those premises or, as the case may be, to cleanse any earthcloset, privy, ashpit or cesspool belonging to or used by the occupants of those premises, and, without reasonable excuse, fail to comply with the notice within seven days, the occupier of the premises may recover summarily as a civil debt from the Government the sum of £5 for every day during which the default continues after the expiration of that period.

(3) The Government may make rules–

(a) imposing on the occupiers of premises duties in connection with the removal of house refuse in order to facilitate the work which the Government are by this section required to undertake;

(b) if the Government themselves provide dustbins, requiring that those dustbins shall be used;

(c) prohibiting the deposit of liquid matter in dustbins;

(d) regulating the deposit of refuse in ashpits or dustbins; and

(e) prohibiting any person from removing any matter which the Government are by this section required to remove, not being matter produced on his own premises which he intends to remove for sale, or for his own use, and which is kept in the meantime so as not to be a nuisance.

Removal of trade and other matters.

57. (1) The Government shall at the request of the occupier of any premises remove from his premises any trade refuse and, if without reasonable excuse they fail to do so within seven days after the request, the occupier may recover from them summarily as a civil debt the sum of £5 for every day during which the default continues after the expiration of that period.

(2) The Government shall make reasonable charges for removing trade refuse under this section.

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(3) Any question arising under this section as to what is to be considered as trade refuse or as to the reasonableness of any charges made by the Government may, on the application of either party, be determined by the magistrates' court.

Power to provide dustbins.

58. (1) The Government may as respects any premises provide, maintain and renew such number of dustbins as they may consider necessary.

(2) The Government may (if they think fit) make such annual charge as they think proper in respect of each dustbin provided, maintained or renewed by. them but shall not be obliged to make any such charge in respect of any or in respect of all premises for which a dustbin is so provided, maintained or renewed.

(3) Any charge made under subsection (2) shall become due on the lst day of April in each year and may be recovered as part of the general rate in respect of the premises for which the dustbin was provided but without prejudice to the rights of any person under any tenancy agreement:

Provided that as respects any such premise–

(a) if the premises are in more than one occupation for rating purposes, the Government shall make a reasonable apportionment of the charge in respect of each part of the premises so separately occupied;

(b) if the premises or any part thereof are or is unoccupied during any portion of the period of twelve months commencing on the lst day of April in any year, the charge or sum apportioned to such part in respect of the charge (as the case may be) shall be reduced in the proportion which such portion bears to twelve months; and

(c) if such premises or part are unoccupied on the lst day of April in any year such charge or apportionment sum (as the case may be) shall not be recoverable until the premises or part become or becomes occupied, and if they or it remain or remains unoccupied during the whole of the period of twelve months commencing on that day such charge or sum shall be treated as irrecoverable in respect of that period.

Obligation to provide dustbins.

59. (1) Without prejudice to the powers conferred by section 58, if it appears to the Government that any building is without a sufficient number of dustbins of suitable material, size and construction properly covered and in proper condition they may serve a notice on the owner of the building requiring him to provide such number of covered dustbins of such material, size and construction as may be specified in the notice and (subject to the provisions

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of this section) the provisions of section 330 shall apply in relation to any notice served under this section.

(2) In addition to the grounds on which pursuant to section 330(3) an owner served with a notice under subsection (I) of this section may appeal to the magistrates' court under that section such owner may also appeal on the ground that the building to which the notice relates is occupied in its entirety by some other person and that any obligation to comply with the requirements of the notice ought to fall upon the occupier of the building and section 330 shall accordingly have effect in relation to any such notice as aforesaid as if a reference to such ground of appeal was included in subsection (3) thereof:

Provided that the owner of a building shall not be entitled to rely on such ground of appeal unless the court is satisfied that a copy of his notice of appeal has been served by the owner on the occupier of the building under paragraph (b) of section 330(5) and on the Government together with a written intimation that he proposes to rely on such ground of appeal.

(3) Where the Government receive notice of an appeal together with such written intimation from an owner of a building they shall serve upon the occupier thereof a copy of the notice served by them upon the owner under subsection (1) of this section accompanied by a written notification of the effect of paragraphs (c) and (d) of section 330(5) (which define the powers of the court on hearing an appeal under that section).

Refuse storage accommodation.

60. (1) In this section–

"building" includes a part of a building;

"refuse storage accommodation", in relation to a building, means reasonable accommodation for the storage of dustbins containing or intended to contain the refuse arising from the use or intended occupation of the building together with satisfactory means of access to a street.

(2) Every building to which this section applies shall be provided with refuse storage accommodation approved by the Government and in considering as respects any such building whether reasonable accommodation is or is not provided or proposed to be provided regard shall be had to the character and situation of such building.

(3) This section applies to a building as respects which works of a structural nature for any of the following purposes are begun, that is to say, for:–

(a) the erection or rebuilding of the building;

(b) altering or adapting the building for use for human habitation;

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(c) dividing the building into flats or tenements;

(d) effecting any change in the use or occupation of the building as a result of which the refuse storage accommodation thereat will be rendered insufficient or unsuitable;

(e) altering the building in such a manner that the refuse storage accommodation thereat will be rendered insufficient or unsuitable.

(4) Where a building to which this section applies is not or (as the case may be) is not proposed to be provided with refuse storage accommodation approved by the Government, the Government may serve on the owner or occupier thereof a notice requiring him to carry out such works and do such things as may be necessary to secure that the building is provided with refuse storage accommodation approved by the Government and the provisions of section 330 shall apply in relation to the notice.

(5) Where there is submitted to the Government particulars of proposals for the provision of refuse storage accommodation or for the alteration of such accommodation the Government shall be deemed to have approved such accommodation or alteration unless within two months of the submission of the particulars or within such longer period as may be agreed upon between the Government and the applicant the Government serve notice on him that they refuse to give their approval to the proposals or approve them subject to such modifications or conditions as may be specified in the notice.

(6) Where the Government refuse to give approval under this section to any proposals for the provision or alteration of refuse storage accommodation or give such approval subject to modifications or conditions they shall state the grounds of their decision and any person aggrieved thereby may appeal to the magistrates' court.

Provisions as to deposit and disposal of refuse, and for prohibiting interference with dustbins and refuse tips.

61. (1) The Government may provide–

(a) receptacles for refuse in streets and public places;

(b) places for the deposit of refuse;

(c) plant or apparatus for treating or disposing of refuse.

(2) The Government may sell refuse removed by them from any premises, including any street, under this Part.

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(3) It shall not be lawful for any person, other than a person employed by the Government in connection with the removal and disposal of refuse–

(a) to sort over or disturb the contents of any dustbin when placed in any street or forecourt for the purpose of its contents being removed by the Government; or

(b) to sort over or disturb the material deposited in any place provided by the Government for the deposit of refuse;

and a person who contravenes any of the provisions of this subsection is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Sweeping and watering of streets.

62. (1) The Government shall undertake the cleansing, and may undertake the watering of public highways and streets.

(2) The Government may undertake the cleansing or watering of any streets on such terms as may be agreed.

Scavenging of common courts and passages.

63. (1) If any court, yard or passage which is used in common by the occupants of two or more buildings, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the Government, the Government may cause it to be swept and cleansed.

(2) The Government may recover any expenses reasonably incurred by them under this section from the owners of the buildings which front or abut on the court or yard, or to which the passage affords access, in such proportions as may be determined by the Government, or, in case of dispute, by the magistrates' court.

Power to require removal of noxious matter by occupier of premises.

64. (1) If it appears to the Government that any accumulation of filth or other offensive or noxious matter ought to be removed, they shall serve notice on the owner thereof, or on the occupier of the premises on which it is found, requiring him to remove it, and, if the notice is not complied with within twenty-four hours after service thereof, the Government may remove the matter referred to.

(2) The Government may recover the expenses of any action reasonably taken by them under subsection (1) from the owner or occupier in default.

Removal of manure, etc. from stables, etc.

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65. (1) The Government may by public or other notice require the periodical removal, at such intervals as may be specified in the notice, of manure or refuse from mews, stables or other premises.

(2) A person on whom a notice has been served under this section and who fails to comply therewith, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

(3) The Government, upon payment or tender to them of a reasonable sum for their expenses by the occupier of any stable or like building, shall themselves remove the manure or refuse from such stable or like building or from any yard ad joining thereto and used therewith, and any question arising as to the reasonableness of the sum to be paid to the Government under this subsection may, on the application of either party, be determined by the magistrates' court.

Power of Government to remove manure, and charges therefor.

66. (1) Notwithstanding anything hereinbefore contained the Government may undertake or contract for the removal of manure of horses or other animals from any premises in the occupation of private persons and to make a charge therefor not exceeding an amount equivalent to the amount at level 1 on the standard scale per week in respect of each animal.

(2) All manure collected by the Government or contractor in pursuance of this section may be sold or otherwise disposed of as the Government may deem fit.

(3) For the purposes of this section the Government and other officers or contractor may enter the premises and remove the manure, and a person who removes or obstructs the Government or their officers or contractor in removing any manure by this section authorized to be removed by the Government is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(4) The charge authorized to be made under this section for the removal of any such manure shall be recovered by the Government summarily as a civil debt from the person to whom the manure belongs, or from the occupier of the premises.

Damaging neighbourhood amenities.

67. (1) A person who, being the owner or occupier of a vacant site, or occupier of a vacant site, or of any yard in any premises, causes, allows, or suffers any rubbish to accumulate on the site or in the yard to the serious detriment of the amenities of the neighbourhood, is guilty of an offence and is liable on summary conviction–

(a) in every case, to a fine at level 4 on the standard scale; and

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(b) in the case of an individual, to a further fine of one twentieth of the amount at level 4 on the standard scale for every day on which the offence has continued; and

(c) in the case of a body corporate, to a further fine of one tenth of the amount at level 4 on the standard scale for every day on which the offence has continued.

(2) In this section, and in section 68, 'rubbish' includes rubble, waste paper, crockery, metal, wood, and any other kind of refuse (including organic matter).

Preservation of neighbourhood amenities.

68.(1) Where it appears to the Government that there is on any vacant site or in any yard in any premises an accumulation of rubbish which is seriously detrimental to the amenities of the neighbourhood, the Government may, subject to the provisions of' this section, take such steps for removing the rubbish as they consider necessary in the interests of the amenities of the neighbourhood.

(2) Not less than twenty-eight days before taking any action under this section, the Government shall serve on the owner or occupier of the site a notice stating the steps which the Government proposes to take and giving particulars of the following provisions of this subsection; and a person on whom the notice is served and any other person having an interest in the land may within twenty- eight days from the service of the notice–

(a) serve a counter-notice on the Government stating that he intends to take those steps himself; or

(b) appeal to the magistrates' court on the ground that the Government was not justified in concluding that action should be taken under this section, or that the steps proposed to be taken are unreasonable.

(3) If a counter-notice is served under subsection (2) the Government shall take no further action in the matter under this section unless the person who served the counter-notice either–

(a) fails within such time as appears to the Government to be a reasonable time to begin to take the steps stated in the notice; or

(b) having begun to take those steps fails to make such progress towards their completion as seems to the Government reasonable.

(4) If an appeal is brought under subsection (2) the Government shall take no further action in the matter under this section until the appeal is finally determined or withdrawn; and on the hearing of the appeal the magistrate's court may direct the Government to take no further action or may permit the Government to take such steps as the court may direct or may dismiss the appeal.

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(5) Where the Government takes steps under subsection (1) to remove any rubbish from a site or yard, it may recover from the person on whom the notice was served as a debt due by him to the Crown the Government's reasonable expenses of doing so.

(6) The powers conferred on the Government by this section shall be in addition to and not in substitution for any other powers conferred on the Government under this Act.

Unauthorized dumping.

69.(1) A person who, without lawful authority,–

(a) abandons on any land in the open air (other than a public highway) a motor vehicle or anything which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land; or

(b) abandons on any such land any thing other than a motor vehicle being a thing which he has brought to the land for the purpose of abandoning it there;

(c) introduces, or permits the introduction by way of direct or indirect discharge into groundwater of a substance falling within List 1 or List 2 of the Annex to Council Directive 80/68/EEC other than–

(i) where that Directive does not apply by virtue of Article 2 thereof; or

(ii) where that Directive applies, in accordance with an authorisation issued under rules made by virtue of section 70;

is guilty of an offence and is liable on summary conviction to a fine of one half of the amount at level 4 on the standard scale in the case of a first conviction for such an offence and in the case of a second or subsequent conviction to a fine at level 4 on the standard scale and imprisonment for a term of three months and in either case to a further fine of one tenth of the amount at level 4 on the standard scale for every day on which the offence has continued.

(2) Where it appears to the Government that, a person having been convicted of an offence under sub-section (1) above, anything falling within paragraphs (a) or (b) of that subsection remains so abandoned, and it was in respect of the abandonment of such thing that the person was convicted, the Government may without the need of notice or further notice, take such steps for removing any such thing as it considers necessary in the interests of the amenities of the neighbourhood and may recover from the person convicted under subsection (1) above, as a debt due by him to the Crown, the Government's reasonable expenses of doing so.

Rules for controlling certain nuisances.

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70. The Government may make rules–

(a) for preventing the occurrence of nuisances from filth, dust, ashes and rubbish;

(b) for preventing the keeping of animals so as to be pre judicial to health;

(c) prescribing the times for the removal, or carriage through the streets, of any faecal or offensive or noxious matter or limited;

(d) requiring that the receptacle or vehicle used for the removal or carriage of any such matter or liquid shall be properly constructed and converted so as to prevent the escape of any such matter or liquid;

(e) requiring the cleansing of any place whereon any such matter or liquid has been dropped or spilt in the course of removal or carriage;

(f) providing for the removal in special vehicles to be provided by the Government or otherwise, of dead animals, and the payment of the expenses of such removal by the owners of such dead animals, or by the occupiers or any of the occupiers of the premises where such dead animals may be found;

(g) for preventing and controlling discharges into groundwater in accordance with Council Directive 80/68/EEC.

Penalties.

71.Rules made under section 70 may provide for a penalty, on summary conviction for an offence against any such rule, not exceeding a fine of one half of the amount at level 4 on the standard scale on conviction for a first offence, and not exceeding a fine at level 4 on the standard scale and imprisonment for a term not exceeding three months on conviction for a second or subsequent offence.

Filthy or verminous premises or articles, and verminous persons.

Cleansing of filthy or verminous premises.

72. (1) Where it appears to the Chief Environmental Health Officer or an environmental health officer that any premises used for human habitation–

(a) are in such a filthy or unwholesome condition as to be prejudicial to health; or

(b) are verminous,

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the Chief Environmental Health Officer shall give notice to the owner or occupier of the premises requiring him to take such steps to remedy the condition of the premises by cleansing, disinfecting and white-washing them, as may be specified in the notice, and in the case of verminous premises the notice may require, among other things, the removal of the wallpaper or other covering on the walls, and the taking of such other steps as may be necessary for the purpose of destroying or removing vermin.

(2) If a person on whom a notice under this section is served fails to comply with the requirements thereof, the Government may themselves carry out the requirements and recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the Government to exercise that power, he is guilty of an offence and is liable on summary conviction to a fine at level 1 of the standard scale and to a further fine of one tenth of the amount at level 1 of the standard scale for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to, question the reasonableness of the requirements of the Chief Environmental Health Officer or of his decision to address his notice to the defendant and not to the occupier or, as the case may be, the owner of the premises.

(3) Where the Chief Environmental Health Officer takes action under paragraph (b) of subsection (1) his notice may require that he shall be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case the notice shall be served both on the owner and on the occupier of the premises, and the Government shall bear the cost of their operations and may provide temporary shelter or house accommodation for any person compelled to leave the premises by reason of their operations.

Cleansing or destruction of filthy or verminous articles.

73.Where it appears to the Chief Environmental Health Officer or an environmental health officer that any article in any premise–

(a) is in so filthy a condition as to render its cleansing, purification or destruction necessary in order to prevent injury, or danger of injury, to the health of any person in the premises; or

(b) is verminous, or by reason of its having been used by, or having been in contact with, any verminous person is likely to be verminous,

the Chief Environmental Health Officer shall cause that article to be cleansed, purified, disinfected or destroyed, as the case may require, at the expense of the Government and, if necessary for that purpose, to be removed from the premises.

Cleansing of verminous persons and their clothing.

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74. (1) Upon the application of any person the Chief Environmental Health Officer may take such measures as are, in his opinion, necessary to free him and his clothing from vermin.

(2) Where it appears to the Chief Environmental Health Officer that any person, or the clothing of any person, is verminous, then, if that person consents to be removed to a cleansing station, the Chief Environmental Health Officer may cause him to be removed to such a station, and, if he does not so consent, the Chief Environmental Health Officer may apply to the magistrates' court and the court, if satisfied that it is necessary that that person or his clothing should be cleansed may make an order for the removal to such a station and for his detention therein for such period and subject to such conditions as may be specified in the order.

(3) Where a person has been removed to a cleansing station in pursuance of subsection (2), the Chief Environmental Health Officer shall take such measures as may, in his opinion, be necessary to free him and his clothing from vermin.

(4) The cleansing of females under this section shall be carried out only by a registered medical practitioner, or by a woman duly authorized by the Chief Environmental Health Officer.

(5) Any consent required to be given for the purposes of this section may in the case of a person under the age of sixteen years, be given on his behalf by his parent or guardian.

(6) No charge shall be made in respect of the cleansing of a person or his clothing, or in respect of his removal to, or maintenance in, a cleansing station under this section.

Provision of cleansing stations.

75.The Government may provide such cleansing stations as may be necessary for the discharge of their functions under any of sections 72, 73 and 74.

Public sanitary conveniences.

Provision of public conveniences.

76. (1) The Government may provide public sanitary conveniences in proper and convenient situations and may–

(a) let them for such term, at such rent, and subject to such conditions as they think fit;

(b) charge such fees for the use of any such conveniences, as they think fit.

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(2) The Government may make rules as to the conduct of persons using or entering public sanitary conveniences.

(3) In this section "sanitary conveniences" includes lavatories.

Control over conveniences in, or accessible from, streets.

77.(1) No person shall erect any public sanitary convenience in, or so as to be accessible from, any street without the consent of the Government, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit and a person who contravenes the provisions of this subsection is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, without prejudice to the right of the Government under subsection (3) to require the convenience to be removed.

(2) A person aggrieved by the refusal of the Government to give a consent under subsection (1) or by any terms imposed by them, may appeal to the magistrates' court.

(3) The Government may by notice require–

(a) the owner of a sanitary convenience which has been erected in contravention of subsection (1), or the removal of which they are by virtue of the terms of a consent given under that subsection entitled to require, to remove it;

(b) the owner of a public or private sanitary convenience which opens on a street and is so placed or constructed as to be a nuisance or offensive to public decency, to alter, remove or permanently to close it.

(4) The provisions of section 330 shall apply in relation to any notice given under this section.

Power to require sanitary. conveniences to be provided at inns, refreshment houses, etc.

78. (1) The Government may by notice require the owner or occupier of any inn, public-house, beer-shop, refreshment-house, or place of public entertainment to provide and maintain in a suitable position such number of sanitary conveniences for the use of persons frequenting the premises as may be reasonable.

(2) A person who fails to comply with a notice served upon him under this section, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale and to a further fine of one tenth of the amount at level 3 on the standard scale for each day on which the offence continues after conviction therefor:

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Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the Government's requirements, or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

PART II.
NUISANCES AND OFFENSIVE TRADES AND TRADES LIKELY TO GIVE RISE TO MAJOR ACCIDENT HAZARDS.

Interpretation.

Interpretation of Part II.

79. (1) In this Part–

"chimney" includes structures and openings of any kind from or through which smoke may be emitted.

"dust" does not include dust emitted from a chimney as an ingredient of smoke; and "smoke" includes soot, ash, grit and gritty. particles.

(2) In determining for the purposes of this Part whether the best practicable means have been taken for preventing, or for counteracting the effect of, a nuisance, a court shall have regard to cost and to local conditions and circumstances.

General duty of the Government.

Duty of Government to cause inspection for detection of nuisances.

80. It shall be the duty of the Government to cause inspections to be made from time to time for the detection of matters requiring to be dealt with under the provisions of this Part as being statutory nuisances within the meaning of section 81.

Nuisances which may be dealt with summarily.

Statutory nuisances.

81.Without prejudice to the exercise by the Government of any other powers vested in them by or under this Act, the following matters may, subject to the provisions of this Part, be dealt with summarily, and are in this Part referred to as "statutory nuisances," that is to say–

(a) any premises in such a state as to be prejudicial to health or a nuisance;

(b) any animal or bird kept in such a place or manner as to be prejudicial to health or a nuisance;

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(c) any accumulation or deposit which is prejudicial to health or a nuisance;

(d) any dust or effluvia caused by any trade, business, manufacture or process and being pre judicial to the health of, or a nuisance to, the inhabitants of the neighbourhood;

(e) any workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia or which is so overcrowded while work is carried on as to be pre judicial to the health of those employed therein;

(f) any house or part of a house so overcrowded or insufficiently ventilated as to be prejudicial to the health of the inmates whether or not members of the same family;

(g) any pool, ditch, gutter or watercourse which is so foul or in such a state as to be pre judicial to health or a nuisance;

(h) any premises not sufficiently supplied with fresh and salt water, regard being had in every case to the nature thereof, the number of persons usually occupying, inhabiting or using the same, and the means of supply thereto;

(i) any house or erection, and any fixture, matter or thing affixed to or placed in or upon any house or erection, in such a state as to be dangerous to any person within or passing or being near to, such house or erection;

(j) any well, tank, cistern or reservoir for water used for dietetic purposes, the water wherein shall be a nuisance, or the use whereof for dietetic purposes would be pre judicial to health;

(k) any collecting area, filter, gutter or pipe for the collecting, purifying or conveying water for dietetic purposes, which shall be in such a state or condition that the water collected thereby, or passing over or through the same, would be a nuisance, or the use whereof for dietetic purposes would be pre judicial to health;

(l) any cistern, well, pool, channel, barrel, bucket, tub, or other vessel or receptacle so placed, constructed or kept as to allow the breeding of insects therein, or render the water therein liable to contamination or pre judicial to health;

(m) any gutter, drain, shoot, stack pipe or downspout of a building which by reason of its insufficiency or defective condition causes damp in any such building or in an adjoining building;

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(n) any deposit of material in or on any building or land which causes damp in such building or in an ad joining building so as to be pre judicial to health;

(o) any dustbin, manure bin or other receptacle which is or is kept in such a condition as to be prejudicial to health or a nuisance;

(p) any other matter declared by any provision of this Act to be a statutory nuisance.

Service of abatement notice.

82. (1) Where the Government are satisfied of the existence of a statutory nuisance, they shall serve a notice (hereinafter in this Act referred to as "an abatement notice") on the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose:

Provided that–

(a) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises;

(b) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or occupier of the premises, the Government may themselves do forthwith what they consider necessary to abate the nuisance and to prevent a recurrence thereof;

(c) where the nuisance arises under paragraph (1) of section 81 the service of an abatement notice by the Government may be dispensed with, and the Government may cause a complaint to be made forthwith to a justice of the peace and such justice shall thereupon issue a summons requiring the person by whose act, default or sufferance the nuisance arises or continues, or if such person cannot be found the owner or occupier of the premises on which the nuisance arises, to appear before the magistrates' court.

(2) Where a notice is served under paragraph (a) of the proviso to subsection (1), the provisions of section 330 shall apply in relation to such notice and in addition to the grounds on which pursuant to section 330(3) an owner served with such notice may appeal to the magistrates' court under that section such owner may also appeal on the ground that the premises to which the notice relates is occupied by some other person and that any obligation to comply with the requirements of the notice ought to fall upon the occupier of the premises and section 330 shall accordingly have effect in relation to any such notice as if a reference to such ground of appeal were included in subsection (3) thereof:

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Provided that–

(a) the owner shall not be entitled to rely on such ground of appeal unless the court is satisfied that a copy of his notice of appeal has been served by the owner on the occupier of the premises under paragraph (b) of section 330(5) and on the Government together with a written intimation that he proposes to rely on such ground of appeal;

(b) where the Government receive notice of an appeal together with such intimation from an owner of premises they shall serve upon the occupier thereof a copy of the notice served by them upon the owner.

Power of court to make nuisance order if abatement notice disregarded.

83.(1) If the person on whom an abatement notice has been served makes default in complying with any of the requirements of the notice, or if the nuisance, although abated since the service of the notice, is, in the opinion of the Government, likely to recur on the same premises, the Government shall cause a complaint to be made to a justice of the peace, and the justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before the magistrates' court.

(2) If on the hearing of the complaint it is proved that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, then, subject to the provisions of subsections (5) and (6), the court shall make an order (hereinafter in this Act referred to as "a nuisance order") for either or both of the following purposes–

(a) requiring the defendant to comply with all or any of the requirements of the abatement notice, or otherwise to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(b) prohibiting a recurrence of the nuisance, and requiring the defendant, within a time specified in the order, to execute any works necessary to prevent a recurrence.

Where a nuisance proved to exist is such as to render a building, in the opinion of the court, unfit for human habitation, the nuisance order may prohibit the use of the building for that purpose until the magistrates' court, being satisfied that it has been rendered fit for human habitation, withdraws the prohibition.

(3) A person who makes default in complying with an abatement notice is guilty of an offence and is liable on conviction to a fine at level 4 on the standard scale.

(4) Where on the hearing of a complaint under this section it is proved that the alleged nuisance existed at the date of the service of the abatement notice and that at the date of the making of the complaint it either still existed or was likely to recur, then, whether or not at the

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date of the hearing it still exists or is likely to recur, the court shall order the defendant to pay to the Government such reasonable sum as the court may determine in respect of the expenses incurred by the Government in, or in connection with, the making of the complaint and the proceedings before the court.

(5) Where proceedings are brought under this section in respect of a nuisance under paragraph (c) of section 81 (which relates to certain accumulations or deposits) it shall be a defence for the defendant to prove that the accumulation or deposit complained of was necessary for the effectual carrying on of a business or manufacture and has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best practicable means have been taken for preventing it from being prejudicial to the health of, or a nuisance to, the inhabitants of the neighbourhood.

(6) Where proceedings are brought under this section in respect of a nuisance under paragraph (d) of section 81 (which relates to dust or effluvia caused by any trade, business, manufacture or process), it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing, or counteracting the effect of, the dust or effluvia.

(7) If it appears to the court that the person by whose act or default the nuisance arises, or the owner or occupier of the premises, cannot be found, the nuisance order may be addressed to, and executed by, the Government.

Penalty for contravention of nuisance order, and abatement of nuisance by the Government.

84. (1) A person who fails without reasonable excuse to comply with, or knowingly contravenes, a nuisance order is guilty of an offence and is liable on summary conviction to a fine of twice the amount at level 4 on the standard scale and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after conviction therefor.

(2) Without prejudice to the foregoing provisions of this section, where a nuisance order has not been complied with, the Government may abate the nuisance, and do whatever may be necessary in execution of the order.

Costs of Government in abating, or preventing recurrence of, nuisance.

85. (1) Any expenses reasonably incurred by the Government under this Part in abating, or preventing the recurrence of, a statutory nuisance in respect of which a nuisance order has been made may be recovered by them–

(a) where the order was made on some person, from that person;

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(b) where the order was made on the Government, from the person by whose act or default the nuisance was caused,

and, in either case if the person in question is the owner of the premises, from any person who is for the time being the owner thereof.

(2) In proceedings to recover any such expenses, the court shall have power to apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court may deem fair and reasonable.

Proceedings where nuisance caused by acts or default of more than one person.

86. (1) Where a statutory nuisance appears to be wholly or partly caused by the acts or defaults of two or more persons, proceedings may be instituted under the foregoing provisions of this Part against any one of them, or all or any two or more of them may be included in the same proceedings; and subject to those provisions, any one or more of the persons proceeded against may be ordered to abate the nuisance, so far as it appears to the court to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which, in the opinion of the court, contribute to the nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of those persons would not separately have caused a nuisance, and the costs may be apportioned as the court may deem fair and reasonable.

(2) Proceedings against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but may be carried on as if the deceased person had not been so included.

(3) Where some only of the persons by whose acts or defaults a nuisance has been caused have been proceeded against under this Act, they may, without prejudice to any other remedy, recover in a summary manner from the other persons who were not proceeded against a proportionate part of the costs of, and incidental to, the proceedings and the abatement of the nuisance, and of any fine or costs ordered to be paid in the proceedings.

Identifying marks on tubs, barrels etc.

87.Whenever it may appear desirable to the Chief Environmental Health Officer that means should be provided for identifying the ownership of any tub, barrel, or other water receptacle on or in any premises used by or occupied by members of more than one family, he may stamp or mark or cause the owner or person in charge thereof to stamp or mark such tub, barrel, or other water receptacle, in a manner directed by him, so as to permit of identification of ownership, and the owner or person in charge of any such tub, barrel or other water receptacle shall, if required to do so by the Chief Environmental Health Officer, maintain such stamp or mark in a legible and satisfactory condition.

Power of individual to make complaint as to statutory nuisance.

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88.Complaint of the existence of a statutory nuisance under this Act may be made to a justice of the peace by any person aggrieved by the nuisance, and thereupon the like proceedings shall be had, with the like incidents and consequences as to the making of orders, penalties for disobedience of orders, and otherwise, as in the case of a complaint by the Government, but any order made in such proceedings may, if the court after giving the Government an opportunity of being heard thinks fit, direct the Government to abate the nuisance.

Government may take proceedings in Supreme Court for abatement of statutory nuisance.

89.If in the case of any statutory nuisance the Government are of opinion that summary proceedings would afford an inadequate remedy, they may in their own name take proceedings in the Supreme Court for the purpose of securing the abatement or prohibition of that nuisance, and such proceedings shall be maintainable notwithstanding that the Government have suffered no damage from the nuisance.

Smoke nuisances.

Smoke nuisances.

90. For the purposes of this Part–

(a) any installation for the combustion of fuel which is used in any manufacturing or trade process, or for working engines by steam, and which does not so far as practicable prevent the emission of smoke to the atmosphere; and

(b) any chimney (not being the chimney of a private house) emitting smoke in such quantity as to be a nuisance,

shall be statutory nuisances and are in this Act referred to as "smoke nuisances."

Notice to occupier of existence of smoke nuisance.

91.Where in the opinion of an authorized officer of the Government a smoke nuisance exists, he shall, as soon as practicable after he has become aware thereof, notify the occupier of the premises on which the nuisance exists, and, if that notification was not in writing, shall, within twenty-four hours after he became aware of the nuisance, confirm the notification in writing.

Procedure with respect to smoke nuisances.

92. (1) Subject to the provisions of this section, where a smoke nuisance exists on any premises, an abatement notice may be served and a complaint with respect to the nuisance may be made in like manner, and thereupon the like proceedings shall be had, with the like incidents

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and consequences as to the making of orders, penalties for disobedience of orders and otherwise, as in the case of any other statutory nuisance.

(2) Where proceedings are brought by virtue of this section in respect of such a nuisance as is mentioned in paragraph (a) of section 90, it shall be a defence for the defendant to prove that the installation complained of embodies the best practicable means for preventing the emission of smoke to the atmosphere, and that the installation has been carefully attended to by the person having the charge thereof.

(3) Where proceedings are brought by virtue of this section in respect of the emission from a chimney of smoke, other than black smoke, in such quantity as to be a nuisance, it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing the nuisance.

For the purposes of this subsection, "best practicable means" has reference not only to the provision and efficient maintenance of adequate and proper plant for preventing the creation and emission of smoke, but also to the manner in which that plant is used.

(4) Where rules made under section 93 are in force for regulating the emission of smoke of such colour, density or content as may be prescribed by the rules, the emission of smoke of the character so prescribed for such period as may be so prescribed either from buildings generally to which the enactments relating to smoke nuisance apply, or from such classes of those buildings as may be so prescribed, shall, until the contrary is proved, be deemed to be a statutory nuisance and a smoke nuisance.

(5) In the case of a smoke nuisance, the fine which may be imposed by the court in respect of a failure to comply with an abatement notice is a fine at level 4 on the standard scale, and the fines which may be imposed by a court in respect of a failure to comply with, or a contravention of, a nuisance order is a fine of twice the amount at level 4 on the standard scale, and a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after summary conviction therefor.

Emission of dark smoke from vessels.

92A.(1) Subject to subsection (3), no vessel within BGTW, may emit dark smoke for longer than the period specified in the second column of the table contained in Schedule 22 in respect of the class of case specified in the first column of the said Schedule, provided that–

(a) in no case shall black smoke be emitted for two minutes or more in the aggregate within a period of thirty minutes; and

(b) continuous emissions of dark smoke shall not exceed three minutes.

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(2) If subsection (1) is contravened, the owner and master of the vessel each commits an offence.

(3) In any proceedings for an offence under this section, it shall be a defence to prove that–

(a) the emission of dark smoke took place in circumstances affecting the safety of life or of the vessel; or

(b) the contravention complained of was solely due to some failure of a furnace or of apparatus used in connection with a furnace, provided that-

(i) such failure could not reasonably have been foreseen, or, if foreseen, could not reasonably have been provided against; and

(ii) the contravention could not reasonably have been prevented or minimised by action taken after the failure occurred.

(4) Each person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding £5,000.

(5) This section does not apply to vessels of Her Majesty's navy or to Government ships in the service of the Secretary of State for Defence while employed for the purposes of Her Majesty's navy.

(6) For the purposes of Schedule 22 a vessel is not under way when it is at anchor or made fast to the shore or bottom, and a vessel which is aground shall be deemed to be under way.

(7) The Minister may by Order published in the Gazette amend or vary the provisions of Schedule 22 in order to specify periods during which emission of smoke from vessels may be permitted in any class of case and subject to limitations.

(8) In this section, unless the context otherwise requires–

"BGTW" has the meaning given in section 98A;

"black smoke" means smoke which would appear to be as dark as, or darker than, shade 4 on the Ringelmann Chart as provided for in British Standard 2742:2009;

"dark smoke" means smoke which would appear to be as dark as, or darker than, shade 2 on the Ringelmann Chart as provided for in British Standard 2742:2009;

"smoke" includes soot, ash, grit and gritty particles emitted in smoke or steam.

Rules as to smoke.

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93. (1) The Government may make rules regulating the emission of smoke of such colour, density, or content as may be prescribed by the rules.

(2) Building rules may require the provision in new buildings, other than private houses, of such arrangements for heating or cooking as are calculated to prevent or reduce the emission of smoke.

(3) Rules made under subsection (1) may also-

(a) provide for the adoption of precautions against the emission of smoke from vessels;

(b) make general provisions for effectively controlling the emission of smoke from vessels; and

(c) impose penalties for breaches of the rules, and section 23(b) of the Interpretation and General Clauses Act does not apply to any such rules.

large combustion plants

93A to 93F *Repealed*.

Offensive trades.

Restriction on establishment

94. (1) A person who on any premises establishes, without the consent of the Government, any offensive trade as hereinafter defined is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

For the purposes of this section, "offensive trade" means any of the following trades, businesses or manufactures, that is to say–

(a) the trade or business of a blood boiler, blood drier, bone boiler, fat extractor, fat melter, fell-monger, glue maker, gut scraper, rag and bone dealer, size maker, soap boiler, tallow melter or tripe boiler; or

(b) any trade, business or manufacture which produces or may produce a discharge, direct or indirect, into waters falling within Article 1.1 of Council Directive 76/464/EEC where that discharge falls or may fall within the definition of "discharge" in paragraph 2(d) of that Article;

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(c) any other trade, business or manufacture which the Government may declare by order published in the Gazette to be an offensive trade.

(2) A person who on any premises carries on an offensive trade established without such consent is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale for every day on which he carries on the trade after having been convicted in respect of the establishment thereof or, where he has not been so convicted, after receiving notice from the Government to discontinue the trade.

(3) Any consent of the Government under this section to the establishment of an offensive trade may be given so as to authorize the carrying on of the trade for a limited period specified in the consent, and for such extension of that period as may from time to time be granted by the Government, and a person who carries on the trade after the expiration of the period so specified, or any such extension thereof, as the case may be, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale for each day on which he carries on the trade after notice from the Government stating that the period, or, as the case may be, the period as extended, has expired.

(4) A person aggrieved by the refusal of the Government to consent under this section to the establishment of a trade, or by any time limit attached to their consent, or by their refusal to extend such a time limit, may appeal to the magistrates' court.

(5) An order made under paragraph (c) of subsection (1) may declare a trade, business or manufacture to be an offensive trade if established or carried on in a specified part of Gibraltar and, where an order under that paragraph is so limited, any reference in the foregoing provisions of this section to premises shall, in relation to the trade, business or manufacture in question, be construed as a reference to premises within that part of Gibraltar.

(6) For the purposes of this section, a trade, business or manufacture shall be deemed to be established not only when it is established in the first instance, but also if and when–

(a) it is transferred or extended from the premises on which it is for the time being carried on to other premises; or

(b) it is resumed on any premises on which it was previously carried on, after it has been discontinued for more than eighteen months; or

(c) the buildings in which it is carried on are enlarged,

but a change in the ownership or occupation of the premises on which a trade, business or manufacture is carried on, or the rebuilding of the buildings in which it is carried on when they have been wholly or partially pulled down or burnt down, without any extension of the total floor space therein, shall not for those purposes be deemed to be an establishment of the trade, business or manufacture.

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(7) Subject to–

(a) the limitation on the obligations of the Government provided for in section 12, and

(b) any other requirements in this or any other Act (or any permit, licence or other consent made or restriction imposed under such Act), in respect of the particular trade, business or manufacture,

where the competent authority appointed under rules made under section 95–

(i) is satisfied that the conditions of any authorisation made by virtue of those rules in respect of any trade, business or manufacture to which subsection (1)(b) applies have been and are being met, and

(ii) has no reason to suspect that those conditions will not be met in the foreseeable future, and

(iii) has so advised the Government,

the Government shall not withhold consent or give notice to discontinue the offensive trade.

Rules as to certain trades.

95. (1) The Government may make rules in order to prevent or diminish any noxious or injurious effects–

(a) with respect to the trades or businesses of fish frying and fritters frying carried on, on or in any premises or streets;

(b) with respect to any trade, business or manufacture being a trade, business or manufacture which is an offensive trade within the meaning of section 94, established on premises either with or without the consent of the Government and either before or after the commencement of this Act; and

(c) with respect to any trade or business carried on in streets being a trade or business which is an offensive trade within the meaning of section 94.

(2) Subject as hereinafter provided any rules made by the Government under this section shall cease to have effect on the expiration often years from the date on which they were made:

Provided that the Government may by order extend the period during which any rules mentioned in this subsection is to remain in force.

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(3) Where rules made by the Government under this section are in respect of any trade, business or manufacture which is an offensive trade by virtue of paragraph (b) of section 94(1), those rules shall

(a) take account of the terms of Council Directive 76/464/EEC and directives made for the purpose of giving effective implementation of that Directive;

(b) make provision for the competent authority designated for this purpose by the Government by notice in the Gazette to grant authorisations, with or without conditions, to which any consent by the Government under section 94 shall be subject,

and may make such ancillary provisions as in the opinion of the Government are necessary for the purpose of effective implementation of the directives referred to in paragraph (a).

Noise.

Noise or vibration nuisance.

96. (1) Subject to the provisions of this section, noise or vibration which is a nuisance shall be statutory nuisance for the purposes of this Part.

(2) In relation to noise or vibration alleged to be a statutory nuisance by virtue of subsection (1), section 88 shall have effect as if for the reference to any person aggrieved by the nuisance there were substituted a reference to any three or more persons each of whom is the occupier of land or premises, and is in that capacity aggrieved by the nuisance.

(3) In proceedings brought by virtue of subsection (1) in respect of noise or vibration caused in the course of a trade or business, it shall be a defence for the defendant to prove that the best practicable means have been used for preventing, and for counteracting the effect of, the noise or vibration.

(4) Without prejudice to the savings contained in Part XII, no notice shall be served or proceedings brought by virtue of subsection (1) in respect of noise or vibration caused by the Government in exercise of powers conferred on them by any Act.

(5) Nothing in this section shall apply to noise or vibration caused by aircraft.

Restriction of operation on highways etc., of loudspeakers.

97. (1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated–

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

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(b) at any other time, for the purpose of advertising any entertainment, trade or business,

and a person who operates or permits the operation of a loudspeaker in contravention of this subsection is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

In this subsection–

"street" means a highway and any other road, footway, square or court which is for the time being open to the public.

(2) Subsection (1) shall not apply to the operation of a loudspeaker–

(a) for police, fire brigade or ambulance purposes, or by the Government;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker–

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) for the purpose of Parliament elections;

(f) on land which is being used for the purposes of a fete or pleasure fair or any sport or entertainment open to the public;

(g) in case of emergency.

(3) Paragraph (b) of subsection (1) shall not apply to the operation of a loudspeaker between the hours of 9 a.m. and 9 p.m. on the same day if the loudspeaker–

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(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

(4) In this section–

"loudspeaker" includes a megaphone and any other device for amplifying sound.

Saving for rules.

98. Nothing in the provisions of section 96 or section 97 shall affect any rules or power to make rules, and in particular no rules shall be held to be void for repugnancy on the ground that it prohibits or restricts an activity permitted by any of those provisions.

PART IIB - Transfrontier Shipment of Waste

Introduction

Interpretation of Part IIB.

98A.(1) In this Part–

"Annex VII document" means the document set out in Annex VII to the TSW Regulation;

"audited facility" means a facility outside Gibraltar in respect of which an audit has been carried out in accordance with section 98RA;

"authorised person" means a person authorised by a competent authority in accordance with section 98ZQ(2);

"Basel Convention" means the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal;

"BGTW" means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

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"Commission Regulation (EC) No 1418/2007" means Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply, as amended from time to time;

"EFTA" means the European Free Trade Association established by the Convention establishing the European Free Trade Association *signed in Stockholm on 4 January 1960;*

"electronic submission system" means any system operated by the Government for the electronic submission and exchange of information and documents relating to shipments of waste under this Part, including any system the Government may establish for the purpose of facilitating interoperability with the central system referred to in Article 27(3) of the 2024 Regulation;

"notifiable waste" means waste that is subject to the prior written notification and consent procedures of Title II of the TSW Regulation, by virtue of any provision of that Regulation;

"OECD Decision" means Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations;

"person who arranges the shipment" means—

(a) in the case of waste subject to the prior written notification and consent procedures, the notifier; and

(b) in the case of waste subject to the general information requirements of Article 18 of the TSW Regulation, the natural or legal person under the jurisdiction of Gibraltar who arranges the shipment, being—

(i) the original waste producer; or

(ii) where that is not practicable, a new waste producer, a licensed or registered collector, a registered dealer or a registered broker;

"Transfrontier Shipments of Wastes Regulation" or ""TSW Regulation" means Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, as amended from time to time;

"the 2024 Regulation" means Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, as it has effect in EU law;

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"waste" has the same meaning as in Article 3(1) of Directive 2008/98/EC;

"waste vessel" means any vessel or any part of any vessel that is in itself waste within the meaning of the TSW Regulation.

(2) Expressions used in this Part that are also used in the TSW Regulation have the same meaning in this Part as they have in the TSW Regulation, and, where the context so requires, expressions used in this Part that are also used in the 2024 Regulation have the same meaning in this Part as they have in that Regulation.

(3) Any reference in this Part to–

(a) an Article is, save where the context otherwise requires, a reference to an Article of the TSW Regulation;

(b) an Annex is a reference to an Annex to the TSW Regulation.

(4) The references to international conventions in subsection (1) are references to those conventions as amended from time to time.

(5) A reference in this Part to the Government shall, where the Government has by notice in the Gazette appointed a person to be the competent authority for the purposes of one or more of the purposes of this Part and to the extent of that appointment, be deemed to be a reference to that person, and not to be a reference to the Government.

Meaning of the 2024 Regulation.

98AB.(1) References in this Part to the 2024 Regulation are references to Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, as it has effect in EU law as amended from time to time, and, where relevant, as applied to and adapted for Gibraltar by the Shipments of Waste Regulations.

(2) Where a provision of the TSW Regulation as law in Gibraltar corresponds to a provision of the 2024 Regulation as adapted by the Shipments of Waste Regulations, and the 2024 Regulation has introduced new or different requirements in relation to that provision, the Minister may by regulations make such provision as the Minister considers appropriate to give effect to the new or different requirements in relation to shipments to or from Gibraltar, subject to and in accordance with the transitional provisions set out in Regulation 38 of the Shipments of Waste Regulations.

(3) Before making regulations under subsection (2), the Minister must have regard to—

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(a) the desirability of maintaining regulatory alignment with the standards and procedures applicable in EU countries in relation to waste shipments;

(b) the practical circumstances of waste management in Gibraltar, including Gibraltar's reliance on facilities in other countries for the treatment of waste; and

(c) the obligations of Gibraltar under the Basel Convention and any bilateral or multilateral agreement relating to the shipment of waste.".

(4) In this section and elsewhere in this Part, where a provision refers to the 2024 Regulation, that reference shall, unless the context otherwise requires, be construed as a reference to the 2024 Regulation as adapted for Gibraltar by the Shipments of Waste Regulations.

Scope of this Part.

98B.(1) This Part applies to shipments of waste to the extent that they are covered by Article 1 of the TSW Regulation.

(2) This Part shall not apply to shipments of waste which are solely in transit through BGTW.

(3) This Part is to be construed in the light of, and so far as practicable in a manner consistent with, the standards and requirements of the 2024 Regulation, subject to such adaptations as are necessary to reflect Gibraltar's position as a jurisdiction outside the European Union.

Meaning of transport and person who transports waste.

98C.(1) Any reference in this Part to transport includes consigning for transport.

(2) Any reference in this Part to a person who transports waste includes the following persons–

(a) the notifier;

(b) any transporter of waste, by land or otherwise into or from Gibraltar;

(c) any freight-forwarder; or

(d) any other person involved in the shipment of waste.

Competent authorities of despatch and destination.

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98D. The Government shall be the competent authority of dispatch and destination for Gibraltar.

Competent authority: additional functions.

98DA.(1) The Government, acting as competent authority under section 98D, shall in addition discharge the following functions—

(a) maintaining a register of pre-consented recovery facilities in Gibraltar in accordance with Article 13A of the TSW Regulation;

(b) maintaining and publishing on a website lists of—

(i) any correspondents designated under section 98DB; and

(ii) any frontier crossing points designated under Article 55 of the TSW Regulation;

(c) establishing and maintaining the electronic submission system referred to in section 98LA; and

(d) cooperating with the competent authorities of other countries in relation to the prevention and detection of illegal shipments.

Designation of correspondents.

98DB.(1) The Minister may designate one or more correspondents responsible for informing or advising persons or undertakings making enquiries in relation to the implementation of this Part and the TSW Regulation.

(2) The Minister shall ensure that the Secretariat of the Basel Convention is informed of the designation of correspondents under this section and of any changes therein.

Correspondent authority of transit.

98E. For shipments of waste within and through Gibraltar, the Government shall be the competent authority of transit.

98F. *Repealed*.

Notices.

98G.(1) Any notice under this Part must be in writing.

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(2) A notice may be subject to conditions and may be amended, suspended or revoked by notice in writing at any time.

(3) A notice may be served on a person by–

(a) delivering it to him in person;

(b) leaving it at his proper address; or

(c) sending it by post or electronic means to him at his proper address.

(4) Any such notice may–

(a) in the case of a body corporate, be served on the secretary or clerk of that body;

(b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(5) If the person to be served with any such notice has specified an address in Gibraltar other than his proper address as the one at which he or someone on his behalf will accept notices of the same description as those notices, that address is also to be treated for the purposes of this section as his proper address.

(6) For the purposes of this section, "proper address" means a person's last known address, which for the purposes of subsection (3)(c) includes an e-mail address, except that–

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

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

and for the purposes of this subsection, the principal office of a company registered outside Gibraltar or of a partnership carrying on business outside Gibraltar is its principal office within Gibraltar.

98H. *Repealed*.

Gibraltar Plans for Shipments of Waste

Gibraltar Plan for Shipments of Waste: continuation and changes.

98I.(1) The Gibraltar Waste Management Plan 2013 made under section 192M (in this Part referred to as the "Gibraltar Plan"), continues to have effect in relation to shipments of waste.

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(2) Subject to subsection (3) the Government may from time to time amend or replace the provisions of the Gibraltar Plan relating to shipments of waste.

(3) Before amending or replacing the Gibraltar Plan, the Government must be satisfied that the change meets the objectives set out in -

(a) Article 4(2)(b) and (d) and (9)(a) of the Basel Convention and having regard to the standards applied in EU countries in relation to waste shipments under the 2024 Regulation; and

(b) paragraphs 1 to 3 of Schedule 11B.

(4) The Gibraltar Plan shall, in particular, take into account the desirability of ensuring that Gibraltar has in place a regime for the shipment of waste that achieves a level of environmental and human health protection equivalent to that required by the 2024 Regulation.

Objections to shipments of waste.

98J. For the purpose of preventing shipments of waste that are not in accordance with the Gibraltar Plan made under section 192M–

(a) the Government, acting as competent authority of destination must object to any shipment notified in accordance with the TSW Regulation which the Gibraltar Plan indicates should not be brought into Gibraltar; and

(b) the Government, acting as competent authority of dispatch must object to any shipment notified in accordance with the TSW Regulation, having regard to the grounds for objection set out in Articles 11 and 12 of the 2024 Regulation which the Gibraltar Plan indicates should not be dispatched from Gibraltar.

General requirements for shipment of waste

Environmentally sound management.

98K.(1) A person commits an offence if he fails to comply with Article 49(1) of the TSW Regulation.

(2) For the purposes of subsection (1) and of any other provision of this Part, waste shall be deemed to be managed in an environmentally sound manner as regards recovery or disposal if, in addition to the requirements of Article 49 of the TSW Regulation (and, on and after the date on which Regulation 28 of the Shipments of Waste Regulations takes effect, Article 59 of the 2024 Regulation as adapted by those Regulations), it can be demonstrated that the waste, as well as any residual waste generated through recovery or disposal, will be managed in

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accordance with human health, climate and environmental protection requirements that are considered equivalent to those under the retained EU law applied in Gibraltar.

(3) When assessing equivalence under subsection (2), full compliance with the requirements of the retained EU law applicable to Gibraltar shall not be required, but it shall be demonstrated that the requirements applied in the country of destination ensure a similar level of protection of human health and the environment.

(4) In order to perform the equivalence assessment referred to in subsection (3), the provisions of the retained EU law applied in Gibraltar and any relevant international guidance shall be used as points of reference.

Environmentally sound management: additional duties.

98KA.(1) The waste producer, the notifier, the person who arranges the shipment and any other undertaking involved in a shipment of waste or its recovery or disposal shall take the necessary steps to ensure that the waste is managed without endangering human health and in an environmentally sound manner throughout the duration of the shipment and during the recovery and disposal of the waste.

(2) A person who fails to comply with subsection (1) commits an offence.

Compliance with notification etc.

98L. A person commits an offence if he transports waste other than in accordance with–

(a) the notification document or movement document, in the case of notifiable waste; or

(b) the Annex VII document, in the case of waste subject to the procedural requirements of Article 18(1) and with any requirements relating to the electronic submission of information under section 98LA;

(c) any requirement imposed under or by virtue of the TSW Regulation concerning the electronic submission and exchange of information relating to the shipment.

Electronic submission of information.

98LA.(1) The Minister may by regulations make provision for the electronic submission and exchange of information and documents relating to the shipment of waste, having regard to the requirements of Article 27 of the 2024 Regulation as adapted by the Shipments of Waste Regulations, including—

(a) information and documents relating to prior written notification and consent;

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(b) information and documents relating to the general information requirements of Article 18 of the TSW Regulation;

(c) information and documents relating to the export, import and transit of waste under Titles IV, V and VI of the TSW Regulation;

(d) confirmations of receipt of waste, certificates of recovery or disposal, and other notifications and communications required under the TSW Regulation.

(2) Regulations made under subsection (1) may in particular—

(a) require the submission of information and documents by electronic means, using such systems as the Minister may specify;

(b) make provision for the interoperability of any system established by the Minister with the central system referred to in Article 27(3) of the 2024 Regulation;

(c) specify technical and organisational requirements for the practical implementation of electronic data interchange;

(d) make provision for cases where electronic submission is not practicable, including by providing for submission by post, fax, or email with digital signature;

(e) require notifiers, consignees, carriers and facilities to ensure that information is made available by electronic means during the transport of waste, or by other means where electronic availability is not practicable.

(3) Until regulations are made under this section, the provisions of Article 26 of the TSW Regulation as retained law shall continue to be applied.

(4) A person who, without reasonable excuse, fails to comply with a requirement imposed by regulations made under this section commits an offence.

Shipment of waste between Gibraltar and EU countries

Requirements for shipments of notifiable waste.

98M.(1) This section applies to waste specified in Article 3(1)(a) or (b) or Article 3(5) that originates in Gibraltar or the European Union and is either brought into Gibraltar or destined for an EU country, whether or not that waste passes through a non-EU country.

(2) A person who transports such waste commits an offence if he does so without–

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(a) the competent authority of dispatch having been notified in accordance with Article 4;

(b) a contract having been entered into or a declaration having been made in accordance with Article 5;

(c) a financial guarantee or equivalent insurance being in place and approved by the competent authority in accordance with Article 6;

(d) a consent issued by the competent authorities of dispatch and destination in accordance with Article 9 and a consent issued by the competent authority of transit, unless there is tacit consent to the transit in accordance with Article 9(1);

(e) the movement document having been–

(i) completed in accordance with Article 16, and with any requirements imposed by regulations made under section 98LA, first paragraph and Article 16(a); or

(ii) sent to the competent authorities concerned and the consignee in accordance with Article 16(b);

(f) the waste being accompanied by the movement document and notification document in accordance with Article 16(c); or

(g) the competent authorities and consignee having been notified of any change in the details or conditions of the shipment in accordance with Article 17 and, in such a case, a new notification having been submitted in accordance with that Article.

(3) The person referred to in subsection (2) commits an offence if–

(a) he does so in breach of any condition imposed under Article 10;

(b) in the case of a shipment covered by a general notification, he does so without the competent authorities concerned having been notified of a change in route in accordance with Article 13(2);

(c) in the case of a shipment of waste destined for an interim recovery or disposal operation, he does so without the notification document having been completed in accordance with Article 15(a); or

(d) he fails to comply with Article 19.

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(4) A person who transports waste specified in this section commits an offence if he fails to ensure that the information required to be submitted by electronic means pursuant to regulations made under section 98LA is so submitted.

(5) A person who arranges a shipment of waste under this section commits an offence if, in the case of waste destined for recovery, he exports waste to a facility that does not hold a permit or registration in accordance with Chapter IV of Directive 2008/98/EC or an equivalent authorisation under Gibraltar law.

Requirements for shipment of waste specified in Article 3(2) and (4).

98N.(1) This section applies to waste specified in Article 3(2) or (4) that originates in Gibraltar or the European Union and is either brought into Gibraltar or is destined for an EU country, whether or not that waste passes through a non-EU country.

(2) A person who transports such waste commits an offence if–

(a) he does so without the waste being accompanied by a completed Annex VII document in accordance with Article 18(1)(a), that is signed in accordance with Article 18(1)(b);

(b) in the case of waste specified in Article 3(2), he does so without a contract as referred to in Article 18(2) having been entered into; or

(c) he fails to comply with Article 19.

(3) A person who arranges a shipment of waste under this section commits an offence if he fails to ensure that the waste is shipped only to a recovery facility that holds a permit or registration in accordance with Chapter IV of Directive 2008/98/EC or an equivalent authorisation under Gibraltar law.

(4) A person who arranges a shipment under this section commits an offence if he fails to ensure that the form set out in Annex VII is completed and, where regulations have been made under section 98LA, made electronically available in accordance with those regulations.

Export of waste to non-EU countries

Prohibition on export of waste for disposal other than to EFTA countries.

98O. A person commits an offence if he transports waste destined for disposal in a non-EU country in breach of Article 37 of the 2024 Regulation as adapted by the Shipments of Waste Regulations (prohibition on export of waste destined for disposal except, in certain circumstances, to the United Kingdom, EU or EFTA countries that are Parties to the Basel Convention).

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Requirements for export of waste for disposal to EFTA countries.

98P.(1)This section applies to waste destined for disposal in any EFTA country which is a Party to the Basel Convention.

(2) A person who transports such waste commits an offence if he does so–

(a) without the provisions of Article 35(1) having been complied with (procedural requirements for export to EFTA countries);

(b) in breach of Article 35(5) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination); or

(c) without ensuring that the waste will be managed in an environmentally sound manner in the country of destination, having regard to the requirements of section 98K(2) to (4).

Requirements for export of waste listed in Annex III or IIIA to non-EU, non-OECD Decision countries.

98PA.(1) This section applies to waste–

(a) listed in Annex III, IIIA or IIIB of the TSW Regulation; and

(b) the export of which is not prohibited under Article 36.

(2) A person who transports waste destined for recovery in any country listed in the Annex to Commission Regulation (EC) No 1418/2007 (being a non-EU country to which the OECD Decision does not apply) commits an offence if he does so in breach of that Regulation or in breach of any provision of Article 37A of the TSW Regulation.

(3) A person who transports waste destined for recovery in any other non-EU country to which the OECD Decision does not apply commits an offence if he does so without complying with the procedure of prior written notification and consent as described in Article 35, in accordance with the second paragraph of Article 37(2).

(4) In either case, he commits an offence if he transports such waste in breach of Article 37(4) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination).

Prohibition on export of non-hazardous waste to non-OECD countries.

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98PAA.(1) A person commits an offence if he exports from Gibraltar any of the following wastes destined for recovery in a country to which the OECD Decision does not apply, in breach of Article 40 of the 2024 Regulation as adapted by Regulation 24(2) of the Shipments of Waste Regulations—

(a) non-hazardous wastes listed in Annex III or Annex IIIB and mixtures of non-hazardous wastes listed in Annex IIIA;

(b) non-hazardous wastes and mixtures of non-hazardous wastes included in the list of waste referred to in Article 7 of Directive 2008/98/EC, when not already listed in Annex III, Annex IIIA or Annex IIIB;

(c) non-hazardous wastes and mixtures of non-hazardous wastes not classified under one single entry in Annex III, Annex IIIA or Annex IIIB or in the list of waste referred to in Article 7 of Directive 2008/98/EC;

(d) non-hazardous wastes classified under the entry AB130, AC250, AC260 or AC270.

(2) Subsection (1) shall not apply to exports of wastes or mixtures of wastes destined for recovery to a country included in any list of authorised countries established by the Minister pursuant to Article 37A of the TSW Regulation, for the non-hazardous wastes and mixtures of non-hazardous wastes specified in that list, provided that—

(a) the waste is destined for a facility licensed under the domestic legislation of the country concerned to undertake recovery operations for that waste; and

(b) the waste is not destined for interim operations, unless all subsequent non-interim or interim recovery operations would take place in the same country of destination or in other countries for which the related waste is included in the list referred to in Article 37A.

(3) The Minister may by regulations establish a list of countries to which the OECD Decision does not apply, to which exports of non-hazardous waste for recovery from Gibraltar may be authorised, having regard to—

(a) the criteria applied by the European Commission in establishing the equivalent list under Article 41 of the 2024 Regulation; and

(b) any list published by the European Commission under that Article.

(4) The Minister shall review the list referred to in subsection (3) at least every two years, and may by regulations amend or revoke that list.”.

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Prohibition on export of plastic waste to non-OECD countries.

98PAB.(1) A person commits an offence if he exports from Gibraltar plastic waste classified under entry B3011 destined for recovery in a country to which the OECD Decision does not apply, in breach of Article 39(1)(d) of the 2024 Regulation as adapted by regulation 25 of the Shipments of Waste Regulations.

(2) The prohibition in subsection (1) is without prejudice to the prohibition in section 98Q.

Requirements for export of waste classified under more than one entry in Annex III etc. to non-EU, non-OECD Decision countries.

98PB.(1) This section applies to waste specified in Article 37(5) of that is–

(a) destined for recovery in a non-EU country to which the OECD Decision does not apply; and

(b) the export of which is not prohibited under Article 36.

(2) A person who transports such waste commits an offence if he does so–

(a) without the procedure of prior written notification and consent as described in Article 35 having been complied with in accordance with Article 37(5); or

(b) in breach of Article 37(4) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination).

Prohibition on export of certain waste for recovery to non-EU non-OECD Decision countries.

98Q. A person commits an offence if, in breach of Article 36(1), he transports waste specified in that Article that is destined for recovery in a non-EU country to which the OECD Decision does not apply.

Requirements for export of waste for recovery to non-EU OECD Decision countries.

98R.(1) This section applies to waste specified in Article 38(1) destined for recovery in any country to which the OECD Decision applies (with or without transit through any non-EU country to which that Decision applies).

(2) A person who transports such waste commits an offence if he does so–

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(a) without the provisions of Article 38(1) having been complied with (procedural requirements for the export of waste listed in Annexes III, IIIA, IIIB, IV and IVA); or

(b) in breach of Article 38(6) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination).

Miscellaneous prohibitions on export of waste.

98S. A person commits an offence if–

(a) he transports waste to the Antarctic;

(b) he transports waste destined for disposal in an overseas country or territory in breach of Article 40(1);

(c) he transports waste destined for recovery in an overseas country or territory in breach of Article 40(2)(prohibition on the export of certain waste);

(d) he transports waste specified in Article 40(3) destined for recovery in an overseas country or territory without the provisions of that Article having been complied with (procedural requirements for exports to overseas countries or territories); or

(e) The exports waste from Gibraltar in circumstances where the competent authority has reason to believe that the waste will not be managed in an environmentally sound manner as referred to in section 98K(2) to (4) in the country of destination.

Import of waste from third countries

Prohibition on the import of waste for disposal.

98T.(1) A person commits and offence if, in breach of Article 41(1), he transports waste destined for disposal that has come from a third country or area other than those specified in that Article.

(2) For the purposes of this section, imports of waste destined for disposal into Gibraltar from countries outside the European Union and outside the European Free Trade Association shall be prohibited, unless the country of dispatch is a Party to the Basel Convention or the import is covered by a bilateral or multilateral agreement.

Procedure for import of waste for disposal from a non-EU country Party to the Basel Convention.

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98U.(1) This section applies to waste destined for disposal that has come from a non-EU country which is a Party to the Basel Convention.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 42(1) having been complied with (procedural requirements for the import of waste destined for disposal from countries Parties to the Basel Convention).

(3) Where waste destined for disposal is imported into Gibraltar, the competent authority in Gibraltar shall require and take the necessary steps to ensure that any waste shipped into Gibraltar is managed without endangering human health and in an environmentally sound manner in accordance with section 98K and with Article 13 of Directive 2008/98/EC and other retained EU law on waste, throughout the duration of the shipment, including recovery or disposal in Gibraltar.

Prohibition on import of waste for recovery.

98V. A person commits an offence if, in breach of Article 43(1), he transports waste destined for recovery that has come from a third country or area other than specified in that Article.

Requirements for import of waste for recovery from or through a non-EU OECD Decision country.

98W.(1) This section applies to waste destined for recovery that has come from or through a non-EU country to which the OECD Decision applies.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 44(1) having been complied with (procedural requirements for imports of waste destined for recovery from, or through, an EU or OECD Decision country).

(3) The competent authority in Gibraltar shall also prohibit imports of waste from countries to which the OECD Decision applies where it has reason to believe that the waste will not be managed in accordance with the requirements of section 98K.

Requirements for import of waste for recovery from a non-EU, non-OECD Decision country Party to the Basel Convention.

98X.(1) This section applies to waste destined for recovery that has come–

(a) from a non-EU country to which the OECD Decision does not apply; or

(b) through a non-EU country to which the OECD Decision does not apply and that is Party to the Basel Convention.

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(2) A person who transports such waste commits an offence if he does so without the provisions of Article 45 having been complied with (procedural requirements for imports from a non-EU, non-OECD Decision country Party to the Basel Convention).

(3) The competent authority in Gibraltar shall also prohibit imports of waste from countries to which the OECD Decision applies where it has reason to believe that the waste will not be managed in accordance with the requirements of section 98K.

Requirements for import of waste from overseas countries or territories.

98Y.(1) A person who transports waste that has come from any overseas country or territory commits an offence if he does so without the provisions of Article 46(1) having been complied with (procedural requirements for the import of waste from overseas countries or territories).

(2) The competent authority in Gibraltar shall also prohibit imports of waste from countries to which the OECD Decision applies where it has reason to believe that the waste will not be managed in accordance with the requirements of section 98K.

Obligations of competent authority of destination.

98YA.(1) In the case of imports into Gibraltar, the competent authority shall require and take the necessary steps to ensure that any waste shipped into Gibraltar is managed without endangering human health and in an environmentally sound manner in accordance with section 98K, and in accordance with Article 13 of Directive 2008/98/EC and other retained EU law on waste, throughout the duration of the shipment, including recovery or disposal in Gibraltar.

(2) The competent authority shall also prohibit imports of waste from third countries where it has reason to believe that the waste will not be managed in accordance with the requirements set out in subsection (1).

Transit of waste

Requirements for transit of waste for disposal.

98Z.(1) This section applies to waste destined for disposal that–

(a) originates from, and is destined for, a non-EU country; and

(b) is transported through Gibraltar.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 47 having been complied with (procedural requirements for shipments of waste destined for disposal from and to a non-EU country).

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Requirements for transit of waste for recovery: non-EU, non-OECD Decision countries.

98ZA.(1) This section applies to waste destined for recovery that–

(a) originates from, and is destined for, a non-EU country to which the OECD Decision does not apply; and

(b) is transported through Gibraltar.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 48(1) having been complied with (procedural requirements for shipments of waste destined for recovery from and to a country to which the OECD Decision does not apply).

Requirements for transit of waste for recovery: EU, OECD Decision countries.

98ZB.(1) This section applies to waste destined for recovery that–

(a) originates from, and is destined for, an EU country to which the OECD Decision applies; and

(b) is transported through Gibraltar.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 48(2) having been complied with (procedural requirements for shipments of waste destined for recovery from and to a country to which the OECD Decision applies).

Requirements for transit of waste between EU or OECD Decision countries and non-EU, non-OECD Decision countries.

98ZC.(1) This regulation applies to waste destined for recovery that-

(a) originates from a non-EU country to which the OECD Decision does not apply and is destined for an EU country or a country to which the OECD Decision applies; or

(b) originates from an EU country or a country to which the OECD Decision applies and is destined for a non-EU country to which the OECD Decision does not apply.

(2) A person who transports such waste commits an offence if he does so without the provisions of Article 48(3) having been complied with (procedural requirements for shipments of waste destined for recovery between OECD Decision and non-OECD Decision countries).

Additional duties

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Illegal shipments of waste brought to a facility.

98ZD. If the operator of a facility knows or has reasonable grounds to suspect that waste brought to that facility is an illegal shipment of waste, he must notify the competent authority in Gibraltar immediately and comply with the authority's instructions, and failure to do so is an offence.

Duties on operators of facilities in respect of notifiable waste.

98ZE.(1) This section applies to the operator of a facility that receives notifiable waste.

(2) The operator commits an offence if he fails to–

(a) ensure that the recovery or disposal of such waste is completed within the time period in Article 9(7) (or, where the corresponding provision of the 2024 Regulation applies, within the period specified in Article 9(6) of that Regulation);

(b) comply with any condition of a consent imposed on him by the competent authority in Gibraltar in accordance with Article 10(1);

(c) comply with any condition, imposed by the competent authority in Gibraltar in accordance with Article 10(5), requiring him to keep records specified in that Article and send them to that competent authority in accordance with that Article;

(d) retain the movement document in accordance with Article 16(c);

(e) provide, in accordance with Article 16(d) or, where regulations have been made under section 98LA, by electronic means in accordance with those regulations;, confirmation that waste has been received;

(f) certify, in accordance with Article 16(e), that non-interim recovery or disposal has been completed;

(g) keep any document sent to or by the competent authorities in relation to a notified shipment in accordance with Article 20(1), for a period of not less than five years from the date on which a certificate was provided in accordance with Article 15(d) or Article 16(e); or

(h) inform the competent authority in Gibraltar in accordance with Article 22(1) if a shipment of waste is rejected.

Interim recovery or disposal operations.

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98ZF.(1) This section applies to the operator of a facility that carries out interim recovery or disposal operations.

(2) The person referred to in subsection (1) commits an offence if he fails to–

(a) provide confirmation to the notifier or competent authorities concerned of the receipt of waste for interim recovery or disposal operations in accordance with Article 15(c), within two working days of receipt of the waste; or

(b) certify, in accordance with Article 15(d), as soon as possible but no later than 30 days after completion of the interim recovery or disposal operation and in any case no later than one year after the receipt of the waste, that interim recovery or disposal has been completed.

(3) The person referred to in subsection (1) commits an offence if, in the case of waste sent to another facility for subsequent interim or non-interim recovery or disposal operation, he fails to–

(a) obtain from that facility, in accordance with Article 15(e), first paragraph, a certificate that such operation has been completed; or

(b) transmit that certificate to the notifier and competent authorities concerned in accordance with Article 15(e), second paragraph.

(4) The person referred to in subsection (1) commits an offence if he delivers waste for subsequent interim or non-interim recovery or disposal operations in accordance with Article 15(f), without complying with the notification requirements of that Article.

Duties on operators of facilities in respect of waste subject to general information requirements.

98ZG.(1) This section applies to the operator of a recovery facility that receives waste subject to the procedural requirements of Article 18(1).

(2) The person referred to in subsection (1) commits an offence if he fails to–

(a) sign the Annex VII document, in accordance with Article 18(1)(b);

(b) keep the information given pursuant to Article 18(1), in accordance with Article 20(2);

(c) ensure that the information required to be submitted by electronic means pursuant to regulations made under section 98LA is so submitted.

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Duties on consignees in respect of notifiable waste.

98ZH.(1) This section applies to a consignee of notifiable waste.

(2) The person referred to in subsection (1) commits an offence if he fails to keep any document sent to or by the competent authorities in relation to a notified shipment in accordance with Article 20(1), for a period of not less than five years from the date on which a certificate was provided in accordance with Article 15(d) or Article 16(e).

Duties on consignees in respect of waste subject to general information requirements.

98ZI.(1) This section applies to a consignee of waste subject to the procedural requirements of Article 18(1).

(2) The person referred to in subsection (1) commits an offence if he fails to–

(a) sign the Annex VII document, in accordance with Article 18(1)(b);

(b) provide a copy of the contract referred to in Article 18(2), second paragraph, to the competent authority concerned upon request, in accordance with that Article;

(c) keep information given pursuant to Article 18(1), in accordance with Article 20(2); or

(d) ensure that information required to be submitted by electronic means pursuant to regulations made under section 98LA is so submitted.

Duties on laboratories.

98ZJ.(1) This section applies to the operator of a laboratory that receives waste subject to the procedural requirements of Article 18(1).

(2) The person referred to in subsection (1) commits an offence if he fails to–

(a) sign the Annex VII document, in accordance with Article 18(1)(b); or

(b) keep the Annex VII document for three years from the date the shipment started.

Notifier's duty to keep documents.

98ZK. A notifier commits an offence if he fails to keep–

(a) a copy of the movement document in accordance with Article 16(c); or

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(b) any document sent to or by the competent authorities in relation to a notified shipment in accordance with Article 20(1), for a period of not less than five years from the date on which a certificate was provided in accordance with Article 15(d) or Article 16(e).

Duties on persons who arrange the shipment of waste.

98ZL.(1) This section applies to a person who arranges the shipment of waste subject to the procedural requirements of Article 18(1).

(2) The person referred to in subsection (1) commits an offence if he fails to–

(a) provide the competent authority in Gibraltar with a copy of the contract referred to in Article 18(2) upon request, in accordance with the second paragraph of that Article;

(b) keep the information given pursuant to Article 18(1), in accordance with Article 20(2), for a period of not less than five years from the date on which a certificate was provided in accordance with Article 18(9) of the 2024 Regulation as applied by the TSW Regulation; or

(c) ensure that information required to be submitted by electronic means pursuant to regulations made under section 98LA is so submitted.

Duties on carriers.

98ZLA.(1) A carrier of waste subject to the provisions of this Part commits an offence if he fails to—

(a) ensure that documents or information required to accompany the waste during transport are available in the transport vehicle; or

(b) where regulations have been made under section 98LA, ensure that the required information is made available by electronic means or, where electronic availability is not practicable, by other means in the transport vehicle.

Enhanced inspection plans.

98ZLB.(1) The Minister shall ensure that, in respect of Gibraltar, one or more inspection plans are maintained, either separately or as a clearly defined part of other plans, for inspections carried out for the purposes of enforcing this Part, the TSW Regulation and the 2024 Regulation as adapted by the Shipments of Waste Regulations.

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(2) The inspection plans referred to in subsection (1) shall be based on a risk assessment, taking into account specific waste streams and sources of illegal shipments, and shall cover—

(a) inspections of establishments, undertakings, brokers and dealers;

(b) inspections of shipments of waste, including physical checks; and

(c) inspections of the related recovery or disposal operations.

(3) Inspections of shipments shall take place at least at one of the following points—

(a) at the point of origin;

(b) at the point of destination, including interim and non-interim recovery or disposal;

(c) at the borders of Gibraltar; or

(d) during the shipment within Gibraltar.

(4) Inspections shall include at least verification of documents, confirmation of the identity of the actors involved and, where appropriate, physical checking of the waste.

(5) The inspection plans shall be reviewed and, as necessary, updated at least every three years.

(6) In order to ascertain that a substance or object being carried by any means of transport is not waste, the authorities involved in inspections may require the natural or legal person who is in possession of the substance or object, or who arranges the carriage thereof, to submit documentary evidence as to the origin and destination of the substance or object and evidence that it is not waste.

(7) The Minister shall ensure that the inspection plans are published and made available to the public.

Penalties for infringement.

98ZLC.(1) The Minister shall ensure that effective, proportionate and dissuasive penalties apply to infringements of this Part, the TSW Regulation and the 2024 Regulation as adapted by the Shipments of Waste Regulations.

(2) In determining the level of penalties, regard shall be had to—

(a) the nature, gravity and duration of the infringement;

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(b) the economic benefit derived from the infringement;

(c) the environmental damage caused;

(d) any previous infringements by the person concerned; and

(e) any other aggravating or mitigating factors.

Miscellaneous

Charges by the competent authority etc..

98ZM.(1) Where the competent authority in Gibraltar incurs costs in carrying out its functions under this Part, it may charge a fee determined in accordance with subsections (2) and (3) to any person making a notification required by this Part or carrying on an activity to which this Part applies.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the competent authority in dealing with the notification or in respect of the activity of that person and where the costs incurred are in respect of more than one person carrying on an activity to which this Part applies the fee charged to each such person shall not exceed the proportion of such sum attributable to the activity or activities of that person.

(3) Where, in the opinion of the competent authority, the authority can properly carry out its functions only by engaging specialists and consultants, the cost of such specialists or consultants shall be included in the fee payable under subsection (1).

(4) The competent authority may determine the cost of employing an officer (including a public officer) for any period of work appropriate to his grade by reference to the average cost to it of employing officers of that grade for that period.

(5) When requiring payment, the competent authority shall send or give to the person by whom the fee is payable a detailed statement of the work done and costs incurred and the period to which the statement relates, and–

(a) the requirements in respect of notification under this Part shall be deemed not to have been complied with unless the fee, or such proportion of it as the competent authority may in its discretion specify, has been paid; and

(b) the fee or such part of it as remains unpaid shall be recoverable under the provisions of this Part as a civil debt.

Costs of take-back etc.

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98ZN. The competent authority may charge fees to meet any reasonable costs arising from–

(a) the return of waste from a shipment that cannot be completed (including costs of transport, recovery, disposal and storage) in accordance with Article 23;

(b) the take-back, recovery or disposal of waste from an illegal shipment (including costs of transport and storage) in accordance with Article 25; and

(c) the costs of any audit or inspection carried out in relation to the shipment concerned.

Approval of a financial guarantee.

98ZO. Schedule 20 (application for approval of a financial guarantee) has effect.

Supply of the financial guarantee.

98ZP. For the purposes of Article 4(5), third paragraph, the notifier must supply–

(a) the financial guarantee or equivalent insurance; or

(b) evidence of that guarantee or insurance or a declaration certifying its existence,

as part of the notification document at the time of notification or, with the consent of the competent authority, at any other time before the waste is shipped.

Enforcement powers.

98ZQ.(1) Schedule 21 (enforcement powers) has effect.

(2) For the purposes of Schedule 21 "an authorised person" means the competent authority and where the competent authority has appointed a person to discharge any of its functions, the person or persons so appointed.

Compliance with notices.

98ZR.(1) A person on whom a notice is served under this Part commits an offence if he fails to comply with the provisions of that notice.

(2) Such a notice must be complied with at the expense of the person on whom it is served and, if it is not complied with, the competent authority may arrange for it to be complied with at the expense of that person.

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(3) The competent authority may enforce compliance with a notice by way of an injunction.

Obstruction.

98ZS. A person commits an offence if he–

(a) intentionally obstructs any person acting in the execution of this Part;

(b) gives any information which he knows to be false or misleading to any person acting in the execution of this Part; or

(c) fails, without reasonable excuse–

(i) to give any assistance or information that any person acting in the execution of this Part may require him to give; or

(ii) to produce any record that any person acting in the execution of this Part may require him to produce,

for the performance of that person's functions under this Part.

Falsely obtaining consent etc.

98ZT. A person commits an offence if, for the purpose of obtaining consent to a shipment or approval of a financial guarantee or equivalent insurance, he–

(a) makes any statement or declaration that he knows to be false or misleading; or

(b) endeavours to obtain such consent or approval by deception.

Offences by bodies corporate.

98ZU.(1) If an offence under this Part committed by a body corporate is shown–

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

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(2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Acts of third parties.

98ZV. Where the commission by any person of an offence under this Part is due to the act or default of some other person, that other person is guilty of the offence and a person may be charged with and convicted of an offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Penalties.

98ZX. A person guilty of an offence under this Part is liable–

(a) on summary conviction, to a fine up to level 5 on the standard scale or to imprisonment not exceeding three months or to both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years or to both.

PART III.
WATER SUPPLY.

General duties and power of Government.

Interpretation of Part III.

99.(1) In this Part, unless the context otherwise requires,–

"communication pipe" mean–

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stop-cock placed on those premises and as near to the boundary of that street as is reasonably practical, so much of the service pipe as lies between the main and that stop-cock;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid,

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and includes the ferrule at the junction of the service pipe with the main and also–

(i) where the communication pipe ends in a stop-cock, that stop-cock; and

(ii) any stop-cock fitted on the communication pipe between the end thereof and the main;

"competent national authority"* means the Chief Environmental Health Officer or such other person as the Government may by notice in the Gazette appoint;

"consumer" means a person supplied, or about to be supplied, with water by the Government;

"cut off", in relation to a supply of water, means stop the supply, whether by operating a tap, by disconnecting pipes, or otherwise;

"Directive" means Council Directive 80/778/EEC as substituted by Council Directive 98/83/EC;

"Directive 2013/51/Euratom" means Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption;

"domestic distribution system" means the pipes, fittings and other appliances installed between taps from where water is drawn for human consumption and the distribution network, to the extent that they are not the responsibility of the water supplier in its capacity as a water supplier:

"main" means a pipe laid by the Government for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe;

"parameter" means a property. element, organism or substance shown in the tables in Annex I to the Directive in the column in each such table headed "Parameters;

"service pipe" means so much of a pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap;

"supply pipe" means so much of any service pipe as is not a communication pipe;

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"water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, waterclosets, soilpans, and other similar apparatus used in connection with the supply or use of water;

"waterworks" includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, catchments, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings and things for supplying or used for the supply of water or used for protecting sources of water supply;

"wholesome" means the standards, qualities and values in respect of potable water which are required by–

(a) the Directive;

(b) rules made under section 110(1);

(c) instructions issued by the competent national authority under section 110(2).

(2) "Potable water" means–

(a) all water, either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a distribution network, from a tanker, or in bottles or containers;

(b) all water used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless the competent national authority is satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form.

(3) Potable water, for the purpose of applying the standards, qualities and values specified in respect of such water in the Directive, rules made under subsection (I) of section 110 and instructions issued under subsection (2) of that section, shall not include -

(a) natural mineral water recognized or defined as such by the competent national authority;

(b) medicinal waters recognized as such by the competent national authority.

(4) Unless otherwise provided for in this Part, in rules made under subsection (1) of section 110 or in instructions issued under subsection (2) of that section, words and terms used in the Directive shall have the meaning given to them in that Directive.

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General powers of Government for supplying water.

100.(1) The Government may provide supplies of potable water for domestic purposes and of salt water for flushing, cleansing and other purposes (regard being had to the means of such supply vested in or under their control and management) and for the purposes thereof and in connection therewith may,–

(a) construct and maintain waterworks, dig wells and search for water in any premises the property of Her Majesty and take and use the same;

(b) do any acts as they may determine to be necessary for the purpose of purifying and keeping purified the potable water supplied by them; and

(c) contract with any person for a supply of water.

(2) A supply of potable water for domestic purposes means a sufficient supply for drinking, washing and cooking, but not for any bath having a capacity (measured to the centre line of the overflow pipe) in excess of 250 litres (fifty gallons), of for washing carriages or motor vehicles, or for any trade or business whatsoever, or for watering gardens, or for fountains or any ornamental purposes:

Provided that the Government may agree to supply the water for any of such purposes.

Government to keep works in repair.

101.The Government shall control and maintain in good condition and repair, and cleanse and reconstruct as often as required all waterworks and all other matters and things whatsoever as they are by this Part authorized to construct or acquire or which may otherwise become vested in or under their control and management.

Water collecting areas in Upper Rock.

102. The Government and their duly appointed officers shall at all reasonable times be Allowed the right to inspect those portions of the Upper Rock from which contamination of the potable water collecting areas is possible and with their employees to visit such areas and execute all such work as may from time to time be deemed necessary, and the Ministry of Defence shall take all reasonable precautions required by the Government to prevent the pollution of such areas.

Powers and duties of Government in respect of laying and maintaining water mains.

103.(1) The Government may lay such water mains as they deem necessary–

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(a) in, under or over any street, or under any cellar or vault below any street, subject however to the provisions of section 259 with respect to the breaking open of streets;

(b) in, under or over any land not forming part of a street, drier giving reasonable notice to every owner and occupier of that land;

and may at any time inspect, repair, alter, renew or remove any main laid by them, whether by virtue of this section or otherwise.

(2) Where the Government, in the exercise of their powers under this section, break open any land as is mentioned in subsection 1(b) they shall reinstate the land to its original state and pay compensation for any damage done by them. Any dispute as to the amount of compensation to be paid under this subsection shall be determined by the magistrates' court.

(3) The Government may, without payment for so doing, erect and maintain, in any sheet or land, notices indicating the position of underground water fittings and may affix such a notice to any house or other building, wall or fence.

Power to lay service pipes, etc.

104.(1) The Government may in any street lay such service pipes with such stop-cocks and other fittings as they deem necessary for supplying water to premises and may from time to time inspect, repair, alter, or renew, and may at any time remove, any service pipe laid in a street whether by virtue of this section or otherwise.

(2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a street, the Government may from time to time enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

Any dispute as to the amount of compensation to be paid under this subsection shall be determined by the magistrates' court.

Cutting off supply.

105. The Government may cut off the supply of water given by them to any premise–

(a) if the consumer makes default for paying for potable water already supplied or in paying the salt water rate;

(b) if any of the water fittings or service pipes which the consumer is liable to maintain are not kept cleansed and in good condition and repair; and

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(c) if there has been a breach of any rules made under the provisions of section 140,

and they may recover summarily as a civil debt the expenses reasonably incurred by them in so doing.

Laying of supply pipes.

106. An owner or occupier of any premises who desires to have a supply of water from the water works of Government shall–

(a) give to the Government not less than fourteen days' notice of his intention to lay the necessary supply pipe; and

(b) lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a street, the consent the owners and occupiers thereof:

Provided that, where any part of the supply pipe is to be laid in a street he shall not himself break open the street or lay that part of the pipe.

Laying of communication pipes, etc.

107. (1) Upon receipt of such a notice as is referred to in section 106 the Government shall lay the necessary communication pipe and any part of the supply pipe which is to be laid in a street and shall connect the communication pipe with the supply pipe:

Provided that where any part of the supply pipe is to be laid in a street they may elect to lay a main in the street for such distance as they think fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

(2) The Government shall carry out such work within fourteen days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of section 106 unless they are unable so to do on account of unavoidable accident or other unavoidable cause.

(3) The expenses reasonably incurred by the Government in executing the work which they are required or authorized by this section to execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him summarily as a civil debt:

Provided that if, under the provisions of this section, the Government lay a main in lieu of part of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by them.

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(4) Notwithstanding anything in the foregoing provisions of this section, the Government may, within seven days after the receipt of such a notice, require the person giving the notice either to pay to them in advance the cost of the work, as estimated by them or to give security for payment thereof to their satisfaction, and, where they make such a requirement, the period of fourteen days referred to in subsection (2) shall not commence to run until the requirement has been complied with.

If any payment so made to the Government exceeds the expenses which under the foregoing provisions of this section they would be entitled to recover from the person giving the notice, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, they may recover the balance from him summarily as a civil debt.

Power of Government to require separate service pipes.

108.(1) Subject to the provisions of this section, the Government may require the provision of a separate service pipe for each house or other building supplied by them with water.

(2) If, in the case of a house or other building already supplied with water but not having a separate service pipe, the Government give notice to the owner of the house or building requiring the provision of such a pipe, the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a street and the Government shall within fourteen days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a street and make all necessary connections.

(3) If an owner upon whom a notice has been served under subsection (2) fails to comply therewith, the Government may themselves execute the work which he was required to execute.

(4) The expenses reasonably incurred by the Government in executing the work which they are required by subsection (2) to execute, or which they are empowered by subsection (3) to execute, shall be repaid to them by the owner of the house or building and may be recovered by them from him summarily as a civil debt but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the house or building.

(5) For the purposes of the foregoing provisions of this section two or more buildings in the same occupation and forming part of the same hereditament for rating purposes shall be treated as a single building.

(6) Where the owner of a group or block of houses is liable by law ‘ to pay the salt water rate and the supply pipe of those houses is sufficient to meet the requirements thereof, the Government shall not require the provision of separate service pipes for the supply of salt water for those houses.

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(7) Without prejudice to the provisions of subsection (6), where on the lst day of April, 1950, two or more houses were being supplied with salt water by a single service pipe, the Government shall not require the provision of separate service pipes for those houses until either–

(a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses;

(b) an instalment of the salt water rate in respect of any of the houses remains unpaid after the end of the period for which it is due; or

(c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses.

Exemption from liability.

109. No action shall lie against the Government or any servant or agent of the Government in respect of any injury, loss or inconvenience caused by or arising directly or indirectly from any interruption, defect, variation or discontinuance of the supply of water or from any break-down of or accident to or defect in the Government's machinery or other apparatus for supplying water.

Potable water.

Purity of potable water.

110.(1) The Government shall secure that potable water supplied in Gibraltar complies with the provisions of Council Directive 80/778/EEC as substituted by Council Directive 98/83/EC (hereinafter "the directives"): to achieve that purpose, the Government may by rules make provision–

(a) for the purpose of implementing any Community obligation of Gibraltar under the directives or enabling any such obligation to be implemented, or of enabling any rights enjoyed or to be enjoyed by Gibraltar under or by virtue of the directives to be exercised; or

(b) for the purpose of dealing with matters arising out of or related to any such obligation or rights;

(c) shall require the competent national authority* to determine national values for parameters required by the Directive, taking into account the obligation–

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(i) to have values in respect of the parameters given in Tables A, B, C, D, and E of Annex I to the Directive less than or the same as the values shown in relation to each such parameter in the column in each table headed "maximum admissible concentration";

(ii) in determining the values, to take as a basis the value in respect of each parameter shown in relation to that parameter in the column in each table headed "guide level";

(iii) in the case of softened water falling within paragraph (a) of the definition of potable water in section 99(2), to determine in respect of the parameters in Table F of the Annex to the Directive values not lower than the values shown in relation to each such parameter in the column in that table headed "minimum required concentration";

(iv) in the interpretation of the values shown in Annex I to the Directive, to take account of observations;

(d) may permit the determination of values by the competent national authority to be deferred in respect of parameters for which no value is shown in Annex 1 to the Directive, so long as such values have not been determined by the Council of the European Union;

(e) shall apply the values listed in the Directive or determined by the competent national authority in accordance with the Directive to the categories of potable water to which those values are applied by the Directive;

(f) may provide that no person may supply potable water or water intended to be used as potable water except in accordance with a licence issued under the rules by the competent national authority and subject to such conditions as may be specified in the licence for the purpose of giving effect to the provisions of this Part, rules made under this subsection and instructions issued under subsection (2), in so far as those provisions are to give effect to the Directive;

(g) shall require a supplier of potable water to take all such steps as are necessary to establish and maintain the supply of potable water to the user at the quality, standards and values required for the water to comply with those specified in Annex 1 to the Directive;

(h) shall require a supplier of potable water to take all such steps as are necessary to ensure that any substances used in the preparation of potable water do not remain in concentrations higher than the maximum admissible concentration relating to

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those substances in potable water supplied to a user and that those substances do not, directly or indirectly, constitute a public health hazard;

(j) may provide for the conducting of such monitoring, the making of such tests and the keeping of such records, at his own cost and by persons competent for the purpose, by a supplier of potable, mineral or medicinal water, including the provision of information to the competent national authority and/or to the user or potential user of the water, as the authority may determine for the purpose of giving effect to this Part, rules made under section 110(1) and instructions issued under section 110(2);

(k) shall provide for the regular and occasional monitoring by the competent national authority of potable water supplied to the user, including the right of the competent national authority, or persons appointed by the authority to act on behalf of or to assist or advise the authority, to enter, with or without notice, premises or waterworks, inspect premises or waterworks, sample both water before or after treatment and substances used in the preparation of potable water and inspect, copy or take away books, records or other materials, in whatever form, relevant to ascertaining the standards, qualities or values of potable water supplied to a user;

(l) for the purpose of requiring compliance with the Directive or rules or instructions made under this section, shall provide for the competent national authority to take such measures as it may reasonably determine to interrupt the supply of water to a user or to cause any waterworks to cease to operate either until any conditions required by the authority to be met have been met or until the authority is satisfied that the supply or the waterworks are not a public health hazard;

(m) may provide for the appointment by the competent national authority of such specialists, consultants and technical and administrative assistance as the authority in its discretion may require to properly carry out its functions under this Part and rules made and instructions issued under section 110;

(n) may permit derogations from the requirements of the Directive to take account of situations arising from -

(i) the nature and structure of the ground in the area in which the supply in question emanates;

(ii) exceptional meteorological conditions:

Provided that no derogation may be permitted under subparagraphs (i) and (ii) which relates to toxic or micro biological parameters or which would constitute a public health hazard;

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(p) shall provide for the notification and reporting specified in or necessary to comply with the Directive;

(q) may create summary offences in respect of a failure to comply with the requirements of the rules and where a person is convicted of such an offence–

(i) impose a penalty of a fine not exceeding ten times the amount at level 5 on the standard scale and daily penalties not exceeding the amount at level 5 on that scale;

(ii) impose a period of imprisonment not exceeding 3 months;

(iii) provide for the liability of corporate bodies and the officers and members of such bodies;

(iv) require the court convicting a person of such an offence to make an order–

(aa) requiring that person to pay to the competent national authority the costs incurred by that authority, or by a person or persons appointed by that authority for the purpose, in taking any action which in the opinion of the authority was made necessary by the conduct. or omission in respect of which the person was convicted to ensure compliance with the Directive or to prevent a hazard to public health;

(bb) as to the remedial action to be taken by that person and, where the person is unable to take such action or does not take that action, requiring that person to pay to the competent national authority, or the person or persons appointed by that authority for the purpose, the cost of taking that action;

(r) may provide for the charging by the competent national authority to–

(i) suppliers and potential suppliers of potable water, mineral water and medicinal water;

(ii) to a person applying for a licence or derogation to be granted or a determination to be made,

of fees and charges, including but not confined to fees and charges in respect of the setting and applying of standards, qualities and values, the evaluating of information provided to the authority by a supplier, potential supplier or applicant, as the case may be, monitoring, testing and the taking of measures reasonably determined upon by the authority to ensure compliance with the Directive and to

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prevent a hazard to public health, the granting of licences and derogations and the making of determinations, the administrative costs associated with such matters and for the methods of calculation of such fees and charges and of recovery thereof;

(s) may provide for the forms, procedures and timetables to be used in connection with matters falling to be dealt with under the rules made under this subsection and instructions issued under subsection (2);

(t) may make such other provision as is necessary for or ancillary or incidental to giving effect to the Directive or preventing a hazard to public health.

(2) The competent national authority may issue instructions in respect of any matters relating to or ancillary or incidental to the Directive for the purpose of preventing a hazard to public health or giving effect to the Directive, and, subject to subsection (3), such instructions shall not be inconsistent with the provisions of this Part or rules made under subsection (1).

(3) The competent national authority* may exempt from the provisions of the Directive water intended exclusively for those purposes for which the competent national authority is satisfied that the quality of the water has no influence, either directly or indirectly, on the health of the consumers concerned.

(4) Rules made under subsection (1) and instructions issued under subsection (2) shall not have the effect of–

(a) derogating from the requirements of the Directive except as is permitted by the Directive; or

(b) allowing, directly or indirectly, either any deterioration in the quality of water intended for human consumption or an increase in the pollution of waters used for the production of potable water, any deterioration or increase to be measured by reference to the quality of water and level of pollution at the effective date of this section.

(5) Where potable water is used for the purposes specified in section 99(2)(b)–

(a) rules made under subsection (1);

(b) instructions issued by the competent national authority under subsection (2),

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shall not require standards, qualities or values which are more stringent than those provided for in the directives and which the competent national authority considers are likely to affect the wholesomeness and cleanliness of the foodstuff in its finished form.

(6) Except in relation to–

(a) the provision of information (both on packaging or labels and in advertising) in respect of a water's suitability, and

(b) the properties of the water which determine the use of that information,

for the feeding of infants, nothing in rules made under subsection (1) or instructions issued under subsection (2) shall prohibit or impede the marketing of foodstuffs on grounds relating to the quality of the water used where the quality of the water meets the requirements of the Directive, unless such marketing constitutes a hazard to public health.

(7) Where the provisions of this Part, any rules made under subsection (1) or instructions issued under subsection (2) are for the purpose of giving effect to the Directive, those provisions shall apply without prejudice to the specific provisions of other regulations of the European Union.

Radioactive substances in potable water.

110A. The Government may by rules make provision to secure that potable water supplied in Gibraltar complies with the provisions of Directive 2013/51/Euratom.

Tanks, etc., for potable water to be provided in premises.

111.(1) No person shall supply as potable water, water collected as surface water within the meaning of Council Directive 75/440/ EEC except in accordance with section 100(3).

(2) A person who throws, places or lays any rubbish, dirt, filth or other noisome thing into, on or upon any well; tank, cistern, reservoir, filter, collecting area, gutter, pipe or other thing provided for the supply or storage of potable water to or in any premises is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

Power of Government to supply potable water.

112.(1) The Government may supply potable water by meter or otherwise–

(a) at or from such supply stations, taps, cocks, standpipes or hydrants as they may determine to provide;

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(b) direct from their mains to any premises whereof the owner or occupier desires such supply;

(c) to the Ministry of Defence for the use of Admiralty buildings on shore or for the use of Her Majesty's ships;

(d) to or for any ships, boats, hulks or other vessels being within the port of Gibraltar;

(e) to the Department of the Environment;

(f) in such other cases as the Government may deem appropriate.

(2) For the purpose of supplying water to shipping, the Government may purchase or otherwise acquire all such boats and vessels with all such engines, machinery, matters and things as they may determine to be necessary for the conveyance and delivery of water to such shipping.

Terms and conditions for supply of potable water.

113. (1) The Government may from time to time determine the conditions to be fulfilled and observed by consumers of potable water and the conditions subject to which potable water shall be supplied.

(2) Whenever any matters have been so determined, notice thereof shall be published in the Gazette within twenty-one days thereafter.

(3) The Government may prescribe by regulations the price to be charged for the supply of potable water.

114. *Repealed.*

Salt water

Duty of Government to provide water for fire-fighting purposes.

115.The Government shall provide and maintain an efficient supply of salt water for fire-fighting purposes and permit the same to be used for such purpose.

Power to require premises to be provided with sufficient salt water.

l16. (1) Where the Government are satisfied that any premises have not a supply of salt water in pipes in the premises sufficient for flushing, cleansing or other purposes (regard being had to the purposes for which the premises are used and to the number of persons usually occupying the same) they may give notice to the owner of the premises requiring him within

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a time specified therein to connect the said premises to a supply of salt water in pipes provided by the Government.

(2) Where the Government are so satisfied with respect to each of two or more premises and are further satisfied that the needs of those premises can most conveniently be met by means of a joint supply, they may give notice accordingly under the preceding subsection to the owners of all those premises.

(3) If a person on whom a notice has been served under the preceding provisions of this section objects to the requirement of the Government, he may within twenty-eight days after service on him of the notice, appeal to the magistrates' court and, upon any such appeal, the court may either disallow the requirement of the Government or allow it with or without modifications.

(4) If any requirement contained in a notice given under the preceding provisions of this section, including a requirement modified by the court under subsection (3), is not complied with within the time specified in the notice or, if the court extends that time, within the time so extended, the Government may themselves provide a supply of salt water to the house or houses in question and may recover the expenses reasonably incurred by them in so doing from the owner of the house, or where two or more houses are concerned from the owners of those houses in such proportions as may be determined by the Government or, in case of dispute by the magistrates' court.

(5) Where under this section a supply of salt water is furnished by the Government, salt water rates may be charged on the premises and recovered as if the owner or occupier of the premises had demanded a supply.

(6) Where under this section two or more premises in the occupation of different persons are supplied with salt water by a common pipe belonging to the owners or occupiers of those premises or parts of premises or to some of them, the Government may, when necessary, repair or renew the pipe and recover any expenses reasonably incurred by them in so doing from the owners or occupiers of the premises in such proportions as may be determined by the Government or, in case of dispute, by the magistrates' court.

Salt water rate.

117.(1) Where the Government supply salt water, or cause a supply of salt water to be made, to any premises for flushing, cleansing or other purposes they may charge in respect of such supply a salt water rate to be assessed upon the net annual value of the premises as appearing in the book of the tenement valuation of Gibraltar for the time being in force or, if that value does not appear in the book of the tenement valuation, on the net annual value of the premises as determined, in the event of dispute, by the magistrates' court.

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(2) The Government may prescribe by regulations the price to be charged for the supply of salt water.

(3) The provisions of–

(a) sections 271(3), 272, 275 and 284, and

(b) notwithstanding subsection (4), section 272A,

with respect to the assessment and levying of general rates and the liability to pay such rates, shall apply mutatis mutandis to salt water rates made, levied or charged under this section.

(4) The salt water rate, or any charge in lieu thereof agreed under section 119, shall be demanded and recovered from the occupier of any premises and, if such rate or charge is so recovered, the occupier shall, unless as between himself and the owner he is liable to pay the salt water rate or charge, be entitled to deduct the amount so recovered from his rent.

(5) In relation to salt water rates made, levied or charged under this section, the provisions of section 277 (other than subsection (5)) shall apply as if references in section 277 to a rate were references to a salt water rate under this section.

(6) Sections 105 and 142, and subsection (3) of this section, shall apply in respect of a penalty rate imposed by virtue of subsection (5) of this section in the same way as they apply to salt water rates.

(7) Notwithstanding any contrary provision in this Part, no salt water rate shall be payable by an individual who is an occupier of premises used exclusively for parking a motor vehicle where that individual has a freehold or leasehold interest in those premises.

Liability to salt water rates where buildings supplied by common pipe.

118.Where two or more houses or other buildings in the occupation of different persons are supplied with water by a common pipe, the owner or occupier of each of them shall be liable to pay the same water rate for the supply as he would have been liable to pay if it had been supplied with water by a separate pipe.

Power to make agreed charges for salt water supplies.

119.The Government, in lieu of charging a salt water rate, may agree with any person requiring a supply of salt water to furnish the supply, whether by meter or otherwise, on such terms and conditions as may be agreed.

Power to charge by meter for supply to certain premises and for certain purposes.

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120.(1) Subject to the provisions of subsection (3), the Government may require that all salt water supplied by them to–

(a) any premises or parts of premises used for any business, trade or manufacturing purpose for which water is required;

(b) any premises used as a house whereof a part is used for any business, trade or manufacturing purpose for which water is required;

(c) any public institution;

(d) any hospital, sanatorium, school, hostel, assembly hall, place of public entertainment, hotel or boarding house;

(e) any fountain, plasterers', masons, or builders' yard, or slaughterhouse; or

(f) any person for building purposes,

shall be taken by meter.

(2) If a person who takes a supply of salt water from the Government otherwise than by meter desires to use any of the water so supplied for operating–

(a) a water-cooled refrigerating apparatus; or

(b) any apparatus depending while in use upon a supply of continuously running water, the Government may, subject to the provisions of subsection (3), require that all the water so used shall be taken by meter.

(3) The maximum charge per thousand gallons for a supply of salt water by meter shall be that, if any, set out in Schedule 2.

When supply may be cut off.

121.The Government may cut off the supply of salt water given by them to any premises for manufacturing, trade or business purposes if the consumer makes default in paying for water already supplied and they may recover summarily as a civil debt the expenses reasonably incurred by them in so doing.

Provisions for preventing waste, etc., of water and as to meters and other fittings.

Power to require provisions of cisterns in certain cases.

122. (1) The Government may require that–

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(a) any building the supply of water to which need not be constantly laid on under pressure; and

(b) any house the erection of which was not commenced before the lst day of April 1950 and to which water is required to be delivered at a height greater than thirty-five feet below the draw-off level of the service reservoir from which a supply of water is being, or is to be, furnished by them,

shall be provided with a cistern having a stop-cock fitted on the pipe conveying water to it and, in the case of such a house as is mentioned in paragraph (b), may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours.

(2) If a consumer, whom the Government have in accordance with the foregoing provisions required to provide a cistern, fails to comply with the requirement, or if a consumer fails to keep in good repair any cistern in use in his building, or the stop-cock, appurtenant to that cistern, the Government may themselves provide a cistern, or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the building, but without prejudice to the rights and obligations, as between themselves, of the owner and the consumer.

Power to test water fittings.

123.The Government may test any water fittings used in connection with water supplied by them.

Power to enter premises to detect waste or misuse of water.

124.An authorized officer of the Government may, between the hour of seven in the forenoon and one hour after sunset, on producing, if required, evidence of his authority, enter any premises supplied with water by the Government in order to examine, if there be any waste or misuse of such water and that any rules made under this Act are being complied with and, if, after production of his authority, he is refused admittance to the premises, or is obstructed in making his examination, the person refusing him admittance or so obstructing him, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

Power to repair supply pipes.

125. (1) If the Government have reason to think that some injury to or defect in a supply pipe which they are not under obligation to maintain is causing, or is likely to cause, waste of water or injury to person or property, they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do and, if any in jury to or defect in the pipe is discovered, the expenses reasonably incurred by the Government in

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discovering it and in executing repairs shall be recoverable by them summarily as a civil debt from the owner of the premises supplied, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises.

(2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings, the amount of any such expenses reasonably incurred from time to time by the Government in the maintenance and repair of that pipe may be recovered by them summarily as a civil debt from those owners or occupiers in such proportions as, in case of dispute, may be settled by the magistrates' court.

Penalty for waste, etc., of water by non-repair of water fittings.

126. (1) A person who wilfully or negligently causes or suffers any water fitting which he is liable to maintain to–

(a) be or remain so out of order, or so in need of repair; or

(b) be or remain so constructed or adapted, or be so used, that the water supplied to him by the Government is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the Government, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale for every day on which such default is made or continues.

(2) If any water fitting which any person is liable to maintain is in such a condition, or so constructed or adapted as aforesaid, the Government. without prejudice to their right to institute proceedings under subsection (1), may require that person to carry out any necessary repairs or alterations, and, if he fails to do so within forty-eight hours, may themselves carry out the work and recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing.

Penalties for misuse of water.

127. (1) An owner or occupier of premises supplied with water by the Government who without their consent supplies any of that water to another person for use in other premises, or wilfully permits another person to take any of that water for use in other premises, is guilty of an offence and (without prejudice to the right of the Government to recover from such owner or occupier the value of the water so supplied or permitted to be taken) is liable on summary conviction to a fine at level 3 on the standard scale, unless that other person requires the water for the purpose of extinguishing a fire, or is a person supplied with water by the Government but temporarily unable, through no default of his own, to obtain water.

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(2) A person who wrongfully takes, uses or diverts water from a reservoir, watercourse, conduit, pipe or other apparatus belonging to the Government, or from a pipe leading to or from any such reservoir, watercourse, conduit, pipe or other apparatus, or from a cistern or other receptacle containing water belonging to the Government or supplied by them for the use of a consumer of water from them, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

(3) A person who, having from the Government a supply of water otherwise than by meter, uses any water so supplied to him for a purpose other than those for which he is entitled to use it, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale, without prejudice to the right of the Government to recover from him the value of the water misused.

Penalty for fraudulent use of water.

128. (1) A person who fraudulently alters the index of any meter used by the Government for measuring the water supplied by them, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water supplied by the Government, is guilty of an offence and without prejudice to any other right or remedy of the Government, is liable on summary conviction to a fine at level 4 on the standard scale, and the Government may do all such work as is necessary for securing the proper working of the meter, and may recover the expenses reasonably incurred by them in so doing from the offender summarily as a civil debt.

(2) For the purposes of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly, or for enabling him fraudulently to abstract or use water, shall be evidence that he has fraudulently prevented the meter from registering correctly or, as the case may be, has fraudulently abstracted or used water.

Penalty for interference with valves and apparatus.

129.A person who either–

(a) wilfully and without the consent of the Government; or

(b) negligently,

turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the Government and thereby causes the supply of water to be interfered with, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale and, whether proceedings be taken against him in respect of his offence or not,

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the Government may recover from him summarily as a civil debt the amount of any damage sustained by them:

Provided that this section shall not apply to a consumer closing the stop-cock fixed on the service pipe supplying his premises, so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

Penalty for extension or alteration of pipes, etc.

130. (1) A person who without the consent of the Government attaches any pipe or apparatus to a pipe belonging to the Government, or to a supply pipe, or make any alteration in a supply pipe or in any apparatus attached to a supply pipe, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, and a person, who uses any pipe or apparatus which has been so attached, or altered, is liable to the same penalty unless he proves that he did not know, and had no grounds for suspecting, that it had been so attached or altered. .

(2) When an offence against this section has been committed, then, whether proceedings be taken against the offender in respect of his offence or not, the Government may recover from him summarily as a civil debt the amount of any damage sustained by them and the value of any water wasted, misused or improperly consumed.

Meters to be connected, or disconnected by Government.

131. (1) A consumer who has not obtained the consent of the Government shall not connect or disconnect any meter by means of which water supplied by the Government is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the Government not less than twenty-four hours' notice of his requirements and of the time when the work can be commenced and, thereupon, the Government shall carry out the necessary work and may recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing.

(2) A consumer who contravenes any of the provisions of this section, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

132. Meters, etc., to measure water or detect waste.

The Government may for the purpose of measuring the quantity of water supplied, or preventing and detecting waste, affix and maintain meters and other apparatus on their mains and service pipes and may insert in any street the necessary covers or boxes for giving access and protection thereto, and may for the purpose temporarily obstruct, break open, and interfere with streets, sewers, pipes, wires and apparatus.

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General.

Charges for hire or and repairs to meters.

133. The Government may make a charge for any meter provided by them, and shall at their own expense keep any meter let on hire by them to any person in proper order for correctly registering the supply of water and if they fail so to do, that person shall not be liable to pay rent for the meter while the default continues.

Register of meter to be evidence.

134. (1) Where the Government supply water under this Act by meter, the register of the meter shall be prima facie evidence of the quantity of water consumed.

(2) Any question arising between the Government and a consumer with respect to the quantity of water consumed, may, on the application of either party, be determined by the magistrates' court.

(3) If the meter on being tested is proved to register incorrectly to any degree exceeding five per cent–

(a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the Government, unless it is proved to have begun to register incorrectly to that degree on some later date; and

(b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by the Government or paid by the consumer, as the case maybe.

Notice of discontinuance.

135.A consumer who wishes the supply of water to his premises to be discontinued shall give not less than twenty-four hours' notice to the Government.

Vesting of communication pipes and repair of such pipes and of supply pipes in public highways.

136. (1) All communication pipes shall vest in the Government and the Government shall at their own expense carry out any necessary works of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto.

(2) The Government shall also carry out any such necessary works in the case of so much of any supply pipe as is laid in a public highway, and may recover the expenses reasonably

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incurred by them in so doing summarily as a civil debt from the owner of the premises supplied by the pipe, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises.

Provisions as to position, etc., of stop-cocks.

137. (1) On every service pipe laid after the coming into force of this Act the Government shall, and on every service pipe laid before that date the Government may, fit a stop-cock enclosed in a covered box, or pit, of such size as may be reasonably necessary.

(2) Every stop-cock fitted on a service pipe after the coming into force of this section shall be placed in such position as the Government deem most convenient:

Provided that–

(a) a stop-cock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises; and

(b) a stop-cock in a street shall be placed as near to the boundary thereof as is reasonably practicable.

Duty of Government to give notice of certain works.

138.The Government, before commencing to execute repairs or other work which will cause any material interference with the supply of water, shall, except in a case of emergency, give to all consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable dispatch.

Water for public baths, washhouses, etc.

139.The Government may supply water to any public baths, washhouses, swimming baths or bathing places, and it such baths, washhouses, swimming baths or bathing places are not vested in the Government, upon payment for the water supplied and upon such terms and conditions as shall be a greed upon between them and the persons in control of such baths, washhouses, swimming baths or bathing places.

Rules.

140.(1) The Government may make rules for preventing waste, undue consumption, misuse or contamination of water supplied by it.

(2) Rules under this section may include provisions–

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(a) prescribing the size, nature, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used; and

(b) forbidding the use of any water fittings which are of such a nature or are so arranged or connected as to cause or permit, or to be likely to cause or permit waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes,

(3) If a person contravenes the provisions of any rule made under this section, the Government may, without prejudice to their right to institute a prosecution in respect of such contravention, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the rules to be altered, repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt.

Penalty for causing water to be fouled, etc.

141.A person who–

(a) bathes in any reservoir, well or other waterworks, or washes, throws or causes to enter therein any dog or other animal;

(b) throws any rubbish, dirt, filth or other noisome thing into any such reservoir, well or other waterworks, or washes or cleanses therein any cloth, wool, leather or skin of any animal or any clothes or other thing;

(c) injures or destroys or attempts to injure or destroy any reservoir, well or other waterworks, or who permits any person to commit any such offence; or .

(d) causes the water of any sink, sewer or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any reservoir, well or other waterworks or does any other art whereby the water therein is fouled,

is guilty of an offence and is liable on summary conviction to a penalty at level 4 on the standard scale and shall pay compensation for the damage thereby caused and every such person shall be liable to a further penalty of one twentieth of the amount at level 4 on the standard scale for each day (if more than one) that such last-mentioned offence shall be committed.

Recovery of water charges, etc.

142.The Government shall have the same powers for recovering salt water rates, water charges or other payment accruing to them in respect of salt and potable water supplied by them and

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the same remedies in case of default of payment thereof as they have for recovering general rates under this Act.

Control on importation of water.

143.(1) No person shall introduce into Gibraltar for the purpose of sale, or expose or offer for sale in Gibraltar, any mineral, aerated or carbonated water or any water whatsoever, whether flavoured or not, save under and in accordance with the conditions of a licence granted therefor by the Government.

(2) The Government may, in their discretion, grant, refuse or withdraw licences under this section and may attach to any licence so granted such conditions as they may think fit and the decision of the Government shall be final.

(3) The Government may make rules for the better carrying out of' this section.

(4) A person who contravenes the provisions of this section or of any rules made under this section or any condition of a licence granted under this section is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

PART IV.
NOTIFICATION AND PREVENTION OF DISEASES.

Notification of disease.

Obligation to notify certain diseases.

144. (1) When an inmate of any building used for human habitation or hospital is suffering from a notifiable disease–

(a) the head of the family to which that inmate (in this section referred to as 'the patient') belongs and, in his default, the nearest relatives of the patient present in the building or in attendance on the patient, and, in default of such relatives, every person in charge of or in attendance on the patient, and, in default of any such person, the occupier of the building, shall, as soon as he becomes aware that the patient is suffering from a notifiable disease, send notice thereof to the Public Health Director;

(b) every medical practitioner attending on, or called in to visit, the patient shall, as soon as he becomes aware that the patient is suffering from a notifiable disease, send to the Public Health Director a certificate stating the name of the patient, the situation of the building, and the disease from which, in the opinion of that medical practitioner, the patient is suffering.

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(2) A person who fails to send a notice or certificate which he is required by this section to send is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale:

Provided that a person who is required to send notice only in default of some other person shall not be liable to a fine, if he satisfies the court that he believed, and had reasonable grounds for believing, that the notice had been duly sent.

(3) In this section the expression "occupier" includes a person having the charge, management, or control of the building, or of the part of a building, in which the patient is, and in the case of a building the whole of which is ordinarily let to lodgers, the person receiving the rent payable by the lodgers either on his own account or as the agent of another person.

Supply of forms of certificates, and fees for certificates.

145.The Government shall, upon application, supply forms of certificate for use under section 144 free of charge to any medical practitioner and shall pay to a medical practitioner for each certificate duly sent by him under that section a fee of £1.

Power of the Government to declare further diseases to be notifiable.

146.(1) The Government may by order declare that the provisions of this Part or any portion thereof relating to the notification of disease shall apply to an infectious disease not being a disease specifically mentioned in the definition of "notifiable disease" contained in this Act, and, while such an order is in operation, an infectious disease mentioned therein shall be a notifiable disease to which the provisions of this Act or such of those provisions as are specified in the order relating to notifiable diseases apply.

(2) When any such order has been made it shall be published in the Gazette and in such other manner considered sufficient for informing persons interested, and a copy shall also be sent to each registered medical practitioner who after due inquiry is ascertained to be practising in Gibraltar, and the order shall come into operation on such date, not being earlier than one week after the date of the publication of the order in the Gazette as the Government may fix.

Provisions for preventing spread of infection.

Penalty on exposure of persons and articles liable to convey notifiable disease.

147. A person who–

(a) knowing that he is suffering from a notifiable disease, exposes other persons to the risk of infection by his presence or conduct in any street, public place, place of entertainment or assembly, club, hotel, inn or shop;

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(b) having the care of a person whom he knows to be suffering from a notifiable disease, causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place; or

(c) gives, lends, sells, transmits or exposes, without previous disinfection, any clothing, bedding or rags which he knows to have been exposed to infection from any such disease, or any other article which he knows to have been so exposed and which is liable to carry such infection,

is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale:

Provided that a person shall not incur any liability under this section by transmitting with proper precautions any article for the purpose of having it disinfected.

Person suffering from or being a carrier of notifiable disease not to carry on occupation to danger of others.

148. A person who, knowing that he is suffering from a notifiable disease or that he is carrying the infective agent of a notifiable disease, engages in or carries on any trade, business or occupation which he cannot engage in or carry on without risk of spreading the disease is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Child liable to convey notifiable disease may be ordered not to attend school.

149. (1) A person having the care of a child who is, or has been, suffering from, or has been exposed to infection of, a notifiable disease, and the principal of the school attended by such child shall not, after receiving notice from the Director that the child is not to be sent to school, permit the child to attend school, until he has obtained from the Public Health Director a certificate, for which no charge shall be made, that in his opinion the child may attend school without undue risk of communicating the disease to others.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

Director may require list of day-scholars at school where notifiable disease exists.

150. (1) The principal of a school in which any scholar is suffering from a notifiable disease shall, if required by the Public Health Director, furnish to him within a reasonable time fixed by him a complete list of the names and addresses of the scholars, not being boarders, in or attending the school, or any specified class or department of the school.

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(2) The principal of a school who fails to comply with the provisions of this section, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

(3) In this and in section 149 "the principal" means the person in charge of a school, and includes, where the school is divided into departments and no one person is in charge of the whole school, the head of any department.

Restrictions on sending or taking infected article to laundry or public washhouse, or to cleaners.

151. (1) A person shall not send or take to any laundry or public washhouse for the purpose of being washed, or to any place for the purpose of being cleaned, any article which he knows to have been exposed to infection from a notifiable disease, unless that article has been disinfected by, or to the satisfaction of, the Chief Environmental Health Officer or is sent with proper precautions to a laundry for the purpose of disinfection, with notice that it has been exposed to infection.

(2) The Government may pay the expenses of the disinfection of any such article if carried out by them or under their direction.

(3) The occupier of any building in which a person is suffering from a notifiable disease shall, if required by the Chief Environmental Officer furnish to him the address of any laundry, washhouse or other place to which articles from the house have been, or will be, sent during the continuance of the disease for the purpose of being washed or cleaned.

(4) A person who contravenes any provision of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Power to prohibit home work in premises where notifiable disease exists.

152. (1) If a case of a notifiable disease occurs on any premises, then, whether the person suffering from the disease has been removed from the premises or not, the Government may make an order forbidding any work to which this section applies to be given out to any person living or working on those premises, or on such part thereof as may be specified in the order, and any order so made may be served on the occupier of any factory or other place from which work is given out, or on any contractor employed by any such occupier.

(2) The occupier of any such premises shall, if required by the Government, furnish to them the names and addresses of the persons or firms who give out any work to which this section applies to any person living or working in the premises or any part thereof.

(3) An order under this section may be expressed to operate for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction

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of the Chief Environmental Officer or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(4) An occupier or contractor on whom an order under this section has been served and who contravenes the provisions of the order, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(5) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be specified by order of the Government.

Restriction on bringing certain articles into Gibraltar.

153. (1) No person shall land, introduce or attempt to land or introduce into Gibraltar, for the purpose of sale, any rags, old clothes, used mattresses, used blankets or other similar articles, without a licence granted under the authority of the Government and subject to such conditions, if any, as may be specified in such licence.

(2) The Government may, wherever they consider it necessary for the prevention of danger to health, require any person in possession of any rags, old clothes, used mattresses, used blankets or other similar articles which have, been landed or introduced into Gibraltar, whether or not for the purpose of sale, to take such articles to a disinfecting station provided by the Government under section 166, to be disinfected or disinfested therein, and the Government may make such charges as they may deem fit for the disinfection or disinfestation of any such articles and shall not be held liable for any damage which may he occasioned to such articles by or as a result of such disinfection or disinfestation.

(3) A person who contravenes any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

154. Restrictions on sales, etc., by persons collecting, or dealing in, rags, old clothes or similar articles.

(1) No person who collects or deals in rags, old clothes or similar articles, and no person assisting, or acting on behalf of any such person shall–

(a) in or from any shop or premises used for, or in connection with, the business of a dealer in any such articles; or

(b) while engaged in collecting any such articles, sell or deliver, whether gratuitously or not, any article of food or drink to any person, or any article whatsoever to a person under the age of fourteen years.

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(2) A person who contravenes any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Provisions as to library books.

155. (1) A person who knows that he is suffering from a notifiable disease shall not take any book or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

(2) A person shall not permit any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from a notifiable disease.

(3) A person shall not return to any public or circulating library a book which he knows to have been exposed to infection from a notifiable disease, or permit any such book which is under his control to be so returned, but shall give notice to the Director that the book has been exposed to infection.

(4) A person who contravenes any of the foregoing provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

(5) The Director on receiving a notice under subsection (3) shall cause the book to be disinfected and returned to the library, or shall cause it to be destroyed.

Infectious matter not to be placed in dustbins.

156. (1) A person who places, or causes or permits to be placed, in a dustbin or ashpit any matter which he knows to have been exposed to infection from a notifiable disease, and which has not been disinfected, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(2) The Chief Environmental Officer shall give notice of the provisions of this section to the occupier of any house in which he is aware that there is a person suffering from a notifiable disease.

Provisions as to the letting of houses, or rooms in hotels, after recent case of notifiable disease.

157. (1) A person who–

(a) is concerned in the letting of a house or part of a house, or in showing a house or part of a house with a view to its being let; or

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(b) has recently ceased to occupy a house or part of a house, and is questioned by any person negotiating for the hire of the house, or any part thereof, as to whether there is, or has been within the preceding six weeks, in any part of the house a person suffering from a notifiable disease, and knowingly makes a false answer to that question, is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 3 on the standard scale.

(2) A person who lets any house or part of a house in which a person has to his knowledge been suffering from a notifiable disease without having the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of the Chief Environmental Officer as testified by a certificate signed by him is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(3) The keeper of an hotel or inn who allows a room therein in which any person has to his knowledge been suffering from a notifiable disease to be occupied by any other person before the room and all articles therein liable to retain infection have been disinfected to the satisfaction of the Chief Environmental Officer as testified by a certificate signed by him is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Persons ceasing to occupy house to disclose to owner any recent case of notifiable disease, and to disinfect.

158. (1) A person who ceases to occupy a house or part of a house in which to his knowledge a person has within six weeks previously been suffering from a notificable disease and either–

(a) fails to have the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of the Chief Environmental Officer as testified by a certificate signed by him; or

(b) fails to give to the owner of the house, or the part of the house, notice of the previous existence of the disease; or

(c) on being questioned by the owner as to whether within the preceding six weeks there has been therein any person suffering from any notifiable disease, makes a false answer to such question,

is guilty of an offence and is liable on summary conviction, in the case of an offence under paragraph (a) or paragraph (b) to a fine at level 3 on the standard scale and, in the case of an offence under paragraph (c), to imprisonment for one month or to a fine at level 3 on the standard scale.

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(2) The Chief Environmental Officer shall give notice of the provisions of this section to the occupier of any house in which he is aware that there is a person suffering from a notifiable disease.

Provisions as to use of public conveyance by persons suffering from notifiable disease.

159. (1) No person who knows that he is suffering from a notifiable disease shall–

(a) enter any public conveyance used for the conveyance of persons at separate fares; or

(b) enter any other public conveyance without previously notifying the owner or driver thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notifiable disease shall permit that person to be carried–

(a) in any public conveyance used for the conveyance of persons at separate fares; or

(b) in any other public conveyance without previously informing the owner or driver thereof that that person is so suffering.

(3) A person who contravenes any provision of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale and, in addition to any fine imposed, shall be ordered by the court to pay to any person concerned with the conveyance as owner, driver or conductor thereof a sum sufficient to cover any loss and expense incurred by him in connection with the disinfection of the conveyance under the provisions in that behalf contained in section 160.

Duty of owner, etc., of public conveyance in regard to cases of notifiable disease.

160. (1) The owner, driver or conductor of a public conveyance used for the conveyance of passengers at separate fares, shall not convey therein a person whom he knows to be suffering from a notifiable disease.

(2) The owner or driver of any other public conveyance may refuse to convey therein any person suffering from a notifiable disease, until he has been paid a sum sufficient to cover any loss and expense which will be incurred by reason of the provisions of subsection (3).

(3) If a person suffering from a notifiable disease is conveyed in a public conveyance, the person in charge thereof shall, as soon as practicable, give notice to the Chief Environmental Officer and, before permitting any other person to enter the conveyance, shall cause it to be disinfected, and any person concerned with the conveyance as owner, driver or conductor thereof may recover in a summary manner from the person so conveyed, or from the person

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causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him.

(4) A person who contravenes any of the foregoing provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

(5) The Chief Environmental Officer when so requested by the person in charge of a public conveyance in which a person suffering from a notifiable disease has been conveyed, shall provide for its disinfection, and shall make no charge in respect thereof except in a case where the owner, driver or conductor conveyed a person knowing that he was suffering from a notifiable disease.

Power of the Government to make regulations as to the disposal of dead bodies.

161. The Government may make regulations imposing any conditions and restrictions with respect to means of disposal of dead bodies otherwise than by burial or cremation, as to the period of time a body may be retained after death on any premises, or with respect to embalming or preservation, which may appear to be desirable in the interests of public health or public safety.

Power of justice to order dead body to be removed to mortuary or buried forthwith.

162. (1) If a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied on a certificate of The Public Health Director that the retention of a dead body in any building would endanger the health of the inmates of that building, or any adjoining or neighbouring building, he may order that the body be removed by, and at the cost of, the Government to a mortuary, and that the necessary steps be taken to secure that it is buried within a time limited by the order or, if he considers immediate burial necessary, immediately:

Provided that relatives or friends of the deceased person shall be deemed to comply with an order so made if they cause the body to be cremated within the time limited by the order, or, as the case may be, immediately.

(2) Unless relatives or friends of the deceased person undertake to, and do, cause the body to be buried or cremated within the time limited by the order or as the case may be, immediately it shall be the duty of the Government to cause the body to buried, and any expenses reasonably incurred by them in so doing may be recovered summarily by the Government from any person legally liable to pay the expenses of the burial.

(3) An order under this section shall be an authority to any officer named therein to do all acts necessary for giving effect to the order.

Restrictions in certain cases on removal of bodies of persons dying in hospital.

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163. (1) If a person dies in a hospital while suffering from a notifiable disease and The Public Health Director or some other registered medical practitioner certifies that in his opinion it is desirable, in order to prevent the spread of infection, that the body should not be removed from the hospital except for the purpose of being taken direct to a mortuary or being forthwith buried or cremated, it shall not be lawful for any person to remove the body from the hospital except for such a purpose.

(2) In any such case when the body is removed for the purpose of burial or cremation from the hospital or any mortuary to which it has been taken, it shall forthwith be taken direct to some place of burial or crematorium, and there buried or cremated.

(3) A person who contravenes any provision of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Avoidance of contact with body of person who suffered from notifiable disease.

164.A person having the charge or control of premises in which is lying the body of a person who has died while suffering from a notifiable disease shall take such steps as may be reasonably practicable to prevent persons coming unnecessarily into contact with, or proximity to, the body, and, if he fails to do so is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Wake not to be held over body of person who suffered from notifiable disease.

165. It shall not be lawful to hold a wake over the body of a person who has died while suffering from a notifiable disease, and the occupier of any premises who permits or suffers any such wake to take place thereon, and every person who takes part in the wake, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Provisions as to disinfection of premises and articles, and the removal of infected persons.

Power of Government to provide disinfecting station.

166. The Government may provide disinfecting stations and may cause any article brought thereto to be disinfected free of charge:

Provided always that, unless otherwise expressly provided by this Act, the Government may make such charge as they deem expedient for the disinfection or disinfestation of any articles and the Government shall not be held liable for any damage which may be occasioned to such articles by or as a result of such disinfection or disinfestation.

Cleansing and disinfection of' premises and articles therein.

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167. (1) If the Chief Environmental Health Officer is satisfied that the cleansing and disinfection of any premises, and the disinfection or destruction of any articles therein likely to retain infection, would tend to prevent the spread of any infectious disease, he shall give notice to the occupier of the premises that he will at the cost of the occupier cleanse and disinfect the premises and disinfect or, as the case may require, destroy any such articles therein, unless, within twenty- four hours after the receipt of the notice, the occupier of the premises informs the Chief Environmental Health Officer that within a time to be fixed by the notice he will take such steps as are specified therein.

(2) If, within twenty-four hours after receipt of the notice the person to whom it is given does not so inform the Chief Environmental Health Officer or if, having so informed him, he fails to take such steps as aforesaid to the satisfaction of the Chief Environmental Health Officer within the time fixed by the notice, the Government may cause the premises to be cleansed and disinfected and the articles to be disinfected or destroyed, as the case may require, and may, if the Government think fit, recover from him the expenses reasonably incurred in so doing.

(3) Where the occupier of any premises is in the opinion of the Chief Environmental Health Officer unable effectually to take such steps as he considers necessary, he may, without giving such notice as aforesaid but with his consent, take the necessary steps at the cost of the Government.

(4) Where the Chief Environmental Health Officer has under this section disinfected any premises or article, or destroyed any article, the Government may, if they think fit, pay compensation to any person who has suffered damage by their action.

(5) For the purposes of this section, the owner of unoccupied premises shall be deemed to be in occupation thereof.

Power of Government to remove temporarily inmates of infected house.

168. (1) When any infectious disease occurs in a house, or The Public Health Director deems it necessary to disinfect any house, the Chief Environmental Health Officer may,–

(a) cause any person who is not himself sick and who consents to leave the house, or whose parent or guardian, where the person is a child, consents to his leaving the house, to be removed therefrom to any temporary shelter or house accommodation provided by the Chief Environmental Health Officer;

(b) cause any such person to be so removed without any consent, if a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on the application of the Chief Environmental Health Officer, of the necessity for the removal subject to such conditions, if any, as may be specified in the order.

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(2) The Government shall in every case cause the removal to be effected and the conditions of any order to be satisfied without charge to the person removed, or to the parent or guardian of that person.

Provision for removal to hospital of persons suffering from notifiable disease where serious risk of infection being spread.

169. (1) Where a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on the application of the Government, that a person is suffering from a notifiable disease and–

(a) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and

(b) that serious risk of infection is thereby caused to other persons; and

(c) that accommodation for him is available in a suitable hospital or institution,

the justice may order him to be removed thereto and to be detained and maintained therein for such period as may be specified in the order at the cost of the Government.

(2) An order under this section may be addressed to such officer of the Government as the justice may think expedient, and that officer may do all acts necessary for giving effect to the order.

Power of justice to order detention in hospital of infected person without proper lodging to return to.

170.(1) Where a justice of the peace (acting, if he deems it necessary, ex pane) is satisfied, on the application of the Government, that an inmate of the hospital who is suffering from a notifiable disease would not, on leaving the hospital, be provided with lodging or accommodation in which proper precautions could be taken to prevent the spread of the disease by him, the justice may order him to be detained in hospital at the cost of the Government:

Provided that the making of such an order shall not affect the liability of any person who by virtue of any contract or order, or otherwise, is under an obligation to defray the cost of his maintenance whilst in the hospital.

(2) An order made under subsection (1) may direct detention for a period specified in the order, but any justice of the peace may extend a period so specified as often as it appears to' him to be necessary so to do.

(3) A person who leaves a hospital contrary to an order made under this section for his detention therein is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, and the court may order him to be taken back to the hospital.

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(4) An order under this section may be addressed to such officer of the Government as the justice may think expedient, and that officer may do all acts necessary for giving effect to the order.

Provisions as to treatment of tuberculosis.

Removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.

171. (1) Where the magistrates' court is satisfied, on the application of the Government that a person suffering from tuberculosis of the respiratory tract (in this section referred to as "the patient") is in an infectious state, and–

(a) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and

(b) that serious risk of infection is thereby caused to other persons; and

(c) that accommodation for him is available in a suitable hospital or institution,

the court may order him to be removed thereto and to be detained and maintained therein for such period not exceeding three months as the court thinks fit.

(2) Where, before the expiration of any period for which a patient has been ordered to be detained under this section, the magistrates' court is satisfied, upon the application of the Government, that the conditions which led to his detention being ordered will again exist if he is not detained for a further period, the court may order his detention for a further period not exceeding three months.

(3) Before making an application for an order under this section, the Government shall give to the patient, or to some person having the care of him, not less than three clear days' notice of the time and place at which the application will be made.

(4) On the hearing of any application under this section, the court may, if it thinks it necessary so to do, require the patient to be examined by such registered medical practitioner as it may direct.

(5) The Government shall if so required by the court pay the whole, or such part as the court may direct, of the cost of the patient's removal to the hospital or institution, and, in the absence of any direction by the court, may pay the whole or such part, if any, as they think fit of the said cost and make such contribution, if any, as they think fit.

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(6) At any time after expiration of six weeks from the date of an order made under subsection (1), application for the rescission of that order, if it is still in force, or of any further order made under subsection (2), may, upon not less than three clear days' notice to the Government, be made to the magistrates' court and upon the hearing of any such application the court may rescind the order.

(7) An order under this section may be addressed to such officer of the Government as the court may think expedient, and that officer may do all acts necessary for giving effect to the order.

Provisions as to venereal diseases.

Prevention of the treatment of venereal disease otherwise than by qualified persons.

172. A person shall not, unless he is a medical practitioner–

(a) treat any person for venereal disease or prescribe any remedy therefor; or

(b) for reward either direct or indirect give any advice in connection with the treatment of venereal disease, whether the advice is given to the person to be treated or to any other person.

Restriction on advertisement, etc.

173. (1) A person shall not by any advertisement or any public notice or announcement treat or offer to treat any person for venereal disease, or prescribe or offer to prescribe any remedy therefor, or give or offer to give any advice in connection with the treatment thereof.

(2) A person shall not hold out or recommend to the public by any notice or advertisement, or by any written or printed papers or handbills, or any label or words written or printed, affixed to or delivered with, any packet, box, bottle, phial, or other enclosure containing the same, any pills, capsules, powders, lozenges, tinctures, potions, cordials, electuaries, plaisters, unguents, salves, ointments, drops, lotions, oils, spirits, medicated herbs and waters, chemical and officinal preparations whatsoever, to be used or applied externally or internally as medicines or medicaments for the prevention, cure or relief of any venereal disease.

(3) Nothing in this section contained shall apply to any advertisement, notification, announcement, recommendation or holding out made or published by direction of or with the permission of The Public Health Director or to any publication sent only to medical practitioners or to wholesale or retail chemists for the purposes of their business.

(4) A person who acts in contravention of any of the provisions of this section or section 172 is guilty of an offence and is liable on summary conviction on indictment to imprisonment

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for two years, or on summary conviction to imprisonment for six months or to a fine at level 3 on the standard scale.

Miscellaneous.

Power of Director to call upon persons suffering from infectious diseases to attend and remain in hospital.

174. (1) When The Public Health Director has reasonable ground for suspecting that a person in Gibraltar is suffering from any notifiable disease he may, by notice in writing, call upon such person to attend at the St. Bernard's Hospital, or such other place as the Government may appoint for the treatment of such cases, at a time to be specified in the notice and not to quit it without permission of the medical officer in charge, unless and until such medical officer is satisfied that such person is not in fact suffering or is no longer suffering from such disease:

Provided that if, having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, The Public Health Director considers the attendance of such person at the St. Bernard's Hospital, or other appointed place, inexpedient, he may dispense with such attendance and take such measures as he may think fit and proper.

(2) A person who fails to comply with the requirements of a notice served upon him under this section or who leaves the hospital or other place without the permission of the medical officer in charge is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Power of Government to provide nursing attendance in certain cases.

175.The Government may provide nurses for attendance on patients suffering from any infectious disease in cases where suitable hospital accommodation is not available, or removal to hospital is likely to endanger the patient's health, and may make charges for the services of nurses so provided.

Instruction, lectures, etc., on questions relating to health or disease.

176. The Government may arrange for the publication of information on questions relating to health or disease, and for the delivery of lectures and the display of pictures or cinematograph films in which such questions are dealt with, and may defray the whole or a part of the expenses incurred for any of the purposes of this section.

Laboratories, ambulances, mortuaries, etc.

Provision of laboratories.

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177. The Government may provide a laboratory for purposes connected with the diagnosis and treatment of diseases and for the making of such bacteriological, chemical and other examinations as may assist them in the performance of their functions under this Act and may allow any person to make use thereof on such terms as they think fit.

Provision of ambulance.

178.(1) The Authority may provide ambulances may make charges for the use thereof.

(1A). The Chief Environmental Health Officer may provide hearses and may make charges for the use thereof.

(2) Where an ambulance is used for the conveyance of a person suffering from an infectious disease, the Authority shall not allow the ambulance to be again used until proper steps have been taken to prevent the communication of the disease, to any other person.

Authority to keep stock of vaccines, etc.

179. The Government may provide and maintain such stocks of vaccines, sera, disinfectants and insecticides as they may deem necessary for the purpose of the prevention or treatment of infectious diseases and may supply any person with such vaccines, sera, disinfectants or insecticides, on such terms as they think fit.

Rules for the prevention and treatment of infectious diseases.

Power of the Government to make rules.

180.(1) The Government may make rules with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases.

(2) Rules made under this section shall specify the authorities or persons by whom they are to be enforced and executed.

PART V.
DESTRUCTION OF RATS AND MICE.

General duty of Government.

181. With a view to the prevention of plague and other diseases communicated by rats and mice and the insects of which they are vectors, it shall be the duty of the Government to cause inspection of premises to be made from time to time in order to ascertain whether there exists therein any infestations by rats and mice and to enforce the provisions of, and otherwise to

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exercise the powers conferred by, this Part for the purpose of destroying rats and mice and the insects aforesaid.

Duty to report infestations to Director.

182. Whenever any premises or thing shall have become infested by rats or mice to the knowledge of any person who is the owner or occupier of the premises or, as the case may be, is the owner or is otherwise in possession or control of the thing, such person shall forthwith give notice in writing of such infestation to the Director.

Powers of Director and authorized persons.

183. The Director or an environmental health officer or any person thereto authorized in writing by the Director may–

(a) at any time between nine o'clock in the forenoon and six o'clock in the afternoon enter on any premises and inspect the premises and any thing therein for the purposes of detecting whether any infestation by rats or mice exists therein and of ascertaining the extent of any such infestation;

(b) after giving not less than twenty-four hours' notice in writing to the occupier of any premises, enter on the premises at any time between six o'clock in the forenoon and eleven o'clock in the afternoon and therein carry out all such measures as he may have been authorized by the Government to carry out for the purpose of destroying or of making preparations for the destruction of rats and mice.

Powers of Government to require work and treatment to be carried out for certain purposes.

184. (1) The Government may cause a notice to be served on the owner or occupier of any premises requiring him to carry out in respect of those premises within a time to be specified in the notice such work as may have been certified by the Director to be necessary and reasonably practicable for preventing infestation by rats and mice or such treatment as may have been so certified to be necessary and reasonably practicable for remedying infestation by fleas and lice.

(2) Upon the default of any person served with a notice under the provisions of subsection (1) in complying with any requirements of the notice any person thereto authorized in writing by the Government may enter on the premises to which the notice relates and carry out the work or treatment specified in the notice.

Temporary closing of buildings.

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185. (1) If the Government are satisfied that the closing of any building, other than a building used as a dwelling, is necessary for the purpose of effectively destroying rats and mice infesting the building, the Government may cause a notice to be served on the occupier of the building prohibiting him, for a period beginning and ending on such dates as may be specified in the notice but not exceeding a duration of ten days nor beginning less than seven days after service of the notice, from entering or using or permitting any person to enter or use the building without the permission of the Chief Environmental Health Officer.

(2) During the period in respect of which entry to and use of a building have been prohibited in accordance with the provisions of subsection (1) the Government shall cause a notice to be exhibited in a conspicuous position on or near the building warning the public that no person may enter or use the building during that period without the permission of the Director and the Government may also cause all or any of the external doors or gates or other openings in the building to be sealed or otherwise secured so as to prevent any person from entering or using the building during that period without the permission of the Chief Environmental Health Officer.

Powers of demolition, etc., where infestation cannot be remedied.

186. (1) If the Government are satisfied that any structure or thing on any premises has become so infested by rats or mice that it is not reasonably practicable to remedy that infestation, the Government may, after giving not less than twenty-one days' notice in writing to the occupier of the premises, cause the structure or thing to be demolished, destroyed or removed, and any person thereto authorized in writing by the Government may, at any time after the notice has expired, enter on the premises and carry out such work as may have been directed by the Government for the purpose of such demolition, destruction or removal:

Provided that, if the person to whom the notice was given or any person claiming any title to or interest in the structure or thing, shall, at any time before the expiry of the notice, notify the Government in writing that he objects to the demolition, destruction or removal of the structure or thing, the Government shall not exercise any of the powers conferred by this section unless they shall first have applied to the magistrates' court for leave so to do and the court, after hearing the parties, shall have granted leave accordingly.

(2) Upon the hearing of an application made under the provisions of subsection (1) the court may grant or refuse leave to exercise the powers conferred by this section or may grant such leave subject to such conditions as the court may think fit to impose, including a condition as to payment of compensation by the Government in respect of any structure or thing to be demolished, destroyed or removed:

Provided that the court shall not impose a condition as to payment of compensation unless the court is satisfied that the infestation of such structure or thing by rats or mice was not caused or substantially contributed to by any act or neglect on the part of the person to whom

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the compensation is to be paid and that it is reasonable that such person should receive compensation.

(3) In this section "structure" means any shed, hut, outhouse, workshop, store, garage or stable.

Directions as to storage of rat-attracting material.

187.Where any foodstuffs, grain, forage or hides or any materials or things which, in the opinion of the Chief Environmental Health Officer are likely to attract or afford harbourage for rats and mice are stored on any premises, the occupier of the premises shall comply with any directions which the Chief Environmental Health Officer may give in regard to the manner in which such foodstuffs, grain, forage, hides, materials or things shall be stacked, placed or arranged.

Control of rat destruction carried out otherwise than by the Government.

188. If the Government are satisfied, that any person is carrying out or intending to carry out on any premises any measures for the purpose of destroying rats or mice and that such measures are or will be such as to be or to be likely to be pre judicial to the efficacy of any measures which the Government or the Chief Environmental Health Officer may be carrying out or intending to carry out for that purpose on those or any other premises, the Government may cause a notice to be served on that person prohibiting him from carrying out such first-mentioned measures or requiring him to comply with such directions in regard to the carrying out of those measures as may be specified in the notice.

Recovery of expenses by Government.

189. The Government may recover summarily as a civil debt from the owner or occupier of any premises the expenses incurred by them in carrying out upon the premises any work or treatment which they shall, on default of an owner or occupier in compiling with a notice served on such owner or occupier under the provisions of section 184, have themselves caused to be carried out.

Offences and penalties.

190. A person who–

(a) fails to give to the Chief Environmental Health Officer the notice of infestation which he required to give under the provisions of section 182; or

(b) obstructs or impedes the Chief Environmental Health Officer, an environmental health officer or any duly authorized person in the execution of the powers or duties conferred or imposed by this Act, or, being the occupier of any premises,

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fails to comply with any reasonable requirement of the Chief Environmental Health Officer, an environmental health officer or such person for facilitating the execution of those powers or duties; or

(c) fails to comply with any requirement or prohibition contained in any notice which the Government shall have caused to be served upon him under the provisions of this Act; or

(d) enters or uses or attempts to enter or use any building without the permission of the Chief Environmental Health Officer in contravention of a notice exhibited on or near the building in accordance with the provisions of section 185(2); or

(e) fails to comply with any direction given to him by the Chief Environmental Health Officer under the provisions of section 187 in regard to the manner in which foodstuffs, grain, forage, hides, materials or other things shall be stacked, placed or arranged,

is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 3 on the standard scale and, in the case of a continuing offence, to a further fine of one tenth of the amount at level 3 on the standard scale for each day during which the offence continues:

Provided that, where a continuing offence consists in a failure to comply with any requirement of a notice served under the provisions of section 184 to carry out any work or treatment, a person shall not be liable to such daily penalty for that offence in respect of any day on or after which the Government shall themselves have begun to cause the work or treatment to be carried out.

When owner of premises to be deemed occupier.

191. For the purposes of this Part, the owner of unoccupied premises shall be deemed to be in occupation thereof.

Defrayal of expenses.

192. All expenses properly incurred in carrying out the provisions of this Part shall be defrayed out of the general rates.

PART VA
WASTE.

Interpretation.

192A.(1) In this Part and in Schedules 11A to 18, unless the context shall otherwise require–

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"appliance" means any electrical or electronic equipment, as defined in the Environment (Waste) Regulations 2007, which is fully or partly powered by batteries or accumulators or is capable of being so;

"backfilling" means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes;

"best available techniques" means best available techniques as defined in Article 3(10) of Directive 2010/75/EU;

"batteries", "accumulators", "waste batteries" and "waste accumulators" have the meanings given to them under Part IV the Environment (Waste) Regulations 2007;

"the Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, as it had effect immediately before 1 January 2021;

"BGTW" means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

"bio-waste" means biodegradable garden and park waste, food and kitchen waste from households, offices, restaurants, wholesale, canteens, caterers and retail premises and comparable waste from food processing plants;

"broker" means any undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

"collection" means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

"construction and demolition waste" means waste generated by construction and demolition activities;

"dealer" means any undertaking which acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste;

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"the Directive" means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, as it had effect immediately before 1 January 2021;

"disposal" means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy, and Schedule 12 sets out a non-exhaustive list of disposal operations;

"economic operator" means any producer, distributor, collector, recycler or other treatment operator;

"extended producer responsibility scheme" means a set of measures taken by the competent authority to ensure that producers or importers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's life cycle;

"food waste" means all food as defined in Article 2 of Regulation (EC) No 178/2002 that has become waste;

"hazardous waste" has the meaning given to it in section 192KA;

"holder" means the producer of waste or the person who is in possession of it;

"the Marking Directive" means Commission Directive 93/86/EEC adapting the Batteries Directive to technical progress;

"material recovery" means any recovery operation, other than energy recovery and the reprocessing into materials that are to be used as fuels or other means to generate energy and which includes, inter alia, preparing for re-use, recycling and backfilling;

"municipal waste" means, without prejudice to the allocation of responsibilities for waste management between public and private actors,-

(a) mixed waste and separately collected waste from households including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;

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(c) waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end of life vehicles or construction and demolition waste shall not be considered municipal waste;

"non-hazardous waste" means waste which is not hazardous waste;

"PCBs" means any of the following substances−

polychlorinated biphenyls
polychlorinated terphenyls

monomethyl-dibromo-diphenyl methane

monomethyl-dichloro-diphenyl methane

monomethyl-tetrachlorodiphenyl methane

and any mixture containing any of those substances in a total of more than 0.005% by weight;

the "PCBs Directive" means Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls;

"preparing for re-use" means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;

"prevention" means measures taken before a substance, material or product has become waste, that reduce−

(a) the quantity of waste, including through the re-use of products or the extension of the life span of products;

(b) the adverse impacts of the generated waste on the environment and human health; or

(c) the content of hazardous substances in materials and products;

"recovery" means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy; a non-exhaustive list of recovery operations is set out in Schedule 13;

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"recycling" means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, and includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;

"regeneration of waste oils" means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils;

"re-use" means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

"separate collection" means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment;

"treatment" means recovery or disposal operations, including preparation prior to recovery or disposal;

"waste" means any substance or object which the holder discards or intends to discard, or is required to discard;

"waste holder" means the waste producer or the natural or legal person who is in possession of the waste;

"waste management" means the collection, transport, recovery (including sorting) and disposal of waste, including the supervision of such operations and the after-care of disposal sites, including actions taken as a dealer or broker;

"waste oils" means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

"waste producer" means anyone whose activities produce waste (original waste producer) or anyone who carries out pre-processing, mixing or any other operations resulting in a change in the nature or composition of this waste.

(2) The Government must take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met −

(a) further use of the substance or object is certain;

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(b) the substance or object can be used directly without any further processing other than normal industrial practice;

(c) the substance or object is produced as an integral part of a production process; and

(d) further use is lawful, that is, the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

(3) Until such time as criteria is developed by the European Union, the Government may, by Order, declare detailed criteria on the application of the conditions laid down in subsections (2)(a)-(d) to specific substances or objects.

(4) The Government shall ensure that the Commission is notified where it makes an Order pursuant to subsection (3).".

Application of Part VA and Schedules 11A to 18.

192B. (1) The purpose of this Part and Schedules 11A to 18 is to give effect to the directives mentioned in sub-section (2), and this Part and those Schedules shall be construed accordingly.

(2) The directives referred to in sub-section (1) are–

(a) the Directive;

(b) the Batteries Directive (in particular Articles 3, 7, 12 and 15);

(c) The Marking Directive;

(d) the PCBs Directive (in respect of articles 4.6, 6.2, 7 and 8.1);

(e) *Repealed*

(3) This Part shall not apply to–

(a) gaseous effluents emitted into the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide or excluded from the scope of that Directive pursuant to its Article 2(2);

(b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land;

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(c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated;

(d) radioactive waste;

(e) decommissioned explosives;

(f) faecal matter, if not covered by paragraph (g)(iii), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health;

(g) the following to the extent that they are already covered by this Act or any other retained EU law applicable to Gibraltar–

(i) waste waters;

(ii) animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant;

(iii) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No 1774/2002;

(iv) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by the Waste (Extractive Industries) Regulations 2009.

(v) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 and that do not consist of or contain animal by-products.

(3A) Without prejudice to obligations under any other Parts of this Act or other applicable European Union legislation, sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation shall be excluded from the scope of this Part if it is proved that the sediments are non-hazardous.

(4) Domestic waste shall not be treated as hazardous waste.

End-of-waste status.

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192BA.(1) The Government must take appropriate measures to ensure that waste which has undergone a recycling or other recovery operation is considered to have ceased to be waste if it complies with the following conditions-

(a) the substance or object is to be used for specific purposes;

(b) the substance or object fulfils the technical requirements for the specific purposes for which they are intended;

(c) the substance or object meets the existing legislation and standards applicable to it;

(d) the use of the substance or object will not lead to overall adverse environmental or human health impacts..

(2) The government may by order–

(a) establish criteria on the application of the conditions laid down in subsection (1) to certain types of waste; or

(b) declare, on a case by case basis, and after having taken appropriate verification measures, that certain waste has ceased to be waste on the basis of the conditions referred to in subsection (1).

(2A) If an Order is declared pursuant to subsection (2)(a), the Order shall take into account any possible adverse environmental and human health impacts of the substance or object and must satisfy the requirements laid down in points (a) to (e) of Article 6 (2) of the Directive.

(2B) If an Order is declared pursuant to subsection (2)(b), the Order shall reflect the requirements laid down in points (a) to (e) of Article 6 (2) of the Directive and shall take into account limit values for pollutants and any possible adverse environmental and human health impacts.

(3) *Deleted*.

(4) A natural or legal person who:

(a) uses, for the first time, material that has ceased to be waste and that has not been placed on the market; or

(b) places a material on the market for the first time after it has ceased to be waste,

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must ensure that the material meets the relevant requirements under applicable chemical and product related legislation and the conditions of subsection (1) are met.

Competent authority.

192C. (1) The competent authority for the purposes of each of the directives referred to in section 192B(2) shall be the Government.

(2) The Government shall discharge its functions under this Part with the objectives (inter alia) set out below.

(3) In respect to functions pertaining to waste the objectives shall be–

(a) ensuring that waste management is carried out without endangering human health and without using processes or methods which could harm the environment and in particular–

(i) without risk to water, air, soil, plants or animals;

(ii) without causing a nuisance through noise or odours;

(iii) without adversely affecting the countryside or places of special interest;

(aa) ensuring that measures are taken (as appropriate) for the promotion of the re-use of products and preparation for re-use activities, notably by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, procurement criteria, quantitative objectives or other measures;

(ab) ensuring that waste undergoes recovery operations in accordance with subsections (3)(a), (5)(a), section 192M(3), Schedule 11B and Article 10 of the Directive and for the purpose of such recovery operations and to facilitate and improve recovery, that waste is collected separately if technically, environmentally and economically practicable, and is not mixed with other waste or other material with different properties;

(ac) ensuring that high quality recycling is possible and that waste is collected separately where technically, environmentally and economically practical and appropriate to meet the necessary quality standards for the relevant recycling sectors and in so doing that the conditions and targets set out in Schedule 14A and Articles 10(2) and (3) of the Directive are complied with;

(ad) ensure that measures are taken for the promotion of selective demolition to enable the removal and safe handling of hazardous substances and facilitate the re-use and high quality recycling by selective removal of materials.

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(ae) ensure the establishment of sorting systems for construction and demolition waste for wood, mineral fractions, metal, glass, plastic and plaster.

(b) establishing an integrated and adequate network of waste disposal installations, taking account of the best available technology not involving excessive costs;

(c) securing that the network established under paragraph (b)–

(i) *Deleted*

(ii) enables waste to be disposed of in one of the nearest appropriate installations by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health;

(d) ensuring that waste management plans prepared under section 192M are implemented.

(4) In respect of functions pertaining to waste oils the objectives shall be–

(a) to ensure that they are collected separately, where this is technically feasible taking into account good practices;

(b) to ensure that they are treated, giving priority to regeneration or alternatively to other recycling operations delivering an equivalent or a better environmental outcome than regeneration, in accordance with subsection (5)(a);

(c) to ensure that –

(i) they are not mixed with other waste oils having different characteristics; and

(ii) they are not mixed with other kinds of waste or substances,

if such mixing impedes their regeneration or another recycling operation which delivers an equivalent or a better overall environmental outcome than regeneration.

(5) In respect of functions pertaining to waste batteries and accumulators, and without prejudice to subsection (3), the objectives shall, have regard to the environmental impact of transport, be–

(a) to take the necessary measures to maximise the separate collection of waste batteries and accumulators; and

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(b) to minimise the disposal of batteries and accumulators as mixed municipal waste,

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

(5) In applying subsections (2) to (4) the Government shall−

(a) have regard to the waste hierarchy as set out in Schedule 11B; and

(b) implement the producer pays principle in a manner consistent with Article 14 of the Directive.

Waste licences.

192D. (1) Subject to the provisions of this section no person shall carry out a prescribed activity without first having obtained a licence from the Government.

(2) The prescribed activities for the purposes of this section are–

(a) in respect of waste–

(i) disposal;

(ii) *Repealed*

(iii) recovery; and

(iv) storage;

(b) additionally in the case of waste oil–

(i) collection;

(iA) treatment;

(ii) disposal;

(iii) regeneration or use as fuel;

(iv) storage;

(v) disposal of the residues of regeneration or from combustion.

(c) additionally in the case of hazardous waste–

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(i) collection;

(ii) transportation;

(iii) storage;

(iv) treatment;

(d) additionally, for incineration in waste incineration plants or in waste co-incineration plants-

(i) for waste, with a capacity not exceeding 3 tonnes per hour;

(ii) for hazardous waste, with a capacity not exceeding 10 tonnes per day;

(e) additionally in the case of waste batteries and waste accumulators, their treatment and recycling in Gibraltar.

(3) Subject to this section, the Government shall on receipt of a duly made application for a licence–

(a) grant a licence; or

(b) extend a licence.

(4) Notwithstanding sub-section (3) the Government may refuse to grant a licence to an applicant–

(a) if it is satisfied that the applicant is unlikely to be able to comply with the requirements of this Part or Schedules 12 to 18;

(b) if the intended method to be used to carry out a prescribed activity is unacceptable from the point of view of environmental protection;

(c) additionally in the case of waste oil, if it is not satisfied that all appropriate environmental health protection measures have been taken including use of the best technology available where the cost is not excessive;

(d) the procedures of section 192Q (procedures for licence application) have not been materially complied with;

(e) fees due under section 192R have not been paid;

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(f) additionally in the case of waste batteries and waste accumulators–

(i) if the proposed treatment operation does not meet the minimum requirements set out in Part A of Schedule 16; or

(ii) if the proposed recycling efficiencies and associated provisions set out in Part B of Schedule 16 are not met;

(g) if it is not in the public interest.

(5) A licence granted under this section may–

(a) authorise a prescribed activity to be carried out for a specified time;

(b) be extended from time to time;

(c) be granted subject to conditions and obligations.

(6) A licence granted under this section shall specify–

(a) the type and quantities of waste that may be treated;

(b) for each type of operation permitted, the technical and any other requirements relevant to the site concerned;

(c) the safety and precautionary measures to be taken;

(d) the disposal site;

(e) the method to be used for each type of operation;

(f) such monitoring and control operations as may be necessary;

(g) such closure and aftercare provisions as may be necessary.

(6A) A licence covering incineration or co-incineration shall-

(a) in the case of energy recovery, contain a condition that the recovery of energy shall take place with a high level of energy efficiency;

(b) in the case of waste, contain conditions which give effect to Schedule 11 of the Pollution Prevention and Control Regulations 2013.

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(7) A person who contravenes the provisions of sub-section (1) or contravenes a condition or obligation attached under sub-section (5)(c) to a licence granted to him, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twice the amount at level 5 on the standard scale.

(7A) A person guilty of an offence under subsection (7) may have his licence revoked by the Government.

(8) The Government shall carry out appropriate periodic inspections on any establishment, undertaking, broker or dealer that is registered or licensed to carry out operations under this Part.

(9) Inspections of collection and transport operations shall cover the origin, nature, quantity and destination of the waste collected and transported.

(10) In discharging its duty under subsection (8) account may be taken of registrations obtained under the Community Eco-Management and Audit Scheme (EMAS), in particular regarding the frequency and intensity of inspections.

(11) A licence under this section shall not be granted where the activity in question is regulated under the Pollution Prevention and Control Regulations 2013 and in any case where there is an overlap between this Part and those Regulations, such licence may be issued under this section if it complies with the provisions of those Regulations.

Exemption from requirement for a licence.

192DA.(1) Subject to subsection (2) the Government may exempt from the requirement of a licence under section 192D any person who−

(a) disposes of his own non-hazardous waste at the place of production; or

(b) undertakes the recovery of waste.

(2) An exemption under subsection (1) may only be granted where the Government has by Regulations made hereunder set out, in respect of each type of activity, general rules specifying the types and quantities of waste that may be covered by an exemption, and the method of treatment to be used.

(3) Regulations made under subsection (2) shall ensure that−

(a) waste is treated in accordance with the provisions in section 192C(3)(a);

(b) in the case of disposal operations referred to in subsection (1)(a), consideration is given to the use of best available techniques.

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(4) In the case of hazardous waste, regulations made under subsection (2) shall also provide specific conditions for the grant of exemptions including–

(a) the types of activity;

(b) any other necessary requirement for carrying out different forms of recovery;

(c) the limit values for the content of hazardous substances in the waste, where relevant;

(d) the emission limit values, where relevant.

Registration of certain establishments and undertakings.

192E.(1) No establishment or undertaking shall carry out the activities described in sub-section (2) unless it has first registered with the Government.

(1A) When registering an undertaking under this section the Government may-

(a) authorise an activity to be carried out for a specified time under the registration;

(b) extend the registration from time to time;

(c) place conditions and obligations on the registration.

(2) The activities referred to in subsection (1) are–

(a) collecting or transporting waste on a professional basis;

(b) dealers or brokers of waste; or

(c) those which are the subject matter of an exemption granted pursuant to section 192DA.

(3) The Government shall establish and maintain a register of establishments and undertakings for the purposes of this section.

(4) An establishment or undertaking desirous of being registered under this section shall give notice in writing to the Government of its desire.

(5) A notice under sub-section (4) shall include particulars of–

(a) the name of the establishment or undertaking;

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(b) the place where the activity is to be carried out; and

(c) the place where the establishment or undertaking may be contacted in relation to the relevant activity.

(6) Upon receipt of a notice under sub-section (4) containing the particulars required by sub-section (5), together with any fee in accordance with section 192R, the Government may register the establishment or undertaking.

(6A) The Government may refuse to register an establishment or undertaking under subsection (6) if it is satisfied that-

(a) the applicant is unlikely to be able to comply with the requirements of this Part;

(b) the intended method to be used to carry out an activity under this section is unacceptable from the point of view of environmental protection or protection for human health;

(c) the appropriate environmental health protection measures taken have not included use of the best technology available where the cost is not excessive; or

(d) it is not in the public interest.

(7) An establishment or undertaking which contravenes the provisions of sub-section (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) The Government shall carry out appropriate periodic inspections on establishments and undertakings, which carry out the prescribed activities set out in sub-section (2).

(9) If an inspection of an establishment or undertaking registered under this section reveals that such establishment or undertaking has failed to comply with any conditions or obligations imposed, the Government may-

(a) vary or add conditions or obligations on the establishment or undertaking; or

(b) remove the establishment or undertaking from the register.

Duty of holders.

192F.(1) Subject to sub-section (2), a holder shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale if without reasonable excuse he causes waste to be handled by–

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(a) a person other than a private or public waste collector; or

(b) a person acting in contravention of section 192D(1).

(2) A person shall not be guilty of an offence under sub-section (1) if he recovers or disposes of waste himself in accordance with section 192D.

192G. *Repealed.*

192H. *Repealed.*

Provisions as to PCBs.

192J. (1) If it appears to it that there are appropriate installations in Gibraltar not being a ship in the port, harbour or in Gibraltar waters, the Government shall designate installations at which PCBs may be disposed of (whether the PCBs are produced wholly or partly at the installation).

(2) No person shall dispose of PCBs other than at an installation designated under sub-section (1).

(3) Where PCBs or waste containing PCBs are collected by an installation designated under subsection (1), the installation shall take all necessary precautions to avoid any risk of fire by segregating such PCBs or waste containing PCBs from any flammable products.

(4) Where PCBs or waste containing PCBs are collected by an installation designated under subsection (1), the installation shall be exempted from holding such PCBs delivered to it before 31 December 2010 and not disposed of by that date, provided such disposal shall be effected as soon as practicable thereafter.

(5) The Government may make rules for the control of installations designated under sub-section (1) and of the processes by which PCBs may be disposed of at such installations.

Provisions as to waste.

192JA. Disposal by way of incineration of waste under the Pollution Prevention and Control Regulations 2013 shall be carried out in accordance with the provisions of those Regulations.

Waste batteries and waste accumulators.

192JB. A permit issued under section 192D(1) in respect of the treatment and recycling of waste batteries and accumulators in Gibraltar shall contain such additional conditions or

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restrictions as the Competent Authority deems necessary to give effect to any provision in Part IV of the Environment (Waste) Regulations 2007 or the Batteries Directive.

Reporting of recycling efficiencies.

192JC.(1) Within 6 months from the end of the calendar year concerned, the Competent Authority shall ensure that a report is compiled setting out the levels of recycling of waste batteries and accumulators achieved in respect of recycling operations licensed in Gibraltar under section 192D, and such report shall detail the extent to which the efficiencies in Part B of Schedule 16 have been met.

(2) The first report shall cover the period 1 January to 31 December 2010.

Export of waste batteries and accumulators.

192JD.(1) Part IIB (*Transfrontier Shipment of Waste*) shall govern the export of waste batteries and accumulators.

(2) Where waste batteries and accumulators are exported from Gibraltar in accordance with–

(a) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste;

(b) Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste; and

(c) Commission Regulation (EC) No 801/2007 of 6 July 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply,

these shall count towards the fulfilment of the obligations and efficiencies laid down in Schedule 16 only if there is sound evidence that the recycling operation took place under conditions equivalent to the requirements of the Batteries Directive.

192K. *Repealed.*

Meaning of hazardous waste.

192KA.(1) Hazardous waste means-

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(i) waste which displays one or more of the properties listed in Part II of Schedule 11A, and as regards H3 to H8, H10 (1) and H11 of the said Schedule, has one or more of the following characteristics-

(a) flash point ≤ 55 ºC;

(b) one or more substances classified as very toxic at a total concentration ≥ 0.1%;

(c) one or more substances classified as toxic at a total concentration ≥ 3%;

(d) one or more substances classified as harmful at a total concentration ≥ 25%;

(e) one or more corrosive substances classified as R35 at a total concentration ≥ 1 %;

(f) one or more corrosive substances classified as R34 at a total concentration ≥ 5 %;

(g) one or more irritant substances classified as R41 at a total concentration ≥ 10 %;

(h) one or more irritant substances classified as R36, R37, R38 at a total concentration ≥ 20 %;

(i) one substance known to be carcinogenic of category 1 or 2 at a concentration ≥ 0.1 %;

(j) one substance known to be carcinogenic of category 3 at a concentration ≥ 1 %;

(k) one substance toxic for reproduction of category 1 or 2 classified as R60, R61 at a concentration ≥ 0.5 %;

(l) one substance toxic for reproduction of category 3 classified as R62, R63 at a concentration ≥ 5 %;

(m) one mutagenic substance of category 1 or 2 classified as R46 at a concentration ≥ 0,1 %;

(n) one mutagenic substance of category 3 classified as R40 at a concentration ≥ 1 %; or

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(ii) waste marked with an asterisk and listed in Part I of Schedule 11A.

(2) *Revoked.*

(3) For the purposes of sub-sections (1), waste displays a property mentioned in Part II of Schedule 11A as toxic, very toxic, harmful, corrosive, irritant or carcinogenic, if it is so classified or, being so classified, has assigned to it a risk phase which is made on the basis of the criteria laid down by Annex VI, Part IA and Part IIB of Council Directive 67/548/EEC on the approximation of laws regulations and administrative provisions relating to the classification packaging and labelling of dangerous substances as amended by Council Directive 79/831/EEC.

(4) The test methods to be used, for the purposes of deciding which (if any) of the properties mentioned in Part II of Schedule 11A are to be assigned to a substance, are those described in Annex V to Council Directive 67/548/EEC as amended.

(5) *Revoked.*

(6) In this Act and unless the context otherwise provides, "risk phase" means the risk phase under Part III of the approved supply list.

(7) Annex V and Annex VI of Council Directive 67/548/EEC, and the approved supply list referred to in this section shall be available for inspection upon written application to the Chief Environmental Health Officer.

(8) The Minister for the Environment may by notice in the Gazette designate any waste to be hazardous waste where such waste displays any of the properties mentioned in Part II of Schedule 11A.

(8A) The Minister for the Environment may by notice in the Gazette designate any waste to be non-hazardous waste−

(a) where he has evidence that shows that such waste does not display any of the properties mentioned in Part II of Schedule 11A; or

(b) in accordance with Decision 2000/532/EC establishing a list of wastes.

(8B) The reclassification of hazardous waste as non-hazardous waste pursuant to subsection (8A)(a) is not permitted where this has been achieved by diluting or mixing the waste with the aim of lowering the initial concentrations of hazardous substances to a level below the thresholds for defining waste as hazardous.

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(9) The Minister for the Environment may, from time to time, amend Schedule 11A by Order in the Gazette.

Provisions as to hazardous waste.

192KB.(1) Where a person carries out a prescribed activity within the meaning of section 192D he shall do so without-

(a) mixing hazardous waste with waste which is not hazardous waste or with any other substance or material; or

(b) mixing different types of hazardous waste set out in Schedule 11A; and

(c) diluting the hazardous substances which makes the waste hazardous,

unless authorised to do so in accordance with subsection (2).

(2) A licence under section 192D may authorise a person to mix hazardous waste where−

(a) the provisions of section 192C(3)(a) are satisfied and the impact on human health and environment is not increased; and

(b) the mixing conforms to best available techniques.

(3) Where a person, in carrying out or intending to carry out a prescribed activity, acquires possession of waste which includes hazardous waste he shall, to the extent that it is technically feasible without disproportionate cost, separate the hazardous waste from the waste which is not hazardous waste if such separation is necessary to meet the provisions of section 192C(3)(a).

(4) No person shall collect, transport or store hazardous waste unless it is placed in containers labelled to show which of the types of hazardous waste set out in Schedule 11A is contained therein.

(5) Where a person transports hazardous waste he shall−

(a) make and maintain the records required under paragraphs (a) and (b) of section 192L(1); and

(b) ensure that the hazardous waste is accompanied by an identification document that contains the data specified in Annex IB to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

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(6) A producer of hazardous waste shall make and maintain the records required under paragraphs (a) and (b) of section 192L(1).

(7) A person who carries out a prescribed activity as described in section 192D(2)(a)(i) in or on any land shall send details of the activity which identifies the nature and location of the waste to the Government where it shall be placed on the register referred to in section 192Q(14).

(8) A person who fails to comply with the provisions of subsection (7) shall be guilty of an offence and liable to summary conviction to a fine not exceeding level 2 on the standard scale.

Exemptions for household waste.

192KC.(1) Subject to subsection (2) sections 192KB and 192L do not apply to mixed waste that is produced by households.

(2) Separate fractions of hazardous waste produced by households shall be subject to the duties imposed by section 192KB(3) and (4) when such waste is accepted for collection, disposal or recovery by a person licensed under section 192D.

(3) The Government must set up separate collection for hazardous waste fractions produced by households before 1st January 2025 to ensure that they are treated by having regard to the waste hierarchy set out in Schedule 11B and with the aim that other municipal waste streams are not contaminated.

Duty to keep records.

192L.(1) Establishments or undertakings that carry out waste treatment, the producers of hazardous waste and establishments and undertakings that collect or transport hazardous waste, shall make and maintain a chronological record of-

(a) the quantity, nature and origin of that waste and the quantity of products and materials resulting from the preparation for re-use, recycling or other recovery operation; and

(aa) where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste.

(b) in the case of hazardous waste, maintain–

(i) the records mentioned in paragraph (a) for a period of not less than 3 years, and

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(ii) records of transportation for a period of not less than 1 year; and

(iii) records of a prescribed activity as described in section 192D(2)(a)(i) or (ii) in or on any land until the licence is terminated for whatever reason; and

(iv) records of documentary evidence that management operations have been carried out,

(1A) Information and records maintained pursuant to subsection (1)(a) and (b) shall be made available to the Government, upon request.

(1B) Records of management operations maintained pursuant to subsection (1)(b)(iv) shall be made available to the previous holder of that hazardous waste, upon request.

Waste management plan.

192M.(1) The Government shall as soon as practicable prepare a waste management plan for the whole of Gibraltar, including BGTW, and may from time to time modify it.

(1A) The waste management plan shall set out an analysis of the current waste management situation in Gibraltar, including BGTW, as well as the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions of this Part.

(1B) Waste management plans made under this section shall contain, as appropriate and taking into account the geographical level and coverage of the planning area, at least the following–

(a) the type, quantity and source of waste generated within Gibraltar, the waste likely to be shipped from or to Gibraltar, and an evaluation of the development of waste streams in the future;

(b) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials, or waste streams addressed by specific retained EU law;

(c) an assessment of the need for closure of existing waste installations and additional waste installation infrastructure in accordance with Article 16 of the Directive and the investments and financial means related thereto;

(ca) information on the measures to attain the objective laid down in section 5 of the Landfill Act 2002;

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(cb) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, of any derogations granted in accordance with Article 10(3) of the Directive, and of the need for new collection schemes;

(d) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;

(e) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems.

(f) measures to combat and prevent all forms of littering and to clean up all types of litter;

(g) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery.

(1C) In addition to the matters set out in subsection (1B), the waste management plan may also contain, taking into account the geographical level and coverage of the planning area, the following–

(a) organisational aspects related to waste management including a description of the allocation of responsibilities between public and private actors carrying out the waste management;

(b) an evaluation of the usefulness and suitability of the use of economic and other instruments in tackling various waste problems, taking into account the need to maintain the smooth functioning of the internal market;

(c) the use of awareness campaigns and information provision directed at the general public or at a specific set of consumers;

(d) historical contaminated waste disposal sites and measures for their rehabilitation.

(2) Waste management plans shall conform to the waste planning requirements laid down-

(a) in the strategy for the implementation of the reduction of biodegradable waste going to landfills, referred to in section 14 of the Landfill Act 2002;

(b) in this section;

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(c) the Marine Strategy Regulations 2011; and

(d) the Public Health (Water Framework) Rules 2004.

(2A) Where the Government is either making a waste management plan or reviewing a plan made under subsection (1) the Government shall, in accordance with subsection (2B) and (2C), ensure that the public is given early and effective opportunities to participate in the preparation and modification or review of that plan.

(2B) The Government shall-

(a) ensure that the public is informed, whether by public notices or other appropriate means such as electronic media, about any proposals for such a plan or for its modification or review;

(b) ensure that relevant information about the proposals referred to in paragraph (a) is made available to the public, including information about the right to participate in decision-making;

(c) ensure that the public is entitled to make comments before decisions on the plan are made;

(d) in making those decisions, take due account of the results of the public participation; and

(e) having examined the comments made by the public, make reasonable efforts to inform the public about-

(i) the decisions taken and the reasons and considerations on which those decisions are based; and

(ii) the public participation process.

(2C) The Government shall publish any information required to carry out its functions under subsections (2A) and (2B) in such manner as it considers appropriate for the purpose of bringing it to the attention of the public and shall-

(a) make copies of such information accessible to the public; and

(b) specify in a notice (which may be posted on a website) the detailed arrangements made to enable participation in the preparation, modification or review of the plans or programmes, including-

(i) the address to which comments may be submitted; and

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(ii) the time-frame for any such comments allowing sufficient time for each of the different stages of public participation required by subsections (2A) and (2B).

(2D) In this section "public" includes natural or legal persons and non-governmental organisations having an interest in the environment.

(2E) This section shall not apply to a waste management plan in respect of which the Environment Act 2005 applies.

(3) A waste management plan prepared or modified pursuant to this section must have regard−

(a) to the waste hierarchy and the objectives; and

(b) the principles of self-sufficiency and proximity,

set out in Schedule 11B.

Waste prevention programmes.

192MA.(1) The Government shall establish a waste prevention programme setting out at least the waste prevention measures laid down in Articles 9(1) of the Directive in accordance with Articles 1 and 4 of the Directive.

(2) With the aim of breaking the link between economic growth and the environmental impacts associated with the generation of waste, programmes made under subsection (1) shall, where relevant-

(a) describe the contribution of instruments and measures laid out in Schedule 11C and paragraph 21 of Schedule 14A;

(b) evaluate the usefulness of the examples of measures indicated in Schedule 15A or other appropriate measures;

(c) describe existing waste prevention measures and their contribution to waste prevention;

(d) include specific food waste prevention programmes.

(3) *deleted*.

(4) *deleted*.

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(5) Waste prevention programmes made under this section shall be integrated either into the waste management plans provided for under section 192M or into other environmental policy programmes, as appropriate, or shall function as separate programmes, and if any such programme is integrated into the waste management plan or into other programmes, the waste prevention measures shall be clearly identified.

(6) Section 192M(2B) to (2D) providing for public participation shall apply to a waste prevention programme as though such programme were a waste management plan.

Evaluation and review of plans and programmes.

192MB.(1) This section applies to a waste management plan made under section 192M and to a waste prevention programme made under section 192MA.

(2) A plan or programme to which this section applies must be evaluated, and if necessary revised, at least every 6th year after it is made.

(3) Where relevant, the evaluation or revision shall have regard to Articles 9 and 11 of the Directive.

Bio-waste.

192MC.(1) The Government must take measures, subject to Article 10(2) and (3) of the Directive, that bio waste is either separated or recycled at source or is collected separately and is not mixed with other types of waste.

(2) In accordance with section 192C(3)(a) and (5) as read with Schedule 11B, the Government must take measures to encourage-

(a) encourage the recycling, including composting and digestion of bio-waste in a way that fulfils a high level of environmental protection and results in output which meets relevant high-quality standards;

(b) encourage home composting; and

(c) promote the use of materials produced from bio-waste.

Power to encourage waste reduction.

192N.(1) Where the need exists by virtue of any act or process being carried out or likely to be carried out by an undertaking, the Government may make rules in respect of the purpose referred to in sub-section (2).

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(2) Rules made under sub-section (1) may provide for appropriate measures to encourage–

(a) the prevention or reduction of waste production and its harmfulness;

(b) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw material;

(c) the use of waste as a source of energy.

(3) The measures mentioned in paragraph (a) of sub-section (2) may, without prejudice to the generality of that sub-section, include–

(a) the development of clean technologies more sparing in their use of natural resources;

(b) the technical development and marketing of products designed so as to make no contribution, by the nature of their manufacture, use or final disposal to increasing the amount or harmfulness of waste and pollution hazards;

(c) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery.

Publicity.

192P. The Government shall, where necessary in order to achieve the objectives of this Part, by public information and promotional campaigns and at such frequency as it determines to be appropriate, draw to the attention of the public–

(a) the need to ensure that waste oils are stored appropriately and collected as far as possible;

(b) *Repealed.*

(c) *Repealed.*

(d) *Repealed.*

Procedures for licence application.

192Q. (1) Every application for a licence and every licence shall be in the form prescribed by the Government.

(2) An application for a licence for a partnership shall be made in the names of all of the partners.

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(3) An application shall be made to the Government not less than 2 months before it is desired that the licence be issued except that the Government may, without the need for such prior application, grant a temporary licence to any applicant in an emergency situation or where it is in the public interest.

(4) Any person who intends to apply for a licence or extension of a licence shall give notice of such intention in accordance with the provisions of sub-section (5).

(5) A notice shall be in the prescribed form, and shall, not less than 14 days before the application for the licence is made be published in the Gazette and in at least one newspaper circulating in Gibraltar.

(5A) Where the time period between the date of publication of the notice in the Gazette and the newspaper is more than 14 days, the application shall be void.

(5B) Applications for the renewal of an existing licence shall be made in the prescribed form provided under Form 8 of the Public Health (Waste) (Licensing Forms) Rules and shall be made no less than 21 days prior to the expiry date of the existing licence.

(5C) Where the application for a licence is for the renewal of an existing licence on the same terms and conditions as the existing licence, the Government may exempt the applicant from complying with subsection (4).

(6) Where a notice of intention to apply for a licence has been published in accordance with the provisions of sub-section (5) a person who wishes to object to the issue of such a licence, shall give notice of his objection within 14 days of the date of publication of the notice in the Gazette or newspaper, whichever is the later, in the prescribed form to the Government and to the person named as the applicant in such notice of such intention.

(7) No objection under this section shall be considered by the Government in respect of an application for a licence unless–

(a) the grounds of such objection are stated; and

(b) notice thereof is given in accordance with subsection (6).

(8) The Government shall at the request of either the applicant or the objector hold a hearing unless it decides that the matter can be dealt with sufficiently by written submissions.

(9) Any person who is aggrieved by–

(a) the refusal to issue him with a licence or the extension of a licence for which he has applied;

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(b) any condition or obligation attached to the licence granted to him,

may appeal to the person appointed by the Government for this purpose.

(10) Where any appeal is heard by virtue of sub-section (9) an appeal shall lie on a point of law from the decision of the person appointed under that sub-section to the Supreme Court.

(11) The Chief Justice may make rules of court governing appeals under sub-section (10).

(12) A licence shall expire on the date stated thereon but in any event shall not continue in force for a period longer than three years from the date of grant thereof unless extended under the provisions of section 192D(3)(b).

(13) Where any licence is lost, destroyed or defaced the licence holder may make application in the prescribed form to the Government for a duplicate of such licence and the Government shall if it is satisfied that the licence is lost destroyed or defaced and has not expired and on payment of the fee provided for under section 192R issue a duplicate thereof to the licence holder.

(14) The Government shall cause to be kept a register of licences granted under this Part in such form and containing such particulars as may be prescribed by it and there shall be entered in such register the details of any licence issued and conditions or obligations attached thereto and of any extension.

(15) The register of licences shall be available for inspection by members of the public during normal working hours.

Charges by the Government etc.

192R. (1) Where the Government incurs costs in carrying out its functions under these regulations it may charge a fee determined in accordance with sub-sections (2) and (3) to any person making an application for a licence, for the extension of a licence or for registration required by this Part or carrying on an activity to which this Part applies.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the Government in dealing with the application or in respect of the application of this Part to the activity of that person and where the costs incurred are in respect of more than one person carrying on an activity to which this Part applies the fee charged to each such person shall not exceed the proportion of such sum attributable to the activity or activities of that person.

(3) Where, in the opinion of the Government, the Government can properly carry out its functions under this Part only by engaging specialists and consultants, the cost of such specialists or consultants shall be included in the fee payable under sub-section (1).

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(4) The Government may determine the cost of employing an officer (including a public officer) for any period of work appropriate to his grade by reference to the average cost to it of employing officers of that grade for that period.

(5) When requiring payment the Government shall send or give to the person by whom the fee is payable a detailed statement of the work done and costs incurred and the period to which the statement relates, and–

(a) the requirements in respect of an application under this Part shall be deemed not to have been complied with unless the fee, or such proportion of it as the Government may in its discretion specify, has been paid; and

(b) the fee or such part of it as remains unpaid shall be recoverable as a civil debt.

Offences by corporations etc.

192S. (1) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, sub-section (1) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(4) Where an offence under this Part committed by a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a partner , he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

Defences.

192T. In any proceedings for an offence under this Part it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

192U. *Deleted*.

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Savings in respect of other provisions.

192V. Nothing in this Part or in any rule made thereunder shall affect any provision of, or any regulation or rule made under–

(a) any other Part of this Act;

(b) the Town Planning Act 2018;

(c) the Oil in Territorial Water Act.

Rules.

192W.(1) The Government may make rules in order to comply with any retained EU law or other international obligations or enabling a right to be enjoyed in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and the recycling, regeneration and re-use of waste.

(2) Rules made under this section may–

(a) amend, repeal or add to any provision of this Part; and

(b) to the extent necessary, amend, repeal or add to any provision of any other enactment in force.

(3) Rules under subsection (1) may also be made in order to provide for extended producer responsibility, and when doing so the Government shall have regard to the matters set out in Schedule 14B and Schedule 14C.

192X. *Deleted*.

192Y. *Deleted*.

PART VI.
VACCINATION AND IMMUNIZATION

193. to 195. *Repealed*.

Notice of births to Director.

196. The Registrar of Births and Deaths shall furnish to The Public Health Director once a week a list of all births in Gibraltar which have been registered by him during the preceding week with all particulars as to the names and residences of the nearest relatives of the children so registered.

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197. to..202. *Repealed*.

Immunization against diphtheria, etc.

203. The Public Health Director may provide facilities and make arrangements immunization for the immunization of persons against diphtheria, poliomyelitis, pertussis and any other diseases.

Charges.

204. There shall be payable such charges as the Director may consider reasonable by the persons who avail themselves of the facilities provided under section 203:

Provided that no charge shall be prescribed in respect of the vaccination of a young person.

205. *Repealed*.

PART VII.
BATHS, WASHHOUSES, BATHING PLACES, etc.

Provision of baths, etc.

Power of Government to provide baths, bathing places and washhouses.

206. The Government may provide–

(a) public baths and washhouses, either open or covered, and with or without drying grounds;

(b) public swimming baths and bathing places, either open or covered,

or any of those conveniences.

Charges for use of baths, etc.

207. The Government may make such charges for the use of, or for admission to any baths, washhouse, swimming bath or bathing place under their management as they think fit.

Rules for regulation of baths, etc.

208. (1) The Government may make rules for the regulation of any baths, washhouses, swimming baths and bathing places under the management of the Government, and for the

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regulation of persons resorting thereto, including the exclusion therefrom of undesirable persons.

Any such rules may, in addition to providing for the imposition of penalties, empower any officer of the Government to exclude or remove from any baths, washhouse, swimming bath or bathing place under the management of the Government any person contravening any of the rules applicable to the premises in question.

(2) A printed copy, or abstract, of the rules relating to any baths, washhouse, swimming bath, or bathing place shall be exhibited in a conspicuous place therein.

Baths, etc., to be public places for certain cases.

209. Any baths, washhouse, swimming bath or bathing place under the management of the Government shall be deemed to be a public and open place for the purposes of any enactment relating to offences against decency.

Use of baths and bathing places for swimming contests etc. or by schools or clubs.

210.(1) The Government may close temporarily to the public any swimming bath or bathing place under their management and may–

(a) grant, either gratuitously or for payment, the exclusive use thereof to a school or club, or to persons organizing swimming practices or contests, aquatic sports or similar entertainments; or

(b) themselves use it for such practices, contests, sports or entertainments.

(2) The Government may make, or authorize the making of, charges for admission to, or for the use of, any swimming bath or bathing place while it is closed to the public under this section.

Closing of baths and bathing places, and use for other purposes.

211. (1) The Government may, at any time or during any period, close any swimming bath or bathing place under their management, and may, at any time when it is closed, use it, or allow it to be used, and use for or let it for such purposes, and upon such conditions, as they think fit, and may adapt it for the purpose of being so used or let:

Provided that the following restrictions shall have effect with respect to any entertainment provided by the Government themselves under this section, that is to say–

(a) no stage play shall be performed;

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(b) the entertainment shall not include any performance in the nature of a variety entertainment;

(c) no cinematograph film, other than a film relating to the functions of the Government, shall be shown;

(d) no scenery, theatrical costumes or scenic or theatrical accessories shall be used.

(2) The power of the Government to make rules under the fore going provisions of this Part shall extend to the making of rules with respect to a swimming bath or bathing place when used for any purpose authorized by this section.

(3) Nothing in this section shall authorize the use of a swimming bath or bathing place for the public performance of stage plays, for public music, public music and dancing, or other public entertainment of the like kind, or for cinematograph exhibitions, unless such licence as may be required for the use of a place for the purpose in question has been obtained, and any terms, conditions, or restrictions attached to the grant of such licence, or any regulations or conditions made or imposed under the Entertainments Act shall apply, notwithstanding anything in any rules made by virtue of this section.

Power of Government to lay pipes for purposes connected with baths, etc.

212. The Government may provide, lay down and maintain such pipes and apparatus as may be necessary for conducting water to or from any baths, washhouse, swimming bath or bathing place which is under their management, or which they propose to provide.

Public bathing.

Rules with respect to public bathing.

213. The Government may make rules with respect to public bathing, and may by such rules–

(a) regulate the areas in which, and the hours during which, public bathing shall be permitted;

(b) fix the places at which bathing machines may be stationed, or bathing huts or tents may be erected;

(c) regulate the manner in which bathing machines, huts or tents may be used, and the charges which may be made for the use thereof;

(d) regulate, so far as decency requires, the costumes to be worn by bathers;

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(e) require persons providing accommodation for bathing to provide and maintain life-saving appliances, or other means of protecting bathers from danger; and

(f) regulate, for preventing danger to bathers, the navigation of vessels used for pleasure purposes within any area allotted for public bathing during the hours allowed for bathing.

Rules as to quality of sea bathing water.

213A. The Government may make rules for ensuring the quality of sea water in areas where public bathing takes place, and may by such rules in particular–

(a) designate areas as bathing areas for the purposes of such rules;

(b) fix values applicable to water in such areas for parameters specified by the rules;

(c) provide for the sampling of such water and other measures of inspection or surveillance, and the taking of any measures necessary to maintain its quality.

Rules as to seashore.

214. (1) The Government may, for the prevention of danger, obstruction or annoyance to persons using the seashore, make rules–

(a) to prohibit or regulate the erection or placing on the seashore, or on such part or parts thereof as may be prescribed by such rules, of any booths, tents, beach umbrellas with or without screens, sheds, stands, huts and stalls (whether fixed or movable), or vehicles for the sale or exposure of any articles or things, or any shows, exhibitions, performances, swings, roundabouts, or other erections, vans, photographic carts, or other vehicles whether drawn or propelled by animals, persons or any mechanical power, and generally regulate the user of the seashore, for such purposes as shall be prescribed by such rules;

(b) to prohibit or regulate the user of the seashore for riding and driving;

(c) to prohibit or regulate the selling and hawking of any article, commodity or thing on the seashore;

(d) to provide for the preservation of order, good conduct and decency among persons using the seashore;

(e) to prohibit and regulate at such times as may be prescribed the playing of games or any specified type of game by any person or by persons of any specified age on the seashore or on such part or parts thereof as may be prescribed.

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(2) The Government may charge fees for permission in respect of any of the matters referred to in paragraphs (a) and (c) of subsection (1) .

(3) For the purposes of this section "seashore" means any beach including the foreshore thereto.

Provision of bathing huts, etc.

215. The Government may provide huts or other conveniences for bathing on any land belonging to them or under their control, and may make charges for the use thereof.

Power to grant or refuse licences, etc.

216. The Government may in their discretion grant, refuse or withdraw licences to hire tents, beach umbrellas and beach equipment generally on the seashore and may attach to any licence so granted such conditions as they may think fit and the decision of the Government shall be final.

Provision of life-saving appliances.

217. The Government may provide life-saving appliances at such places, whether places used for bathing or not, as they think fit.

Rules as to seaside pleasureboats.

218.(1) The Government may, for the prevention of danger, obstruction or annoyance to boats at anchor or to persons bathing in the sea or using the seashore, make rule–

(a) regulating the speed of pleasure boats;

(b) prohibiting the entry by pleasure boats and any person or thing in tow behind such vessels into certain areas as defined in such rules;

(c) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;

(d) requiring the use of effectual silencers on pleasure boats propelled by internal combustion engines;

(e) providing for tests of competence in the navigation of speed boats, to the satisfaction of any specified public officer, or of any other public officer authorized by a specified public officer;

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(f) prohibiting persons or specified classes of person from navigating speed boats unless they have passed such tests of competence;

(g) empowering any specified public officer, where he suspects on reasonable grounds that any offence has been committed under any rule, to require the navigator of a speed boat to disclose his name, residential address and age to that officer, and empowering the officer to board and inspect the boat.

(2) Any rules may be made under this section so as to have effect within a distance seaward not exceeding one thousand yards from mean low water springs.

(3) Any rules made under this section shall be of no effect if and in so far as they are inconsistent with the Port Act or the Admiralty Waters and Naval Base (Gibraltar) Act 2022.

(4) In any proceedings for a breach of any rule made under this section, relating to a speed boat, where the prosecution proves that at a material time the boat was capable of being mechanically propelled, the proof of that fact shall be sufficient evidence that the boat was at that time a speed boat unless the defence proves that at that time it was not capable of a speed exceeding 20 knots.

(5) In this section–

"navigator" means any person who operates or is in charge or control of a pleasure boat;

"pleasure boat" means any vessel, craft or surfboard that is being used on or in the sea–

(a) for aquaplaning, water-skiing or any similar activity; or

(b) for any purpose of recreation or pleasure;

"speed boat" means a pleasure boat that is capable of being mechanically propelled at a speed exceeding 20 knots.

PART VIII.
CELLAR DWELLINGS, LODGING HOUSES, ETC.

Cellar Dwellings.

Cellars not to be let or occupied as dwellings without permission.

219. (1) It shall not be lawful to let or occupy or suffer to be occupied as a dwelling any cellar (including for the purposes of this Act in that expression any vault or underground room) the level of the floor whereof shall be in any part thereof four feet lower than the surface of the

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street or ground adjoining or nearest to the same, without the licence of the Government, or otherwise than in accordance with such conditions, if any, as may be specified in such licence:

(2) Any cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Act.

Penalty for unlawful letting, etc., of cellars.

220. A person who lets, occupies or knowingly suffers to be occupied for hire or rent any cellar contrary to the provisions of this Act is guilty of an offence and is liable on summary conviction for every such offence to a penalty at level 4 on the standard scale and to a daily penalty not exceeding one twentieth of the amount at level 4 on the standard scale.

Power to close cellar in case of two convictions.

221. Where two convictions against the provisions of this Act relating to the occupation of a cellar as a separate dwelling place have taken place within three months (whether the persons so convicted were or were not the same) the magistrates' court may direct the closing of the premises so occupied for such time as it deem necessary, or may empower the Government permanently to close the same, and to defray any expenses incurred by them in the execution of this section.

Common Lodging-Houses.

Definition of "common lodging-house."

222. In this Part "common lodging-house" means a house (other than a public assistance institution) provided for the purpose of accommodating by night persons, not being members of the same family, who resort thereto and are allowed to occupy one common room for the purpose of sleeping or eating, and includes, where part only of a house is so used, the part so used.

No person to keep a common lodging-house unless registered in respect thereof.

223. No person shall keep a common lodging-house, or receive a lodger therein, unless he is registered as the keeper thereof under this Part:

Provided that when the registered keeper of .a common lodging-house dies, his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the Chief Environmental Officer may sanction, keep the house as a common lodging-house without being registered as the keeper thereof.

Register of common lodging-house keepers and their house.

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224. The Chief Environmental Officer shall keep a register in which shall be entered–

(a) the full names and the place of residence of every person registered as the keeper of a common lodging-house;

(b) the situation of every such lodging-house;

(c) the number of persons authorized to be received in the lodging-house; and

(d) the full names and the places of residence of any persons who are to act as deputies of the keeper of the lodging-house.

Provisions with respect to registration.

225. (1) Subject as hereinafter provided the Chief Environmental Officer on receiving from any person an application for registration, or for the renewal of his registration, as a keeper of a common lodging-house shall register the applicant in respect of the common lodging-house named in the application, or renew his registration in respect thereof, and issue to him a certificate of registration, or of renewal of registration:

Provided that the Chief Environmental Officer may refuse to register, or to renew the registration of, an applicant, if he is satisfied that–

(a) he, or any person employed, or proposed to be employed, by him at the common lodging-house as a deputy or otherwise is not a fit person, whether by reason of age or otherwise, to keep, or to be employed at, a common lodging-house; or

(b) the premises are not suitable for use as a common lodging- house, or are not, as regards sanitation and water supply and in other respects, including means of escape in case of fire, suitably equipped for use as such; or

(c) the use of the premises as a common lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.

(2) The registration of a person as a keeper of a common lodging- house shall remain in force for such period, not exceeding thirteen months, as may be fixed by the Government, but may from time to time be renewed by them for a period not exceeding thirteen months at any one time.

(3) If the Chief Environmental Officer refuses to grant or to renew registration under this section, he shall, if required by the applicant, deliver to him a statement in writing of the grounds on which his application is refused.

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(4) The Chief Environmental Officer shall at any time, on the application of a person registered as the keeper of a common lodging-house, remove from the register the name of any person entered therein as a deputy of the keeper, or insert therein the name of any other person, being a person approved by the Chief Environmental Officer whom the keeper proposes to employ as a deputy, and shall make any consequential alterations in the certificate of registration.

Appeals against refusal of registration.

226. A person aggrieved by the refusal of the Chief Environmental Officer to grant or renew registration under section 225 may appeal to the magistrates' court.

Rules as to common lodging-houses.

227. The Government may make rules–

(a) for fixing the number of persons who may be received into a common lodging-house, and for the separation of the sexes therein;

(b) for promoting cleanliness and ventilation in such lodging- houses, and requiring the walls and ceilings thereof to be lime-washed or treated with some other suitable preparation, at specified intervals;

(c) with respect to the taking of precautions when any case of infectious disease occurs in such a lodging-house; and

(d) generally for the well-ordering of such lodging houses.

Management and control of common lodging-house.

228.(1) The keeper of a common lodging-house shall fix, and keep affixed and undefaced and legible, a notice with the words "Registered Common Lodging-house" in some conspicuous place on the outside of the house.

(2) Either the keeper of the lodging-house, or a deputy registered under this Part shall manage the lodging-house and exercise supervision over persons using it, and either the keeper or a deputy so registered shall be at the lodging-house continuously between the hours of nine o'clock in the evening and six o'clock in the morning of the following day.

(3) The Chief Environmental Health Officer may by notice require the keeper of a common lodging-house to report daily to him or to such person as he may direct every lodger who resorted to the house during the preceding day or night, but if the Chief Environmental Health Officer requires such reports to be made he shall supply to the keeper of the lodging-house

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schedules to be filled up by him with the information required and to be transmitted by him in accordance with his notice.

(4) The keeper of a common lodging-house, and every other person having the care or taking part in the management thereof, shall at all times, if required by an authorized officer of the Government, allow him to have free access to all parts of the house.

Duty of keeper of common lodging-house to notify cases of infectious disease.

229. When a person in a common lodging-house is suffering from any infectious disease, the keeper of the lodging-house shall immediately give notice of the case to The Public Health Director.

Power of justice to order medical examination of inmates of common lodging-house.

230. If The Public Health Director has reasonable grounds for believing that there is in a common lodging-house a person who is suffering, or has recently suffered, from a notifiable disease, he may make complaint thereof upon oath to a justice of the peace, and thereupon the justice may by warrant authorize him to enter the lodging-house and examine any person found therein with a view to ascertaining whether he is suffering, or has recently suffered, from such a disease.

Power to remove to hospital inmate of common lodging-house suffering from a notifiable disease.

231. If the Government are satisfied that a person lodging in a common lodging-house is suffering from a notifiable disease and that serious risk of infection is thereby caused to other persons, and that accommodation for him is available in a suitable hospital or institution, they may order him to be removed thereto and maintained therein at their cost.

Power of court to order closing of common lodging-house on account of notifiable disease.

232. If, on the application of the Government, the magistrates' court is satisfied that it is necessary in the interests of the public health that a common lodging-house should be closed on account of the existence, or recent occurrence, therein of a case of notifiable disease, the court may make an order directing the lodging-house to be closed until it is certified by the Director to be free from infection.

Offences in connection with common lodging houses.

233. A person who–

(a) contravenes any of the provisions of this Part, or any order made under section 232; or

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(b) being the registered keeper of a common lodging-house, fails to keep the premises suitably equipped for use as such; or

(c) applies to be registered as the keeper of a common lodging- house at a time when he is, under section 234, disqualified for being so registered; or

(d) in an application for registration, or for the renewal of his registration, as a keeper of a common lodging-house makes any statement which he knows to be false,

is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after conviction therefor.

Power of court on conviction to cancel registration and to disqualify for re-registration.

234. Where the registered keeper of a common lodging-house is convicted of any offence under this Part or a rule made thereunder, the court by which he is convicted may cancel his registration as a common lodging-house keeper and may order that he be disqualified for such period as the court thinks fit for being again registered as such a keeper.

Evidence in legal proceedings under Part VIII.

235.(1) If in any proceedings under this Part it is alleged that the inmates of any house or part of a house are members of the same family, the burden of proving that allegation shall rest upon the person by whom it is made.

(2) In any such proceedings a document purporting to be a copy of an entry in the register of common lodging-houses and purporting to be certified as such by the Chief Environmental Health Officer shall be prima facie evidence of the matters recorded in the entry.

(3) The Chief Environmental Health Officer shall supply such a certified copy free of charge to any person who applies for such a copy at a reasonable hour.

Dwelling houses.

Rules as to houses.

236. (1) The Government may make rules with respect to dwelling houses–

(a) for fixing and from time to time varying the number of persons who may occupy such a house and for the separation of the sexes therein;

(b) for the inspection of such houses;

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(c) for enforcing drainage (including the provision, in addition to other means of drainage, of sinks and waste pipes for the disposal of refuse water) and promoting cleanliness and ventilation of such houses;

(d) for requiring provision adequate for the use of and readily accessible to, each family, of–

(i) closet accommodation;

(ii) water supply and washing accommodation;

(iii) accommodation for the storage, preparation and cooking of food; and, where necessary, for securing separate accommodation as aforesaid for every part of such house which is occupied as a separate dwelling;

(e) for the keeping in repair and adequate lighting of any common staircases and passages in the house;

(f) for securing stability, and the prevention of and safety from fire;

(g) for the cleansing and redecoration of the premises at stated times, and for the paving of the courts and courtyards;

(h) for the provision of handrails, where necessary, for all staircases of such houses;

(i) for securing the adequate lighting of every room in such houses;

(j) for the prevention of nuisances arising from or in a cellar, vault or underground room the use whereof as a dwelling has been prohibited or in respect of which a closing order is in force under the provisions of this Part,

and any such rules, in addition to any other penalty, may prohibit the letting for occupation by members of more than one family of any such house unless the rules are complied with, subject, in the case of houses so let or occupied at the time when the rules come into force, to the allowance of a reasonable time for the execution of any works necessary for compliance with the rules.

(2) Rules made under this section may impose the duty of executing any works necessary for compliance with the rules upon the owner of the house, or upon any other person having an interest in the premises and may prescribe the circumstances and conditions in and subject to which any such duty is to be discharged.

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(3) For the purposes of discharging any duty so imposed, the person upon whom it is imposed may at all reasonable times enter upon any part of the premises.

(4) Where any person has failed to execute any works which he has been required to execute under any such rules, the Government may by notice require such person to execute such work.

The provisions of section 330 shall apply in relation to any notice given under this subsection.

Tents, vans, caravans, sheds, etc.

Nuisances arising from, and rules and other matters relating to tents, vans,caravans, etc.

237. (1) The provisions of Parts II, IV and XIII and the provisions of Part I relating to filthy or verminous premises or articles and verminous persons, shall apply in relation to tents, vans, caravans, sheds and similar structures used for human habitation as they apply in relation to other premises and as if a tent, van, caravan, shed or similar structure used for human habitation were a house or a building so used.

(2) For the purposes of Part II, a tent, van, caravan, shed or similar structure used for human habitation–

(a) which is in such a state, or so overcrowded, as to be prejudicial to the health of the inmates; or

(b) the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health,

shall be a statutory nuisance, and "occupier" in relation to a tent, van, caravan, shed or similar structure, shall include any person for the time being in charge thereof.

(3) Where such a nuisance as is mentioned in paragraph (b) of subsection (2) is alleged to arise, wholly or in part, from the use for human habitation of any tent, van, caravan, shed or similar structure, then, without prejudice to the liability of the occupants or other users thereof, an abatement notice may be served on, and proceedings under Part II may be taken against, the occupier of the land on which the tent, van, caravan, shed or other structure is erected or stationed:

Provided that it shall be a defence for him to prove that he did not authorize the tent, van, caravan, shed or other structure to be stationed or erected on the land.

(4) The Government may make rules for promoting cleanliness in, and the habitable condition of, tents, vans, caravans, sheds and similar structures used for human habitation, for

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preventing the spread of infectious disease by the occupants or other users thereof and generally for the prevention of nuisances in connection therewith.

(5) The powers of a court before which proceedings are brought–

(a) in respect of a statutory nuisance caused by, or arising in connection with, a tent, van, caravan, shed or similar structure used for human habitation; or

(b) in respect of any contravention of rules made under this section,

shall include power to make an order prohibiting the use for human habitation of the tent, van, caravan, shed or other structure in question at such places, or within such area, as may be specified in the order.

PART IX.
PUBLIC HIGHWAYS, ETC.

Duty of Government to maintain public highways.

238.(1) Subject to the provisions of this Part, and to any grants and dispositions thereof made pursuant to section 75 of the Constitution, all public highways and other streets in Gibraltar are Crown Lands, and shall vest in Her Majesty.

(2) It shall be the duty of the Government to maintain all public highways and other streets, other than reserved ways, and all such culverts and water channels as may be necessary to carry off the surface water therefrom, and all walls, retaining walls, and parapet walls situate thereon or pertaining thereto and which are requisite for their support, or for the safety of passengers and ordinary traffic thereon.

239. *Deleted.*

Provisions as to extraordinary traffic.

240. (1) Where as respects any road it appears to the Government that having regard to the average expense of repairing the road or other similar roads extraordinary expenses have been incurred by the Government in repairing the road by reason of the damage caused by excessive weight passing along the road or other extraordinary traffic thereon, the Government may recover from any person (hereinafter referred to as "the undertaker") by or in consequence of whose order the traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the Supreme Court to have been incurred by the Government by reason of the damage arising from the extraordinary traffic:

Provided that, if before traffic which may cause such damage commences the undertaker admits liability in respect of such traffic, the undertaker and the Government may agree for the

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payment by the undertaker to the Government of a sum by way of a composition of such liability; and where a sum has been so agreed the undertaker shall be liable to pay that sum to the Government, and shall not be liable to proceedings for the recovery of such expenses as aforesaid.

(2) The sums recoverable under this section shall be recoverable in the Supreme Court:

Provided that proceedings for the recovery of any such sums shall be commenced within twelve months of the time at which the damage has been done, or where the damage is the consequence of any particular building contract or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

(3) For the purposes of this section "road" includes any public highway or other street and any reserved way which the Government are required to maintain under the provisions of this Part.

The Government may declare streets to be public highways.

241. The Government may by notice in the Gazette declare any street or part of a street not being a public highway (save a reserved way) to be a public highway, and thereupon such street or part of a street as defined in the notice shall become a public highway and shall be vested in and under the control and management of the Government, and be subject to all the provisions contained in this or any other Act relating to public highways in Gibraltar.

242. *Deleted.*

Power to purchase lands.

243. The Government , may purchase or otherwise acquire any lands for use as public highways or for any other purpose and any lands so purchased by the Government shall be Crown Lands and vest in Her Majesty.

Government to pave and repair public highways, etc.

244. The Government shall from time to time cause all public highways to be levelled, paved, metalled, flagged, channelled, altered and repaired as they may think fit, and may make and keep in repair pavements or footways for the use of passengers in or on the sides of any public highway:

Provided, that if in carrying into execution any of the powers and authorities hereinbefore mentioned, any alteration of any steps, doors or entrances into any house of building, or of any pavement, sewer or drain, adjoining or belonging to any premises, or of any electric line, gas or water pipe, shall be rendered necessary, the expense of such alteration shall be defrayed out of the consolidated fund.

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Lighting of streets.

245. The Government may provide lamps, lamp-posts and other materials and apparatus in such public highways and other ways or public places as they may determine and shall cause such lamps to be lighted and kept alight during such hours as they may deem necessary:

Refuges, etc., in streets.

246. The Government may from time to time place, maintain, alter and remove in any street, such raised paving or places of refuge, with such pillars, rails or other fences, either permanent or temporary, as they may think fit, for the purpose of protecting passengers and traffic, either along the street or on the footways, from injury, danger or annoyance, or for the purpose of making the crossing of any street less dangerous to passengers.

Shelters.

247. The Government, and any person with their consent and subject to such conditions as they may impose, may in or near any street erect and maintain structures for the use, convenience and shelter of the public.

Statues andmonuments.

248. The Government may from time to time authorize the erection or may themselves erect in any public highway any statue or monument, and may maintain the same, and any statue or monument erected before the coming into operation of this section, and may remove any statue or monument the erection of which has been authored by them.

Street bins.

249. The Government may provide and maintain in or under any street or public place, orderly bins or other receptacles, of such dimensions and in such positions as the Government may from time to time determine, for the collection and temporary deposit of street refuse and waste paper, or the storage of sand, cinders, grit or shingle.

Seats, etc. in streets.

250. (1) The Government and any person with their consent and subject to such conditions as they may impose may, in proper and convenient situations in any street or public place, erect and maintain seats for the use of the public and troughs for watering animals.

(2) It shall be lawful for any person with the prior consent of the Government and subject to such conditions and terms and on payment of such charges and fees as the Government in their absolute discretion may impose and fix in each particular case to place chairs and tables

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and to provide refreshment rooms and kiosks on such part of any street as may be specified in such consent.

(3) *Omitted.*

(4) It shall be lawful for any person with prior consent of the Government and subject to such conditions and terms and on payment of such charges and fees as the Government in their absolute discretion may impose and fix in each particular case, to place advertising boards or any other manner of advertising on such part of any street as may be specified in such consent.

Government may embellish streets.

251. The Government may ornament, embellish and improve the streets by planting trees thereon and laying out gardens or flower beds in unused portions thereof, and do any other thing which they may consider desirable for the ornamentation, embellishment or improvement thereof and set apart and enclose any part of any street so ornamented, embellished and improved which they shall determine not to be required for traffic and to be conducive to the embellishment of Gibraltar.

Power to alter names of streets.

252. (1) The Government may alter the name of any street or part of a street or may assign a name to any street or part of a street to which a name has not been given.

(2) A notice of any such alteration stating both the previous name and the nature of the alteration shall be published in the Gazette, and from and after the date of such publication the new name shall be substituted for the previous name for the purposes of this Act, and any other enactment wherein such previous name is referred to.

Regulations.

252A. The Government may make regulations to provide for–

(a) the obtaining of Government approval for the naming and numbering of premises;

(b) the creation and administration of an Official Register of Addresses;

(c) any other matter relating to the naming and numbering of premises.

Power to grant licences for bridges over streets.

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253. (1) The Government may grant to the owner or occupier of any premises abutting upon any street a licence to construct and use a way by means of a bridge over that street for such period and on such terms and conditions as to the Government may seem fit:

Provided that–

(a) no fine, rent or other sum of money (except a reasonable sum in respect of legal or other expenses) shall be payable for or in respect of the licence;

(b) the licence shall not authorize any interference with the convenience of persons using the street or affect the rights of the owners of the property abutting on any street;

(c) it shall be a condition of every such licence that the owner of the premises or, if the licence is granted to the occupier, the occupier shall, at the request of the Government and at his own expense, remove or alter such bridge in such manner as the Government require, in the event of their considering such removal necessary or desirable in connection with the carrying out of improvements to the street at any time and the decision of the Government that such removal or alteration is necessary or desirable shall be final and conclusive and this condition shall be enforced by the Government against the owner for the time being of the premises.

(2) A person who (except in the exercise of statutory powers) constructs a bridge over any street without such licence, or constructs or uses a bridge otherwise than in accordance with the terms and conditions of the licence, or fails to remove or alter a bridge when required so to do under this section, or fails to remove a bridge in accordance with the terms or conditions of the licence within one month after the expiration of the licence, is guilty of an offence and is liable on summary conviction to a penalty at level 4 on the standard scale and to a daily penalty of one tenth of the amount at level 4 on the standard scale.

Restrictionon placingrails, beams,wire, etc.,over streets.

254. (1) It shall not be lawful for any person to fix or place any overhead rail, beam, pipe, cable, wire, rope or other similar apparatus over, along or across any street without the consent of the Government, and any such consent may contain such reasonable terms and conditions as the Government think fit.

(2) A person who acts in contravention of the provisions of this section, or of the terms and conditions (if any) of such consent, is guilty of an offence and is liable on summary conviction to a penalty at level 3 on the standard scale and to a daily penalty of one tenth of the amount at level 3 on the standard scale.

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(3) Nothing in this section shall extend to any works or apparatus belonging to Her Majesty's forces.

Lopping of trees overhanging highways.

255. (1) Where any tree, hedge or shrub overhangs any street or footpath so as to obstruct or interfere with the light from any public lamp, or to endanger or obstruct the passage of vehicles or foot passengers or to obstruct the view of drivers of vehicles, the Government may serve a notice on the owner of the tree, hedge or shrub, or on the occupier of the premises on which such tree, hedge or shrub is growing requiring him to lop or cut the tree, hedge or shrub within fourteen days so as to prevent such obstruction or interference.

(2) The provisions of section 330 apply in relation to any notice given under this section.

Repair of cellars, etc., under streets.

256. (1) All vaults, arches and cellars under any street, and all openings into such vaults, arches or cellars in the surface of any street, and all cellar-heads, gratings, light and coal holes in the surface of any street, and all landings, flags or stones of the path or street supporting the same respectively, shall be kept in good condition and repair by the owners or occupiers of the same, or of the houses or buildings to which the same respectively belong.

(2) Where any default is made in complying with the provisions of this section, the Government may, after twenty-four hours notice in that behalf, cause anything in respect of which such default is made to be repaired or put into good condition, and the expenses of so doing shall be paid to the Government by such owner or occupier respectively, or in default may be recovered summarily as a civil debt.

Unauthorized disturbance of street.

257. A person who without the consent in writing of the Government or without lawful authority, wilfully displaces or takes up or who injures the pavement, stones, materials, fences or posts of, or the trees in, any street is guilty of an offence and is liable on summary conviction to a penalty at level 4 on the standard scale and shall also pay to the Government compensation for any damage thereby caused.

Penalty for leaving litter, etc.

258. A person who–

(a) throws down, hops or otherwise deposits any dirt, litter, debris, refuse or rubbish or any offensive matter in any gully or other inlet to a drain or sewer provided in any street for the disposal of rain or surface water; or

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(b) causes any dirty water or offensive matter to run into any street,

is guilty of an offence and is liable on summary conviction in the case of a first conviction under this section to a fine at level 3 on the standard scale, and in the case of a second or subsequent conviction under this section to a fine of twice the amount at level 3 on the standard scale and to imprisonment for a term of three months.

Breaking open of streets.

259. (1) Where any person in the exercise of any right conferred upon him by this or any other Act breaks open any street he shale

(a) cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by the magistrates' court;

(b) with all convenient speed and to the reasonable satisfaction of the Government or, in the case of streets not under the control or management of the Government, of the persons having the control or management thereof, complete the work for which the street is broken open and fill in and consolidate the ground and make good the street and remove all rubbish resulting from his operations;

(c) after replacing and making good the street, keep it in good repair for three months, and for such further time, if any, being not more than twelve months in the whole, as the soil may continue to subside;

(d) so long as any such street remains broken open or obstructed, make adequate arrangements for the control of traffic and cause the street to be properly fenced and guarded at all times and to be efficiently lighted between the hours of sunset and sunrise.

(2) A person who contravenes any of the provisions of this section is, without prejudice to his civil liability, if any, to a person aggrieved, guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale, and to a further fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence continues after notice has been given to him by the Government or by the person aggrieved.

(3) If any person fails to comply with any of the requirements of subsection (1), the Government or in the case of streets not under the control or management of the Government, the persons having the control or management of the street may, in addition to, or in lieu of taking proceedings under subsection (2), themselves execute any work necessary to remedy the default and may recover the expenses reasonably incurred by them in so doing from such person summarily as a civil debt.

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Damage to footway to be made good.

260. If the footway of any street be injured by, or in consequence of, any excavations or other works on lands adjoining thereto, the Government may, after notice to the person in charge of such excavations or works, repair or replace the footway so injured, and all damages and expenses, of, or arising from, such injury and repair or replacement shall be paid to the Government by the owner of the lands on which such excavations or other works have been made, or by the person causing or responsible for the injury.

Lighting and fencing building materials and excavations.

261. (1) When any building materials, rubbish or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the Government or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient fight to be fixed in a proper place upon or near the same, and continue such light every night from sunset to sunrise while such materials or hole remain and such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and enclosed until such materials or other things are removed, or the hole filled up or otherwise made secure.

(2) A person who fails so to light, fence or enclose such materials or other things, or such hole, is guilty of an offence and is liable on summary conviction to a penalty at level 4 on the standard scale and to a daily penalty of one tenth of the amount at level 4 on the standard scale.

(3) In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty on summary conviction at level 4 on the standard scale to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and to a daily penalty of one tenth of the amount at level 4 on the standard scale.

(4) In any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Dangerous places to be repaired or enclosed.

262. (1) If, in any situation fronting, ad joining or abutting on any street, any building, wall, fence, steps, structure or other thing, or excavations, reservoir, pond, dam or bank is, for want of sufficient repair, protection or enclosure, dangerous to the passengers along such streets, the Government may by notice in writing served upon the owner, if he be known and resident in Gibraltar, or otherwise to be given to the occupier thereof (if any), require such owner or occupier within the period specified in the notice to repair, remove, protect or enclose the same so as to prevent any danger therefrom.

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(2) The provisions of section 330 apply in relation to any notice given under this section.

Precautions during repairs, erection of bars and placing of lights.

263. (1) The Government shall, during the construction or repair of any street, and during the construction or repair of any sewers or drains, or other works, take proper precautions for guarding against accident, by shoring-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any street, to prevent the passage of vehicles and animals while such works are carried on, as to them shall seem proper.

(2) The Government shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night so as to prevent accidents.

(3) A person who takes down, alters or removes any such bars or chains, or extinguishes any light, without the authority or consent of the Government, is guilty of an offence and is liable on summary conviction to a penalty at level 4 on the standard scale.

Government authorized to take stone.

264. The Government may quarry, dig for, and take all such stone, sand and materials as may be necessary to enable them to carry this Act into execution, from all quarries and open places in Gibraltar being the property of Her Majesty:

Provided always that the Government may from time to time make rules for the more safe and convenient exercise of such right.

PART X.
RECREATION GROUNDS, ETC.

Power to provide places of public recreation.

265. (1) The Government may purchase or otherwise acquire, lay out, plant, improve and maintain lands for the purpose of being used as public walks or pleasure grounds.

(2) Where the Government is of opinion that any street or part thereof is not required for any, or any substantial, use by vehicular traffic, it may by order set aside such street or part thereof as a public walk or pleasure ground and may from time to time rescind or vary such resolution.

(3) The Government may make rules for the regulation of any such public walk or pleasure ground, and may by such rules provide for the removal from such public walk or pleasure ground of any person infringing any such rules by any officer of the Government or police officer.

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266. Powers as to parks and pleasure grounds.

(1) The Government shall have the following powers with respect to any public park or pleasure ground provided by them or under their management and control, namely, powers–

(a) to set apart any such part of the park or ground as may be fixed by them, and may be described in a notice board affixed or set up in some conspicuous position in the park or ground for the purpose of cricket, football or any other game or recreation, and to exclude the public from the part set apart while it is in actual use for the purpose;

(b) to provide any apparatus for games and recreations, and charge for the use thereof, or let the right of providing any such apparatus for a term not exceeding three years to any person;

(c) to provide or contribute towards the expenses of any band of music to perform in the park or ground;

(d) to enclose any part of the park or ground not exceeding one-tenth of the area of the park or ground for the convenience of persons listening to any band of music, and charge for admission thereto;

(e) to place or authorize any person to place chairs or seats in any such park or ground and charge for, or authorize any person to charge for, the use of the chairs so provided;

(f) to provide and maintain any pavilions or other buildings and conveniences, and to charge for admission thereto;

(g) to let any pavilion or other building so provided by them to any person for the purpose of entertainments, and authorize that person to charge for admission thereto;

(h) to provide and maintain refreshment rooms in any such park or ground and either manage them themselves or, if they think fit, let them or the right of providing them to any person;

(i) to provide, or contribute towards the expenses of, any concert or other entertainment given in the park or ground;

(j) to enclose, for the purpose of such concerts or entertainments any part of the park or ground not exceeding one-tenth of the area of the park or ground;

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(k) to charge for admission to any such concerts or entertainments provided by themselves, or to let the part of the park or ground so enclosed to any person for the purpose of providing the same and to authorize that person to charge for admission thereto.

(2) The following restrictions shall have effect with respect to any concert or entertainment provided by the Government under this section, that is to say:–

(i) no stage play shall be performed; and

(ii) the concert or other entertainment shall not include any performance in the nature of a variety entertainment; and

(iii) no cinematograph film other than a film relating to the functions of the Government shall be shown; and (iv) no scenery, theatrical costumes or scenic or theatrical accessories shall be used.

(3) Any part of the park or ground enclosed under paragraph (d) of subsection (1) for the purposes of bands of music, may be used for the purposes of concerts or other entertainments.

(4) Any expenditure of the Government, in the exercise of their powers to provide or contribute to a band or to provide or contribute towards the expenses of concerts or other entertainments in the exercise of their powers under subsection (1), shall not when added together exceed in any one year an amount equal to that which would be produced by a rate of one penny in the pound on the net annual value of all premises liable to be assessed and rated under this Act as assessed for the time being.

(5) In the foregoing provision of this section, "expenditure" means net expenditure after allowing for receipts arising from the exercise of the powers to provide or contribute to a band or to provide or contribute towards concerts or other entertainments.

(6) When any part of a park or ground has been set apart by the Government for the purposes of cricket, football or any other game or recreation under paragraph (a) of subsection (1), the Government may charge reasonable sums for the use thereof for that purpose.

Power to appoint officers.

267. The Government may appoint officers for securing the observance of this Part and of the rules made thereunder.

Power of Government to provide and light public clocks.

268. (1) The Government may from time to time provide such clocks as they consider necessary, and cause them to be fixed on or against any public building, or with the consent of

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the owner or occupier, on or against any private building, the situation of which may be convenient for the purpose, and may cause the dials thereof to be lighted at night, and may from time to time alter and remove any such clocks to such other like situation as they may consider expedient.

(2) The Government may agree at their expense to light the dials of any church clock or other clock.

Alameda Gardens.

269.(1) The Government shall continue to–

(a) perpetually set apart the Alameda Gardens for the health, recreation and enjoyment of all persons;

(b) cause the Alameda Gardens to be managed, maintained and repaired, the cost whereof shall be paid and defrayed out of the Consolidated Fund.

(2) Notwithstanding the generality of subsection (1) the Government–

(a) shall cause the Alameda Gardens to be maintained and managed as a prime botanic garden (to be known as the "Gibraltar Botanic Gardens");

(b) may cause an area of the Alameda Gardens to be maintained and managed as an animal conservation park;

(c) may allow an area of the Alameda Gardens adjacent to Wellington's monument and approximately 1720 square metres in extent, which area is delineated in pink on plan No. V/61 deposited in the offices of the Department of the Environment to be used as an open-air theatre for entertainments of all descriptions including dancing and for cultural, social and other events, and section 266(2) shall not apply;

(d) may allow the public to be excluded from the Alameda Gardens or a part or parts thereof and for a reasonable fee for admission to be charged–

(i) to areas set aside under paragraph (b),

(ii) to the area set aside under paragraph (c) at such times as and when entertainments or events under that paragraph are being held;

(iii) to any other area or areas;

(e) shall, in so far as is practicable–

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(a) cause a herbarium and a seed bank to be kept; and

(b) cause a conservation collection of native species to be kept.

(3) In this section–

"Alameda Gardens" means all that area known, and buildings and structures erected thereon, as the Alameda Gardens, Gibraltar delineated in pink in the plan (Drawing no. 101/55 B); and

"botanic garden" means a garden that–

(a) has a reasonable degree of permanence and is open to the public;

(b) maintains a living collection of plants;

(c) maintains proper documentation of the collections of plants, including those of wild origin;

(d) monitors the plants in the collections;

(e) has an underlying scientific basis for the collection of plants and undertakes such scientific or technical research on plants in the collections;

(f) communicates information to other gardens, institutions and the public;

(g) exchanges seeds or other materials with other botanic gardens, arboreta or research institutions;

(h) Assists in research programmes in plant taxonomy with associated institutions

PART XI.
RATING AND VALUATION.

Rating.

Interpretation of Part XI.

270. In this Part, unless the context otherwise requires–

"domestic" means a house, flat, apartment, store, garage or parking bay used wholly or mainly for the purposes of private domestic use with or without any outhouse, garden, yard, court, forecourt or other appurtenances;

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"non-domestic" means a hereditament other than domestic;

"rate" means a rate the proceeds of which are applicable to purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property but does not include any rate payable by consumers for a supply of water;

"ratepayer" means every person who is liable to any rate in respect of property entered in any valuation list;

"valuation list" means the valuation list made under this Part.

Levy of and provisions as to general rates.

271.(1) The general rate shall be that set out in Schedule 3 and shall be in respect of the period commencing on the 1st day of July in any year and terminating on the 30th day of June in the year next following.

(2) Subject to the provisions of this Act every general rate shall be collected and recovered in the manner hereinafter provided.

(3) The Financial Secretary may in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar reduce or remit the payment of any general rate–

(a) on account of the poverty of any person liable to the payment thereof; or

(b) where he is of the opinion that so to do is in the interests of the development of Gibraltar;

and in any such case the reduction or remission shall be of such amount and shall operate for such period as shall be provided for in such criteria.

(4) Every hereditament in Gibraltar, whether liable to be rated or not, shall be included in every rate in the rate book:

Provided that non-domestic hereditaments on the Upper Rock within the area coloured red on the plan of the Upper Rock deposited in the offices of the Government need not be so included.

Operation and incidence of rate.

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272. (1) Subject to the provisions of this Part every rate shall be charged on the occupiers of all hereditaments in Gibraltar and the following provisions shall have effect in respect of the assessing of persons to and their liability in respect of a rate:–

(a) a person who is in occupation of the hereditament for part only of the period in respect of which the rate is made shall, subject to the provisions of this subsection, be liable to be charged with such part only of the total amount of the rate as the number of days during which he is in occupation bears to the total number of days comprised in the said period;

(b) a person who is in occupation of the hereditament for any part of the said period may be assessed to the rate in accordance with the provisions of paragraph (a) notwithstanding that he ceased to be in occupation before the rate was made;

(c) a person who is in occupation of the hereditament at any time after the rate is made may be assessed to and shall in the first instance be liable to pay, if he was in occupation at the beginning of the period, the whole rate, or, if he came into occupation subsequently, a proportion of the rate calculated on the basis that he will remain in occupation until the end of the said period, but shall, if he goes out of occupation before the end of the said period, be entitled to recover from the Crown any sum paid by him in excess of the amount properly chargeable against him in accordance with the provisions of paragraph (a) except in so far as he has previously recovered the sum from an incoming occupier;

(d) the rate book may be amended to show the changes which occur in the occupation of hereditaments.

(2) Where the name of any person liable to be rated is not known to the Financial Secretary it shall be sufficient to assess him to the rate by the description of the "occupier" of the premises (naming them) in respect of which the assessment is made, without further name or description.

(3) *Repealed.*

(4) (a) Where the amount of the rate due in respect of any hereditament to which this sub-section applies–

(i) for the period from 1st April 1986 to 31st March 1987, or

(ii) for the period from 1st April 1987 to 31st March 1988,

exceeds the amount of the rate assessed in respect of that hereditament for the year ended on 31st March 1986, the occupier of that hereditament shall, subject to the conditions set out in paragraph (b) below, be entitled to recover from the Financial

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Secretary an amount equal to 40 per centum of that excess in the period mentioned in sub-paragraph (i) and 20 per centum of that excess in the period mentioned in sub-paragraph (ii).

(b) The conditions mentioned in paragraph (a) above are that the rate in respect of which recovery is sought has been paid in full in accordance with section 275 and that the rates in respect of the hereditament in question for any earlier period are not in arrears.

(c) This sub-section applies to every hereditament liable to be rated not being a dwelling house.

(d) The above provisions of this sub-section shall not apply in relation to any hereditament owned and occupied by the Crown.

(5) Notwithstanding any contrary provision in this Part, no rate shall be payable by an individual who is an occupier of premises used exclusively for parking a motor vehicle where that individual has a freehold or leasehold interest in those premises.

Owner's liability if occupier in default.

272A. (1) Subject to subsection (3), if the rate or an instalment of the rate is not paid by the occupier of a hereditament within three months of the date on which it becomes due and payable in accordance with section 275, the owner of the hereditament shall be liable for the payment of that rate or instalment in a like manner as if he were the occupier thereof.

(2) Subsection (1) above shall have effect with regard to all rates which become due on or after the 1st April 1988 and which remain unpaid.

(3) The provisions of subsection (1) shall not have effect with regard to hereditaments owned by the Crown.

(4) Nothing in subsection (1) shall prevent the recovery by the owner from the occupier of a hereditament of any amount paid by the owner in pursuance of that subsection.

(5) For the avoidance of doubt, subsection (1) shall apply–

(a) to any salt water rate or an instalment of the rate payable by virtue of section 117, and

(b) any penalty rate payable by virtue of section 277 or section 117(5).

(6) For the purpose of this section "owner" means the person from whom the occupier has let the hereditament and "owned" shall be similarly construed.

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Liability to be rated in respect of certain unoccupied property.

273. (1) Where any hereditament is unoccupied for a continuous period exceeding three months the owner shall, subject to the provisions of this section, be rated in respect of that hereditament for any period of vacancy and the provisions of this Part shall apply accordingly as if the hereditament were occupied during that period of vacancy by the owner.

(2) Where an hereditament which is unoccupied becomes occupied on any day and becomes unoccupied again on the expiration of a period of less than six weeks beginning with that day, then, for the purpose of ascertaining any period of three months during which the hereditament has been continuously unoccupied and any period of vacancy in respect of the hereditament, it shall be deemed to have remained unoccupied on that day and during that period.

(3) No rates shall be payable under subsection (1) in respect of an hereditament for, or for any part of the three months beginning with the day following the end of, any period which–

(a) the owner is prohibited by law from occupying the hereditament or allowing it to be occupied save where such prohibition results from the failure by the owner to have complied with a notice issued under this Act;

(b) the premises listed in Schedule 2 to the Heritage and Antiquities Act 2018;

(c) the Financial Secretary is satisfied and has so certified that building work (which expression shall include repairing and altering) is being carried out on such hereditament with a genuine intention of developing or improving such hereditament and that such work is either under a contract which specifies a time for the completion thereof which is reasonable in all the circumstances of the case or is being proceeded with expeditiously;

(d) the hereditament is owned and occupied by the Crown.

(4) No rates shall be payable under subsection (1) in respect of an hereditament in respect of which an application has been made to the Development and Planning Commission under section 18 of the Town Planning Act 2018, and the Commission has not granted or refused such application:

Provided that–

(a) the provisions of this subsection shall cease to apply if the Chairman of the Development and Planning Commission has issued a certificate stating that the Commission does not consider that the application is made with the genuine desire of obtaining a building permit or outline planning permission as the case may be;

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(b) the provisions of this subsection shall cease to apply six months after the submission of the application unless the Chairman has issued a certificate stating that the reason that the application has not been granted or refused is in no way due to delay on the part of the applicant and such certificate has not been revoked.

(5) Any person aggrieved by the issue of a certificate under paragraph (a) of the proviso to subsection (4) or by the non-issue or revocation of a certificate under paragraph (b) of that proviso may appeal to the magistrates' court. Notwithstanding that the court shall have allowed an appeal against the non-issue or revocation of a certificate under paragraph (b) the provisions of subsection (4) shall cease to apply three months after the allowing of the appeal unless the Chairman has issued a certificate under paragraph (b) and such certificate has not been revoked. An appeal shall lie to the magistrates' court against the non-issue or revocation of a certificate after an appeal has been allowed.

(6) *Repealed.*

(7) Where the Financial Secretary is of opinion–

(a) that the erection or alteration of a building has been completed; or

(b) that the work remaining to be done on a building is such that the erection or alteration of the building can reasonably be expected to be completed within three months,

he may serve on the owner of the building a notice (hereafter in this section referred to as "a completion notice") stating that the erection or alteration of the building is to be treated for the purposes of this section as completed on the date of service of the notice or on such later date as may be specified by the notice.

(8) A person on whom a completion notice is served, may during the period of twenty-one days beginning with the date of service of the notice, appeal to the magistrates' court against the notice on the ground that the erection or alteration of the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the date specified by the notice.

(9) If no appeal under subsection (8) is brought against a completion notice or if such an appeal is abandoned or dismissed, the erection or alteration of the building shall be treated for the purposes of this section as completed on the date specified by the notice; and if such an appeal is brought and is not abandoned or dismissed, the erection of the building shall be treated for those purposes as completed on such date as the court shall determine.

(10) For the purposes of this section–

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"newly erected building" includes an existing building which has been materially structurally altered;

"owner" means the person entitled to possession of the hereditament or building; .

"period of vacancy" means any period beginning with the day following the end of a period of three months during which the hereditament has been continuously unoccupied and ending with the day preceding that on which the hereditament becomes or next becomes occupied or ceases to exist.

Amendment of rate.

274. (1) The Financial Secretary may at any time make such amendments in a rate (being either the current or the last preceding rate) as appear to him necessary in order to make the rate conform with the provisions of this Part and in particular may–

(a) correct any clerical or arithmetical error in the rate; or

(b) correct any erroneous insertions or omissions or any misdescription; or

(c) make such additions to or corrections in the rate as appear to him to be necessary by reason of–

(i) any newly erected hereditament or any hereditament which was unoccupied at the time of the making of the rate coming into occupation; or

(i) any change in the nature of the occupation of any hereditament; or

(iii) any property previously rated as a single hereditament becoming liable to be rated in parts.

(2) Where the effect of the amendment would be either–

(a) to alter, otherwise than by way of correction of a clerical or arithmetical error, the value on which a hereditament is rated; or

(b) to charge to the rate a hereditament not shown, or not separately shown, in the valuation list, the Financial Secretary shall not make any amendment of the rate unless the amendment is necessary to bring the rate into conformity with a corresponding alteration of the valuation list.

(3) Every amendment made under paragraph (a) or paragraph (b) of subsection (1) shall have effect as if it had been contained in the rate as originally made.

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When rates due and payable.

275. Every rate shall be due and payable on the lst day of July in the year in respect of which such general rate is made:

Provided that the Financial Secretary may collect the same by equal quarterly instalments payable in advance, namely, on the lst day of July, the lst day of October, the lst day of January and the lst day of April.

Demand note for rates.

276. Information with respect to the following matters shall be included in the demand note on which the general rate is levied, that is to say:–

(a) the situation of the hereditament in respect of which the demand note is issued and such description thereof reasonably necessary for purposes of identification;

(b) the net annual value;

(c) the amount in the pound at which the rate is charged;

(d) the period in respect of which the rate is made.

Late payment of rates.

277. (1) Where any rate or quarterly instalment of a rate is not paid in full within 3 months after the date on which it is due and payable under section 275, there shall thereupon be due and payable a penalty rate equal to 5 per cent of the amount due and unpaid.

(2) Where any rate or quarterly instalment of a rate is not paid in full within the period of 3 months specified in subsection (1), then in addition to the penalty rate specified in that subsection a further penalty rate equal to 5 per cent of the amount due and unpaid shall become due and payable on the expiry of each subsequent period of 3 months during which it remains due and unpaid.

(3) In subsections (2) and (3), 'amount due and unpaid' means so much of a rate or quarterly instalment of a rate as for the time being remains due and unpaid, including so much of every penalty rate already due and payable under subsection (1) or subsection (2) as for the time being remains due and unpaid.

(4) Every penalty rate that becomes due and payable under this section shall be payable by the person who is liable to pay the rate in respect of which the penalty rate is charged, and shall be collected and recovered in the same way as a rate.

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(5) Sections 271 (3), 274, 276, 285, 286, 287 and 288 shall apply in respect of a penalty rate that is due and payable under this section in the same way as they apply to a rate.

(6) The Financial Secretary may, in his discretion and subject to such conditions (if any) as he may think fit to impose, extend for the purposes of this section any time limit specified in subsection (1) or subsection (2).

Discount on rates of any hereditaments.

277A. Where any quarterly instalment of rate in respect of any hereditaments is paid in full within three months after the date on which it is due and payable under section 275 there shall thereupon be applied-

(a) in the case of a domestic hereditament, a discount of 10% on the quarterly instalment of rates due and payable in respect of that quarter;

(b) where the hereditament is used for a qualifying activity set out in sub-paragraphs (a) and (b) of the definition of "qualifying activity" in paragraph 3 of schedule 3 (including activity as a bar, casino or restaurant), a discount of 20% on the quarterly instalment of rates due and payable in respect of that quarter; or

(c) where the hereditament is non-domestic and does not fall within paragraph (b) above, a discount of 10% on the quarterly instalment of rates due and payable in respect of that quarter,

which shall be credited to the instalment of rates due and payable in respect of the following quarter.

Provided that this discount shall only apply in the event of there being no outstanding quarterly payment of rates owing unless these relate to rates that became due and payable prior to the 1st day of July 1997 in respect of non-domestic hereditaments and 1 July 2006 in respect of domestic hereditaments and are the subject of an agreement with the Government for their payment and that agreement is being honoured and complied with.

Additional discount in certain cases following the commencement of the Smoke-Free Environment Act, 2012.

277B.(1) Where−

(a) the hereditament is licensed and used as a bar, casino or restaurant (other than a takeaway); and

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(b) the quarterly instalment of rate in respect of the hereditament is paid in full within three months after the date on which it is due and payable under section 275 and a discount is applicable under section 277A,

the additional discount in respect of that quarter shall be applied as set out in subsection (2).

(2) The additional discount shall be−

(a) 20%, for a quarterly instalment of rate between 1st October 2012 and 30 September 2013;

(b) 10%, for a quarterly instalment of rate between 1st October 2013 and 30 September 2014;

Provided that where a hereditament is only partially used as a bar, casino or restaurant the credit shall be proportional to the percentage of the hereditament which in the opinion of the Financial Secretary is so used.

(3) Discounts under this sections shall be credited in the same manner as discounts under section 277A.

Discount on rates of hereditaments occupied by new businesses.

277C.(1) Where−

(a) in the opinion of the Financial Secretary the occupier of the hereditament is a new company starting up business in Gibraltar;

(b) the hereditament is non-domestic;

(c) and the quarterly instalment of rate in respect of the hereditament is paid in full within three months after the date on which it is due and payable under section 275 and a discount would be applicable under section 277A in respect of that hereditament,

a discount of 50% on the quarterly instalment of rates due and payable in respect of that quarter shall, subject to subsections (2) to (5), be credited to the instalment of rates due and payable in respect of the following quarter.

(2) A discount under this section shall commence on the first day of the quarter next following the quarter during which trading commenced in Gibraltar.

(3) A discount may only be applied under this section with respect to the first year of a company's trading in Gibraltar.

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(4) Applications for a discount under this section must be made within 24 months of the company commencing trading.

(5) A discount applied in accordance with this section in respect of a hereditament is not in addition to any discount applied in accordance with section 277A or 277B.

No premises exempt because belonging to the Crown.

278. Save as hereinafter provided, no person shall be exempted from any rate on the ground that the premises in respect of which he shall be assessed and rated are the property of Her Majesty or that they are occupied by or on behalf of the Crown or that he has the custody thereof by command or permission of Her Majesty or as her officer or servant, unless some officer be rated and assessed in respect thereof by the name of his office under the provisions of this Act.

Exemption from assessment.

279. It shall not be lawful to rate or assess any person whatever to any rate for and in respect of any of the following premises and the same are hereby exempted from ratability, that is to say:–

(a) courts of justice;

(b) every church, chapel or like building used and maintained exclusively for the public celebration of divine service, not being part of any premises used for human habitation:

Provided that–

(i) if any such church, chapel or other like building be part of any non-domestic premises used for human habitation, the person liable to be rated and assessed in respect of such last- mentioned premises shall be rated and assessed for and in respect of, and shall to all intents and purposes be deemed and taken to be the owner or occupier as the case may be, of such church, chapel or building:

(ii) no such church, chapel or like building so used and maintained shall be deemed or taken to be part of premises used for human habitation by reason only that it communicates therewith;

(c) every place set apart exclusively for the burial of the dead;

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(d) all public gardens so long as such gardens are set apart for the health, recreation and enjoyment of all Her Majesty's subjects and others inhabiting or being in Gibraltar;

(e) the walls, batteries and other like open erections in nowise habitable or inhabited or profitably used by man, constructed exclusively for and set apart as part of the military defences of Gibraltar, no estimate of the net value whereof within the meaning of this Part can reasonably be made;

(f) all public air raid shelters and all other premises provided for civil defence purposes in pursuance of precautions schemes made under the provisions of the Civil Defence Act so long as such shelters and premises are maintained and used exclusively for civil defence purposes and are not used for any other purpose whatsoever;

(g) the lighthouse and all premises necessarily used and occupied by the keeper thereof, and other the officers and servants of the Corporation of the Trinity House, in the discharge of his and their respective duties as the keeper or in the care and management of such lighthouse;

(h) *Repealed*

(i) all non-domestic premises on the Upper Rock of Gibraltar within the area of land coloured red on the plan. deposited in the offices of the Government;

(j) the Gibraltar National Museum established under the Heritage and Antiquities Act 2018;

(k) such premises occupied by such clubs, association or society not established or conducted for profit as may be approved by the Financial Secretary in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar.

280. *Repealed.*

Advertising stations to be separate hereditaments in certain cases.

281. (1) Where the right to use any land (including any structure erected or to be erected on the land, and including also any wall or other part of a building) for the purpose of exhibiting advertisements is let out or reserved to any person other than the occupier of the land or, when the land is not occupied for any other purpose, to any person other than the owner of the land, that right shall be deemed for rating purposes to be a separate hereditament in the occupation of the person for the time being entitled to the right, and shall be included in the valuation list as a separate hereditament accordingly, and in estimating the value of the land for rating

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purposes no account shall be taken of any value or, as the case may be, of any increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right.

(2) In valuing for rating purposes any right which constitutes a separate hereditament under subsection (1), the rent at which the hereditament might .be expected to be let shall be estimated on the footing that it would include a proper amount in respect of any structure for the time being available for use, for the purpose of exhibiting advertisements, by the occupier of the separate hereditament, notwithstanding that the structure was provided by him or was provided after the right was let out or reserved.

(3) Notwithstanding anything in subsection (1), the separate hereditament shall be treated as coming into existence at the earliest time at which either any structure is erected, after the right constituting the hereditament has been let out or reserved, for enabling the right to be exercised or any advertisement is exhibited in pursuance of the right, and not before.

(4) In this section. references to a structure include references to a hoarding, frame, post, wall or sign.

Power to order exemption from rates.

282. (1) The Minister responsible for finance may in his discretion by order authorize the total or partial exemption from the payment of rates chargeable on any premises prescribed in such order, being–

(a) premises occupied by or by trustees for a charity, and wholly or mainly used for charitable purposes (whether of such charity or of that and other charities):

Provided that where such premises cease to be occupied or used such exemption shall thereupon cease to have effect; or

(b) premises occupied and used for the purposes of one or more institutions or other organizations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts:

Provided that–

(i) on any change in the occupation or use of such premises such exemption shall thereupon cease to have effect:

(ii) where part only of premises are used for any of the purposes of this paragraph an order under this subsection may be made in respect of such part.

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(2) Every order made under this section shall be laid before the Assembly.

(3) For the purposes of this section "charity" means an institution or other organization (including a trust) established for charitable purposes only.

Officers for rates and expenses.

283. (1) The Governor shall by notice in the Gazette appoint some person or persons to be styled the Officer for Rates and Expenses charged upon National Revenue for and in respect of premises of Her Majesty's Government in the United Kingdom, and some person to be styled the Officer for Rates and Expenses charged upon the Consolidated Fund for and in respect of Government premises.

(2) An Officer for Rates and Expenses shall be deemed for the purposes of this Act to be the owner of all premises in respect of which he shall be so appointed and every such officer shall perform all acts and be subject to all the liabilities imposed upon him by this Act, and in all legal and other proceedings and instruments whatsoever under this Act shall be described by the name of his office.

(3) All expenses incurred under the provisions of this Act by any Officer for Rates and Expenses shall be deemed to be the lawful expenses of such officer.

(4) Save as is otherwise provided by section 289, every Officer for Rates and Expenses charged upon National Revenue shall be rated and assessed to all rates and assessments authorized under this Part in respect of all premises mentioned in his appointment except such as shall be exempt from ratability and except all such premises as may be let by the Ministry of Defence. All assessments and all lawful expenses under this Act shall, so far as relates to premises of Her Majesty's Government in the United Kingdom, be paid and defrayed by the Officer for Rates and Expenses charged upon National Revenue out of such moneys as may be provided for that purpose by the Parliament at Westminster.

(5) Every Officer for Rates and Expenses charged upon the Consolidated Fund shall be rated and assessed to all rates and assessments authorized under this Part in respect of all premises mentioned in his appointment. All assessments and all lawful expenses under this Act shall so far as relates to Government premises be paid and defrayed by the Officer for Rates and Expenses charged upon the Consolidated Fund out of the Consolidated Fund.

Rating of owners.

284. (1) Notwithstanding the provisions of section 272(1) the owners shall be rated instead of the occupiers in the case of dwelling-houses being communal services tenements for the purposes of Part II of the Landlord and Tenant (Miscellaneous Provisions) Act, and in the case

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of dwelling-houses owned by the Government of Gibraltar and let to members of the general public at a rent inclusive of rates.

(2) Where the owners of any hereditaments are rated under this section, the Financial Secretary shall make to any owner so rated an allowance of fifteen per cent of the amount payable:

Provided that the owner shall be liable to pay the rates in respect of the hereditaments whether they are occupied or not, unless all the several hereditaments in the same premises in respect of which he is rated are unoccupied.

(3) Where an owner is rated under this section instead of the occupiers of the several hereditaments in the same premises the Financial Secretary may omit to enter in the rate book the names of such occupiers.

(4) Every owner who is rated under this section instead of the occupier in respect of any hereditaments shall be deemed to be the occupier of the hereditaments for the purposes of this Part and shall be treated in relation to any right of appeal against a rate or valuation as standing in the same position as the occupier.

Recovery of rates from tenants and lodgers.

285. (1) Where the rates due from the person rated for any hereditament are in arrears, it shall be lawful for the Accountant General to serve upon any person paying rent in respect of that hereditament, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of rates and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the Accountant General until such arrears shall have been duly paid, and such notice shall, subject as hereinafter provided, operate to transfer to the Accountant General the right to recover, receive and give a discharge for such rent:

Provided that the right of the Accountant General to recover, receive and give a discharge for any rent as aforesaid shall be postponed to any right in respect of that rent which may at any time be vested in a superior landlord by virtue of a notice under section 8 of the Landlord and Tenant (Distress for Rent) Act.

(2) In this section “rent” includes payment made by a lodger.

Where owners omit to pay rates, the occupiers paying the same may deduct amount due from rent.

286. (1) Where an owner who has undertaken by agreement with the occupier to pay the rates, or has otherwise become liable to pay the same omits or neglects to pay any such rate,, the occupier may pay the same and deduct the amount from the rent due or accruing due to the

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owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

(2) Notwithstanding the owner of any such ratable hereditament as aforesaid has become liable for payment of the rates assessed thereon, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such rates as may accrue during his occupation of the premises, at any time, whilst such rates remain unpaid by the owner:

Provided that–

(a) no such distress shall be levied unless the rate has been demanded in writing by the Accountant General from the occupier, and the occupier has failed to pay the same within fourteen days after the service of such demand;

(b) any such occupier shall be entitled to deduct the amount of rates for which such distraint is made, and the expense of the distraint, from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate and expenses paid.

Proceedings for recovery of rates.

287. (1) If any person assessed to any rate under this Part fails to pay the same within a space of fourteen days after the same has been demanded, or if any person quits or is about to quit any premises without payment of any such rate then due from him in respect of such premises and refuses to pay the same after demand thereof, the Accountant General may, notwithstanding anything contained in the Criminal Procedure Act, at any time make a complaint thereof to a justice and the justice shall thereupon summon the defaulter to appear before the magistrates' court to show cause why the rate in arrears should not be paid; and if the defaulter fails to appear, or if no sufficient cause for non-payment is shown, the court may make an order for the payment of the same, and, in default of compliance with such order, may by warrant cause the same to be levied by distress of the goods and chattels of the defaulter.

(2) The costs of the levy of arrears of any rate may be included in the warrant for such levy.

(3) Where any rate made under this Part is payable under the provisions of this Act by the owner of any premises and the owner fails to pay the same when due and for a space of fourteen days after the same has been demanded, the Accountant General may, at any time, whether any warrant of distress has been issued or not, apply to the Court of First Instance (such notice being given as the court may direct) for an order, which the court is hereby authorized to make, that the amount so due together with the expenses occasioned by the non-payment thereof being ascertained by the court, and the costs of such application shall be a first charge on the premises, for the recovery of which the Government shall have all the rights and remedies of the first judgment creditor upon such premises, and against all persons having or claiming to

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have, any right, title or interest therein saving nevertheless the paramount rights only of Her Majesty.

Penalty for leaving rates in arrears.

288. A person who quits any premises in respect of which he may be rated and assessed and leaves any rate unpaid or who removes any of his goods from any premises in order to avoid a distress thereon is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

Contributions in lieu of payment of rates on premises of the United Kingdom Government.

289. (1) Notwithstanding anything to the contrary in this Part contained, it shall be lawful for the Governor to declare that in any year in lieu of the rate and of all assessments charged upon National Revenue and paid out of moneys provided by Parliament under the provisions of this Act, there shall be paid to the Financial Secretary a contribution in aid calculated and based upon a proportion of the yield of the rate for such year. Such proportion shall be a percentage which shall have been agreed upon between Her Majesty's Treasury and the Minister responsible for finance; and such percentage may froth time to time be altered by agreement between Her Majesty's Treasury and the Minister responsible for finance at the request of either party and with the concurrence of a Secretary of State.

(2) The declaration as aforesaid shall be made in every year not later than the 30th day of April in the year preceding that to which such declaration relates, and every such declaration shall be given under the hand and seal of the Governor, and shall state the percentage of the yield of the rate agreed as aforesaid to form the contribution for the year next ensuing.

(3) The contribution for the year shall be paid to the Financial Secretary by the Treasury on or before the 30th day of September in such year and no deduction from such contribution shall be made on any account whatsoever.

(4) The rate shall be levied in accordance with the provisions of this Part save that Section 277A shall not be applicable, and that it shall not be lawful to rate or assess any person to such rate for or in respect of any hereditament occupied by or on behalf of Her Majesty's Government in the United Kingdom.

(5) Where such a declaration as aforesaid is made by the Governor the provisions contained in this Act relating to the appointment, duties and liabilities of the Officer for Rates and Expenses charged upon National Revenue so far as such provisions have reference to the general rate shall be null and void.

(6) In this section "yield of rate" means the total moneys which had this section not been enacted would have been raised by the levying of the rate when made without any addition or

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deduction therefrom or rebate thereof in particular cases as allowed under the provisions of this Part.

Valuation.

Appointment of Valuation Officer.

290. (1) The Government shall appoint a valuation officer for the purpose of valuing the several premises in Gibraltar.

(2) No appointment of any person to be the valuation officer shall be valid until that person has taken and subscribed the oath hereinafter mentioned, nor until such appointment and that the person therein mentioned has made and subscribed the oath has been published in the Gazette.

(3) Every person appointed to be the valuation officer shall make and subscribe the following oath before the Chief Justice:-

> "I, A.B, of swear by Almighty God that I am duly qualified to be appointed as valuation officer under the provisions of the Public Health Act, and that I will truly, honestly and to the best of my ability, execute and discharge my duty as valuation officer without partiality, fear, favour or affection. So help me God."

and every such oath so subscribed shall be filed in the Supreme Court.

Making and operation of new valuation lists.

291. (1) A new valuation list shall be made in accordance with this Part in every year.

(2) Every such valuation list shall come into force on the 1st day of July next following the date on which it is finally approved and shall, subject to the provisions of this Act (including the provisions with respect to the alteration of and the making of additions to the valuation list) remain in force until it is superseded by a new valuation list.

Effect of valuation list.

292. For the purpose of every rate to be made and levied under this Act and for the purpose of determining the annual value of premises under any enactment, the valuation list as in force at the time when the rate is made or the value of the premises is to be determined shall be conclusive evidence of the values of the several hereditaments included in the list.

Contents and form of valuation list.

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293. (1) There shall be inserted in the valuation list such Contents and particulars with respect to every hereditament and the value as hereinafter provided.

(2) The hereditaments to be entered in the valuation list shall be entered therein in such order as the valuation officer may think convenient:

Provided that hereditaments occupied by or on behalf of Her Majesty's Government in the United Kingdom shall be entered in a separate part of the list and the officer for Rates and Expenses charged upon National Revenue shall be deemed to be both the owner and the occupier thereof.

(3) Every hereditament which is exempt from liability to be rated and assessed shall be entered in the valuation list but instead of the net annual value thereof there shall be entered a statement that the same are exempt together with the cause of such exemption:

Provided that non-domestic hereditaments on the Upper Rock within the area coloured red on the plan of the Upper Rock deposited in the offices of the Government need not be so entered.

(4) All corrections, insertions, alterations, or amendments in a valuation list shall be made as follows, that is to say–

(a) a correction, insertion or amendment if made before approval of the list shall be made in ink of the same colour as that used in the preparation of the list and if made after approval of the list shall be made in ink of a different colour;

(b) a line shall be ruled through any words or figures which require to be omitted or for which other words or figures are to be substituted in such manner as to leave legible the original entries;

(c) where a hereditament becomes divided into two or more hereditaments the whole of the original entries shall be struck out and the particulars with respect to the new hereditaments may be entered at the end of the list a reference to the page on which such particulars are to be found being inserted at the place where the original entries occur;

(d) every correction, insertion, alteration or amendment shall be authenticated by the Financial Secretary who shall for that purpose enter his initials against every such correction, insertion, alteration or amendment and the date of the making thereof.

(5) Immediately before the approval of a valuation list the Financial Secretary shall cause the entries as to values to be totalled at the foot of each page of the list and totals for each page shall be carried to a summary or summaries to be appended to the list so arranged as to show

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the totals of all the entries in each column distinguishing the totals in the various separate parts in which the list may be made.

(6) When corrections, insertions, alterations and amendments are made in the valuation list after such list has been approved by the Financial Secretary (including such as are made by direction of a court), the Financial Secretary shall cause the necessary net addition or subtraction to be made to or from the relevant totals appearing in the summaries referred to in subsection (5).

Ascertainment of ratable value.

294. (1) For the purpose of making or altering valuation lists under this Part the rateable value of a hereditament shall be ascertained in accordance with the provisions of this section or of section 295.

(2) In the case of a hereditament being a dwellinghouse the net annual value of the hereditament shall be ascertained by deducting from the gross value an amount specified in items 1 or 2 of the fourth Schedule.

(3) In the case of a hereditament being other than a dwellinghouse the net value of the hereditament shall be ascertained by deducting from the gross value an amount specified in item 3 of the fourth Schedule.

(4) Nothwithstanding subsection (2), or any other provision in this Act, the Financial Secretary may from time to time by order declare that in respect of the valuation list for any year specified in the order (being a year commencing on or after the 1st day of July, 1983) the net annual value of hereditaments of any class or classes specified in the order shall be estimated by comparison with the rents for that class or classes of hereditaments prevailing at any date specified in the order (being a date preceding such a year).

(5) If the amount of the net annual value whether ascertained under the provisions of this section or of section 295 includes a fraction of a pound such amount shall be increased or reduced as the case may be to the nearest complete pound or if the fraction is fifty pence the fraction shall be disregarded.

(6) The net annual value of a hereditament ascertained in accordance with the provisions of this section or of section 295 shall be the rateable value of the hereditament.

(7) For the purposes of this section "dwellinghouse" means a house used wholly or mainly for the purposes of a private dwelling or private dwellings with or without any garage, outhouse, garden, yard, court, forecourt or other appurtenances.

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"gross value" in relation to a hereditament under subsection (2) means the rent estimated by comparison with the rents at which dwellinghouses owned by the Government are let to members of the general public on short tenancies.

"gross value" in relation to a hereditament under subsection (3) means an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to be let from year to year if the tenant undertook to pay all the usual tenant's rates and taxes and the landlord undertook to bear the cost of the repairs, insurance and other expenses, if any, necessary to command that rent.

"short tenancy" means a tenancy for any period not exceeding one year.

Superficial area.

295. (1) It shall be lawful for the Parliament by resolution to fix a sum per square metre of the superficial area of hereditaments in Gibraltar for the purpose of assessing the ratable value of such hereditaments.

(2) A resolution under subsection (1) may fix different sums per square metre for hereditaments in different parts of Gibraltar.

(3) A resolution under subsection (1) shall remain in force unless and until it is superseded by a further resolution.

(4) Where a resolution has been passed in exercise of the powers conferred by subsection (1) the net annual value of every hereditament shall be either the rent assessed in accordance with the provisions of section 294 or the sum assessed by multiplying the number of square metres in the superficial area by the sum fixed by resolution in respect of such hereditament whichever is the greater.

Assessment of certain buildings occupied in parts.

296. Where a building which was constructed or has been adapted for the purpose of a single dwelling house, or as to part thereof for such purpose, and as to the remainder thereof for any purpose other than that of a dwelling or residence, is occupied in parts, the valuation officer in preparing a draft valuation list, or the Financial Secretary in altering a current valuation list, may, if he thinks fit, having regard to all the circumstances of the case, including the extent, if any, to which the parts separately occupied have been severed by structural alterations, treat the building or any portion thereof as a single hereditament, and a building or portion of a building so treated as. a single hereditament shall, for the purposes of rating, be deemed to be a single hereditament in the occupation of the person who received the rents payable in respect of the parts.

Draft valuation list.

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297. (1) The valuation officer shall prepare a draft valuation list every year and transmit a copy thereof to the Financial Secretary not later than the 15th day of February.

(1A) In a draft valuation list there may be included a revised assessment of the net annual value of any hereditament not being a dwelling house, whether or not occupied by the owner.

(2) In preparing a draft valuation list the valuation officer may insert in respect of each hereditament either the net annual value assessed in accordance with the provisions of section 294 or the net annual value assessed in accordance with the provisions of section 295. Where the net annual value of an hereditament is assessed in accordance with section 295 the, valuation list shall show the superficial area of the hereditament.

(3) The Financial Secretary shall thereupon publish a notice in the Gazette that the draft has been completed.

(4) The draft list shall be open for inspection during ordinary business hours at the offices of the valuation officer for a period of twenty-one days from the date on which the notice of the completion thereof is published and the notice shall include a statement that the draft list is open for inspection as aforesaid and a statement of the right of objection conferred by section 298:

Provided that the separate part of the valuation list containing the hereditaments occupied by or on behalf of Her Majesty's Government in the United Kingdom shall not be so open for inspection except by the Officer for Rates and Expenses charged upon National Revenue.

Objections to draft lists.

298. (1) Any person who is aggrieved–

(a) by the inclusion of any hereditament in the draft list; or

(b) by any value ascribed in the draft list to a hereditament or by any other statement made or omitted to be made in the draft list with respect to a hereditament; or

(c) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may at any time before the expiration of thirty days from the date of the publication of notice of the completion of the draft list serve on the Financial Secretary notice of objection to the draft list so far as it relates to that hereditament.

(2) Every notice of objection under this section shall be in writing and state the grounds on which the objection is made and the amendments desired to remove the objection.

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Revision of draft lists.

299. (1) After the expiration of the period limited for the lodging of notices of objection to a draft valuation list, the Financial Secretary shall revise the draft and may, on that revision, make such alterations in the list, whether for the purpose of meeting an objection or for any other reason as he may think proper.

(2) Where, on the revision, the Financial Secretary makes any alteration in the list, whether for the purpose of meeting an objection or for some other reason, he shall forthwith serve notice of the alteration on the occupier of the hereditament to which the alteration relates:

Provided that no notice need be served on the occupier under this subsection where the occupier has not served notice of objection under section 298 with respect to the hereditament and the alteration consists only in a reduction in any value ascribed to the hereditament.

(3) Where notice of objection has been served under section 298, then, whether or not on the revision, any alteration is made in the list for the purpose of meeting the objection, the Financial Secretary shall, on completion of the revision, forthwith serve on the person who made the objection a notice stating whether he has made any and if so what alteration in the list with respect to the hereditament to which the objection relates:

Provided that no notice need be served on any person on whom a notice with respect to the hereditament falls to be served under subsection (2) of this section.

Preparation of valuation lists.

300. (1) The Financial Secretary shall, not later than the 30th day of April in each year, make and approve a new valuation list, and append to the list so approved a declaration of approval and certificate of compliance with this Part.

(2) Subject to any alteration made for the purpose of correcting any clerical or arithmetical error, the new valuation list so made and approved shall be identical with the draft list as revised under section 299.

(3) The valuation list so approved shall, subject to any alterations made thereto in accordance with this Part, be the valuation list for Gibraltar and any failure to complete any proceedings with respect to the preparation, revision, making or approving of the list within the time required by this Part or any omission from the list of any matters required by law to be included therein, shall not of itself render the list invalid; and, until the contrary is proved, the list shall be deemed to have been duly made in accordance with the provisions of this Part.

(4) The valuation list shall be deposited at the offices of the valuation officer.

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Publication of valuation list.

301. (1) When the valuation list has been made and approved in accordance with the provisions of section 300 the Financial Secretary shall publish a notice in the Gazette that the new valuation list has been made and approved.

(2) The valuation list shall be open for inspection during ordinary business hours at the offices of the valuation officer for a period of twenty-one days from the date on which the notice of the making and approval thereof is published and the notice shall include a statement that the valuation list is open for inspection as aforesaid and a statement of the right of appeal conferred by section 302:

Provided that the separate part of the valuation list containing the hereditaments occupied by or on behalf of Her Majesty's Government in the United Kingdom shall not be so open for inspection except by the Officer for Rates and Expenses charged upon National Revenue.

Rating review board.

301A.(1) There shall be established a board to be known as the Rating Review Board (hereinafter called "the Board") which shall consist of–

(a) the holder for the time being of the office of the Town Planner or such other person as the Government may appoint for the purpose who shall be the chairman, and

(b) two other members appointed by the Government, one of whom shall be appointed after consultation with the Chamber of Commerce, and the other shall be a person who in the opinion of the Government is a competent qualified valuer in private practice as such but shall not be associated with the person of the Valuation Officer.

(2) It shall be the duty of the Board to hear and determine objections to valuations lists brought under section 302 and to perform such other functions as are assigned to the Board by this Act.

(3) The members of the Board, other than the chairman, shall hold and vacate their offices as such in accordance with the terms of their appointments and shall be paid such remuneration or allowances, if any, as the Government may determine.

(4) The determination of any question before the Board shall be according to the opinion of the majority of the members.

(5) The Board shall have power to regulate their own procedure.

Objections against valuation list.

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302. (1) Any person who is aggrieved–

(a) by the inclusion of any hereditament in the valuation) list; or

(b) by any value ascribed in the valuation list to a hereditament or by any statement made or omitted to be made in the valuation list with respect to a hereditament; or

(c) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may at any time before the expiration of thirty days from the date of the publication of the notice of the making and approval of the valuation list, object to the Board against the valuation list so far as it relates to that hereditament.

(2) On the hearing of an objection before the Board the objector and the Valuation Officer shall be entitled to appear and call and examine witnesses and may be legally represented if they so desire.

(3) After the conclusion of the proceedings the Board shall, as it thinks just, either confirm the valuation list or order it to be altered to give effect to the contention of the objector so far as that contention appears to the Board to be well founded.

(4) The Financial Secretary shall cause such alterations to be made in the valuation list as are specified in any order of the Board under the foregoing provisions of this Section and shall also cause such alteration of totals to be made as is consequential on any such alteration made under this sub-section.

Appeals from the Rating Review Board.

302A. (1) If the objector or the Valuation Officer is aggrieved by the decision of the Board under Section 302, he may, within a period of thirty days from the date of that decision, appeal against it to the Court of First Instance.

(2) The Financial Secretary shall be deemed to be the respondent to any appeal under this section whether he appears on the hearing of the appeal or not.

(3) Section 302(3) shall apply in relation to an appeal to the Court of First Instance as it applies to an objection to the Rating Review Board.

(4) In any proceedings under this section the court may if it thinks fit summon one or more persons to act as assessors notwithstanding that no application is made in that behalf by any party to the proceedings.

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(5) The Financial Secretary shall cause such alterations to be made in the valuation list as are specified in any order of the court under the foregoing provisions of this section and shall also cause such alteration of the totals to be made as is consequential on any such alteration made under this sub-section.

Alteration of current valuation list.

303. (1) Subject to the provisions of this section the Financial Secretary may at any time make such alterations to the current valuation list as appears to him necessary by reason of–

(a) the erection or construction of a new hereditament or the alteration of a hereditament which has been out of occupation on account of structural alterations; or

(b) a change in the nature of the occupation of a hereditament; or

(c) a change in the value of a hereditament caused by the making of structural alterations or by the partial destruction of any building or other erection by fire or any other physical cause; or

(d) any property previously rated as a single hereditament becoming liable to be rated in parts; or

(e) any property previously rated in parts becoming liable to be rated as a single hereditament; or

(f) any error having been made in determining the value of a hereditament or in the entry relating to any hereditament in the valuation list,

and any such alteration shall have effect only as from the date when the new or altered hereditament comes into occupation or as from the happening of the event by reason of which the alteration is made, as the case may be.

(2) Where the Financial Secretary proposes to make any alteration to the current valuation list under this section he shall transmit a notice of the proposed alteration to the occupier (if any) of the hereditament to which the proposed alteration relates.

(3) Any person to whom a notice is so transmitted may, if he thinks fit, give to the Financial Secretary notice in writing of objection to the proposed alteration which notice must state the grounds on which the objection is made. Any such notice must be given within twenty-one days from the date on which notice of the proposed alteration is served upon such person under subsection (2).

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(4) The Financial Secretary shall consider any such notice of objection as if it were an objection to a draft list and the provisions of this Part relating to objections to and revision of a draft list shall apply accordingly.

(5) If the person who has objected to any alteration of the valuation list is aggrieved by the decision of the Financial Secretary thereon that person may, within thirty days after the date upon which notice of the decision has been served upon him, object against the decision to the Rating Review Board as if it were an objection against a new valuation list and all the provisions of this Part with respect to objections against the valuation list shall apply accordingly.

Power of valuation officer to require returns.

304. (1) The valuation officer may serve a notice on the occupier, owner or lessee of any premises or on any one or more of them requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him accurately to carry out his duties under this Part.

(2) A person upon whom notice has been served under the provisions of this section shall within twenty-one days after the date of the service of the notice make a return in such form as is required in such notice and deliver it in the manner so required to the valuation officer.

(3) A person on whom notice has been served under the provisions of this section who fails without reasonable excuse to comply with the notice, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(4) Where a person is convicted under subsection (3) in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he is guilty of a further offence against subsection (3) and may, on summary conviction, be punished accordingly.

(5) A person who, in a return made under this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in .a material particular, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 5 on the standard scale.

Power of entry.

305. (1) The valuation officer and any person authorized by him ‘ in writing in that behalf shall have power, at all reasonable times and after giving not less than twenty-four hours’ notice in writing and, in the case of a. person so authorized, on production, if so required, of his authority, to enter on, survey and value any hereditament, subject as to every prison, to all rules made concerning the admission of strangers thereto.

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(2) A person who wilfully delays or obstructs any person in the exercise of any of his powers under this section, is guilty of an offence and is liable on summary conviction to a fine of £5. ‘

Miscellaneous.

Rate to be levied notwithstanding appeal.

306. (1) Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and recoverable, notwithstanding any appeal which may be pending with respect to the list:

Provided that where in the case of any hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined under this Part, the amount recoverable pending the decision of the appeal shall not, unless the hereditament has been substantially altered since its value was last previously determined, exceed the amount which would have been recoverable if its value had not been so increased.

(2) Where in pursuance of an order of the Court of First Instance or Rating Review Board there is made in the valuation list an alteration which affects the amount of any rate levied in respect of any hereditament in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rates.

Inclusion in one proceeding of separate hereditaments.

307. Any person may include in the same objection, appeal or other proceeding under this Part all or any hereditaments comprised in the same valuation list as respects which he has a right to make or bring any such objection, appeal or proceeding, although they are separately assessed in that list.

Inspection of documents.

308. (1) Any ratepayer may at all reasonable times, on payment, in the case of a document which is more than five years old of a fee of £2 or such other figure as the Government may by notice in the Gazette specify from time to time for each document required to be produced, and in any other case, without payment, inspect and take copies of and extracts from any rate book (whether current or closed), valuation list, notice of objection, or summaries of totals:

Provided that this subsection shall not apply to the part of a. valuation list in which are entered the hereditaments occupied by or on behalf of Her Majesty’s Government in the United Kingdom.

(2) A person who, having the custody of any document to which this section applies–

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(a) obstructs any. person in making any inspection or copy thereof or extract there from which he is entitled to make under this section; or

(b) demands, when not authorized by this Act, a fee for allowing him to do so, is guilty of an offence and is liable on summary conviction for each offence to a fine at level 1 on the standard scale.

(3) For the purposes of this section "ratepayer" includes an occupier who pays a rent inclusive of rates, and also includes any person authorized by a ratepayer to act on his behalf under this section. .

(4) Nothing in this section shall be construed as preventing the Financial Secretary from supplying copies of or extracts from the documents specified in this section at the request of any ratepayer upon such terms as to payment as may be agreed.

PART XII.
GENERAL.

Supplemental as to powers of Government.

Expenses and Contractor companies.

309.(1) All expenses incurred or payable by the Government in the execution of this Act and not otherwise provided for shall be charged on and defrayed out of the general rates leviable under this Act.

(2) The Government may by contract, upon such terms and conditions as it shall think fit, authorise any company or other body ("the Contractor Company") to undertake any of the powers or perform any of the functions conferred on the Government under this Act as shall be specified in that contract.

(3) Where such a contract as is provided for in subsection (2) is m existence, the expression "Contractor Company" shall be substituted for the expression "Government" wheresoever in the Act such substitution shall be necessary in the opinion of the Government to give effect to the terms and conditions of the contract.

Interpretation of "provide."

310. (1) Any power of the Government under this Act to provide buildings or other premises for any purpose includes power to equip them with such furniture, apparatus and instruments as may be reasonably necessary to enable them to be used for that purpose.

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(2) Any power of the Government under this Act to provide buildings or other premises, accommodation, equipment or vehicles for any purpose includes power to enter into agreements with any person for the use, upon such terms as may be agreed, of any suitable buildings, premises, accommodation, equipment or vehicles provided by, or under the control of that person, and, if it appears convenient, for the services of any staff employed in connection therewith.

(3) The powers provided in this section are without prejudice to the provisions of section 309.

Power to require pipes, etc., in public highways to be moved.

311. Where for the purposes of this Act the Government deem it necessary to raise, sink or otherwise alter the situation of any pipes, mains, plugs or other works or of any electric or telephone cables lawfully being in or under any street, they may by notice in writing require the owner of the pipes, mains, plugs or works or the owner of the cables as the case may be to raise, sink or otherwise alter the situation of the same in such manner and within such reasonable time as may be specified in the notice; the expenses of or connected with any such alteration shall be paid by the Government; and if such notice is not complied with the Government may themselves make the alteration required:

Provided that no such alteration shall be required or made which will permanently injure any such pipes, mains, plugs, works or cables or prevent the liquids, gases or currents they convey from flowing as freely and conveniently as usual.

Power of Government to execute certain work on behalf of owners or occupiers.

312. The Government may by agreement with the owner or occupier of any premises themselves execute at his expense any work which they have under this Act required him to execute, or any work in connection with the construction, laying, alteration or repair of a sewer or drain which he is entitled to execute, and for that purpose they shall have all such rights as he would have.

Power of Government to sell certain materials.

313. (1) The Government may sell any materials which have been removed by them from any premises when executing works under, or otherwise carrying into effect the provisions of this Act, and which are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.

(2) Where the Government sell any materials under this section, they shall pay the proceeds to the person to whom the materials belonged after deducting the amount of any expenses recoverable by them from him.

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(3) This section does not apply to refuse removed by the Government.

Power of Government to require information as to ownership of premises.

314. The Government or such agent as may be appointed by the Government for this purpose may, for the purposes of enabling them to perform any of their functions under this Act, require the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, and a person who having been required by the Government or such agent as may be appointed by the Government for this purpose in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Compensation to individuals for damage resulting from exercise of powers under Act.

315. (1) Subject to the provisions of this section, the Government shall make full compensation to any person who has sustained damage by reason of the exercise by the Government of any of their powers under this Act in relation to a matter as to which he hat not himself been in default.

(2) Any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by, the magistrates' court.

(3) No person shall be entitled by virtue of this section to claim compensation on the ground that the Government have in the exercise of their powers under this Act declared any sewer or sewage disposal works, whether belonging to him or not to be vested in them, or on the ground that he has sustained damage by reason of any action of the Government in respect of which the Government are by this Act authorized to pay compensation if they think fit.

(4) Where an owner of any premises claims compensation in respect of damage sustained by reason of the Government having, in the exercise of their powers under this Act, constructed a sewer or laid a water main in, on or over his land, the tribunal determining the amount of the compensation shall determine also, by what, if any, the value to the claimant of any premises belonging to him has been enhanced by the construction of the sewer or the laying of the water main, and the Government shall be entitled to set off that amount against the-'amount of any compensation awarded.

Notices, etc.

Notices to be in writing; forms of notices, etc.

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316. (1) All notices, orders, consents, demands and other documents authorized or required by or under this Act to be given, made or issued, and all notices and applications authorized or required by or under this Act to be given or made to, or to any officer or agent of, the Government shall be in writing.

(2) The Governor may by regulations prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

Authentication of documents.

317. (1) Any notice, order, consent, demand or other document which the Government are authorized or required by or under this Act to give, make or issue may, unless otherwise provided in this Act, be signed on behalf of the Government by any officer or agent of the Government authorized to sign documents of the particular kind, or as the case may be, the particular document.

(2) Any document purporting to bear the signature of an officer or agent of the Government under this section empowered to sign such a document, or expressed to be duly authorized by the Government to sign such a document or the particular document, shall for the purposes of this Act and of any rules and orders made thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the Government.

In this subsection "signature" includes a facsimile of a signature by whatever process reproduced. '

Service of notices, etc.

318. (1) Any notice, order, consent, demand or other document which is required or authorized by or under this Act to be given to or served on any person may, in any case for which no other provision is made by this Act, be given or served either–

(a) by delivering it to that person; or

(b) in the case of any officer of the Government, by leaving it or sending it in a prepaid letter addressed to him, at his office; or

(c) in the case of any other person, by leaving it or. sending it in a prepaid letter addressed to him at his usual or last known residence; or

(d) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office; or

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(e) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rent thereof as agent for another, or would so receive it if the premises were let at a rent, by leaving it, or sending it in a prepaid letter addressed to him at his place of business; or

(f) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(2) Where a notice, order, consent, demand or other document is given or served by being sent by course of post in a prepaid letter in accordance with any of paragraphs (a), (d) and (e) of subsection (1), it shall unless the contrary is proved be deemed to have been received by the person or incorporated company or body in respect of whom it is given or served on the day following the day on which it would have been delivered in the ordinary course of post.

Proof of resolutions, etc.

319. In any proceedings under this Act a document purporting to be certified by the Chief Secretary as a copy of an order made by the Government on a specified date, or of the appointment of, or of any authority given to, an officer of the Government on a specified date, shall be evidence that that order, appointment or authority was duly made or given by the Government on that date.

Entry and obstruction.

Power to enter premises.

320. (1) Subject to the provisions of this section, any authorized officer or agent of the Government shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours,

(a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this Act or of any rules made thereunder, being provisions which it is the duty of the Government to enforce;

(aa) for the purpose of discovering the origin or destination of hazardous waste (within the meaning of section 192KA);

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(b) for the purpose of ascertaining whether or not circumstances exist which would authorize or require the Government to take any action, or execute any work, under this Act or any such rules;

(c) for the purpose of taking any action, or executing any work, authorized 6r required by this Act or any such rules, or any order made under this Act, to be taken, or executed, by the Government;

(d) generally, for the purpose of the performance by the Government of their functions under this Act or in any such rules:

Provided that admission to any premises not being a factory, workshop or workplace, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier. .

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing–

(a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the justice may by warrant under his hand authorize the Government by any authorized officer or agent to enter the premises, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(3) An authorized officer or agent entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

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(5) A person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory, workshop or workplace and who discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 4 on the standard scale.

(6) Nothing in this section shall be construed as limiting the provisions of Part VIII with respect to entry into or upon and inspection of common lodging-houses, or the provisions of Part V with respect to entry into or upon premises for purposes connected with the destruction of rats and mice, nor the provisions of Part XI with respect to entry into or upon premises for the purposes of surveying and valuing premises in connection with the preparation of valuation lists.

Penalty for obstructing execution of Act.

321. A person who wilfully obstructs any person acting in the execution of this Act or of any rule, order or warrant made or issued thereunder is guilty of an offence and, in any case for which no other provision is made by this Act, is liable on summary conviction to a fine of one half of the amount at level 4 on the standard scale for a first offence and a fine at level 4 on the standard scale for a second or subsequent offence.

Power to require occupier to permit works to be executed by owner.

322. (1) If on a complaint made by the owner of any premises, it appears to the magistrates' court that the occupier of those premises prevents the owner from executing any work which he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work; and to pay the costs of such complaint.

(2) An occupier of any premises who wilfully obstructs or prevents the owner of those premises from executing any work which the owner is by or under this Act required to execute is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale for each day on which the offence continues after conviction therefor.

Recovery of expenses, etc.

Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.

323. (1) Where the Government have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or by agreement with the Government, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the Government from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased

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to be the owner of the premises before the date when a demand for the expenses is served, either from him or from the person who is the owner at the date when the demand is served, and, as from the date of the completion of the works, the expenses and interest accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interests therein.

(2) The Government may recover any expenses due to them under this section by instalments together with interest within a period not exceeding thirty years from the service of the first demand for the expenses, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and, if recovered from the occupier, may be deducted by him from the rent of the premises:

Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the Government together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

(3) The rate of interest chargeable under subsection (I) or subsection (2) shall be such rate as the Government may determine:

Provided that the Government may from time to time by order fix a maximum rate of interest for the purposes of this section generally, or different maximum rates for different purposes and in different cases.

(4) The Government shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the Land Law and Conveyancing Act, and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

Power to make a charge in respect of establishment expenses.

324. Where under this Act the Government are empowered to execute works and to recover from any person the expenses incurred by them in so doing, they may include in, and recover as part of the expenses, such additional sum, not exceeding five per cent of the cost of the works, as they think fit in respect of their establishment charges.

Recovery of expenses, etc.

325. (1) Any sum which the Government are entitled to recover under this Act, and with respect to the recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction.

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(2) The time within which summary proceedings may be taken for the recovery of any such sums shall, except where otherwise expressly provided by this Act, be reckoned from the date of the service of a demand therefor.

Limitation of liability of certain owners.

326. Where the Government claim to recover any expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred and that person proves that he–

(a) is receiving the rent of those premises merely as agent or trustee for some other person j and

(b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid, but if the Government are, or would be, debarred by the foregoing provisions from recovering the whole of any such expenses from an agent or trustee they may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

Prosecution of offences, etc.

Summary Proceedings for offences.

327. All offences under this Act may be prosecuted under the Criminal Procedure Act.

Continuing offences and penalties.

328. Where provision is made by or under this Act for the Continuing imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

Inclusion of several sums in one complaint, etc.

329. Where two or more sums are claimed from any person as being due under this Act, or under rules made thereunder, any complaint, summons or warrant issued for the purposes of this Act or of the rules in respect of that person may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed.

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Liability of bodies corporate - general.

329A.(1) A corporate body shall be liable for an offence under this Act, except as provided for in sections 67(1), 97(1), 110(1), 180T and 192S(1), where that offence is committed for its benefit by a person, acting either individually or as part of an organ of the corporate body, who has a leading position within the corporate body.

(2) For the purposes of subsection (1), a leading position shall be deemed to exist where such a person has–

(a) a power of representation of the corporate body;

(b) an authority to take decisions on behalf of the corporate body; or

(c) an authority to exercise control within the corporate body.

(3) A corporate body shall be liable for an offence under this Act, except as provided for in sections 67(1), 97(1), 110(1), 180T and 192S(1), committed by a person referred to in subsection (1) where lack of supervision or control by that person has made possible the commission of the offence for the benefit of the corporate body by a person under its authority.

(4) Where a corporate body is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person referred to in subsection (1), or any person who was purporting to act in any such capacity that person, as well as the corporate body, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a corporate body are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the corporate body.

(6) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(7) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of a partner he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

Appeals against notices.

Appeals against and enforcement of certain notices.

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330. (1) Where it is expressly provided by this Act that the provisions of this section shall apply in relation to a notice served by the Government the following provisions of this section shall have effect in relation to the notice.

(2) Any such notice shall (without prejudice to any provision of the section under which it is served) indicate the nature of the works or things thereby required to be executed or provided or other things thereby required to be done and shall state the time within which the requirements of the notice are to be complied with.

(3) A person served with such a notice may appeal to the magistrates' court on any of the following grounds which are appropriate in the circumstances of the particular case:–

(a) that the notice or any requirement thereof is not justified by the terms of the section under which the notice purports to have been served;

(b) that there has been some informality, defect or error in or in connection with the notice;

(c) that the Government have refused unreasonably to approve the carrying out of alternative proposals or that the requirements of the notice are otherwise unreasonable in character or extent or are unnecessary;

(d) that the time allowed by the notice for compliance with its requirements is not reasonably sufficient for that purpose;

(e) that the notice might lawfully have been served upon some person other than the appellant and that it would have been equitable for it to have been so served;

(f) that the notice requires the execution of works which would be for the common benefit of two or more premises and that some other person (being the owner or occupier of premises to be benefitted) ought to contribute towards the expenses of executing any works required.

(4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in con j unction with the notice the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) (a) Where the ground or one of the grounds upon which an appeal under this section is brought is the ground specified in paragraph (e) or paragraph (f) of subsection (3) the appellant shall serve a copy of his notice of appeal on each other person referred to.

(b) In the case of any appeal under this section the appellant may serve a copy of his notice of appeal on any other person having an estate or interest in the premises or

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having a right to use the drain (as the case may be) to which the notice served by the Government relates.

(c) On the hearing of the appeal the court may make such order as it thinks fit with respect to the person (being either the appellant or a person upon whom a copy of the notice of appeal was served) by whom any requirement of the notice served by the Government is to be complied with and the contribution to be made by any other such person towards the cost of complying with the requirement or as to the proportions in which any expenses which may become recoverable by the Government are to be borne by any such persons.

(d) In exercising its powers under this subsection the court shall have regard to the degree of benefit to be derived by the different persons concerned and all other circumstances of the case including (as between an owner and an occupier) the terms and conditions whether contractural or statutory of the tenancy.

(6) Subject to such right of appeal and (where any such appeal is brought) to any order made by the court, if any requirement of the notice is not duly complied with–

(a) the Government may themselves execute or provide such works or things and do all such other acts as may be necessary to secure conformity with the requirement and recover from the person on whom the notice was served or who was ordered by the court to comply with the requirement or to bear the expenses (as the case may be) the expenses reasonably incurred by them in so doing; and

(b) (without prejudice to the right of the Government to exercise the powers conferred by the foregoing paragraph) the person in default is guilty of an offence and is liable to a fine at level 4 on the standard scale and to a further fine of one twentieth of the amount at level 4 on the standard scale for each day on which the default continues after conviction therefor. .

(7) In proceedings by the Government against the person served with the notice for the recovery of any expenses which the Government are entitled to recover from him it shall not be open to him to raise any question which he could have raised on an appeal under this section.

Other appeals to the magistrates' court and appeals to the Supreme Court.

Appeals and applications to magistrates' court.

331. (1) Where any enactment in this Act provides–

(a) for an appeal to the magistrates' court against a requirement, refusal or other decision of the Government; or

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(b) for any matter to be determined by, or an application in respect of any matter to be made to, the magistrates' court,

the procedure shall be by way of complaint for an order, and the Criminal Procedure Act shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the Government's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the Government in the matter shall state the right of appeal to the magistrates' court and the time within which such an appeal may be brought.

Appeals to Supreme Court against decisions of justices.

332. Where a person aggrieved by any order, determination or other decision of the magistrates' court under this Act is not by any other enactment authorized to appeal to the Supreme Court, he may appeal to such a court.

Effect of decision of court upon an appeal.

333. Where upon an appeal under this Act a court varies or reverses any decision of the Government, it shall be the duty of the Government to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

Judges and justices.

Judges and justices not to be disqualified by liability to rates.

334. A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefitted by, any rate or fund out of which any expenses of the Government are to be defrayed.

Savings.

Powers of Act to be cumulative.

335. All powers and duties conferred or imposed by this Act shall be deemed to be in addition to, and not in derogation of, any other powers and duties conferred or imposed by any other enactment or custom, and, subject to any repeal effected by, or other express provision of, this

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Act all such other powers and duties may be exercised, and shall be performed in the same manner as if this Act had not been passed.

336. *Deleted.*

Rules.

Rules.

337. In addition to any other power to make rules under this Act the Government may make rules–

(a) to carry out and give effect to the provisions of this Act;

(b) for the prevention and suppression of nuisances;

(c) for the purposes of amending the Schedules to this Act;

(d) without prejudice to the generality of the foregoing, for the good rule and government of Gibraltar in relation to matters provided for in this Act, or public health generally.

SCHEDULES 1 & 2
Repealed

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SCHEDULE 3

Section 271.

General Rate.

Subject to paragraph (2) below, the general rate shall be 60 pence in the pound on the full net annual value of each hereditament in Gibraltar.

(2) A special poundage shall apply to hereditaments −

(a) which are used for a qualifying activity;

(b) which are non-domestic and do not fall within paragraph (a).

(3) In this Schedule–

"qualifying activity" means the following activities-

(a) retail in goods

(b) wholesale in goods;

(c) construction, manufacturing and repair, not being construction, manufacturing and repair relating to premises used in connection with the production, distribution or sale of electricity, water or telecommunications services;

(d) transport and distribution,

or such other activity as the Government may, from time to time, prescribe by notice to the Gazette;

"special poundage" means–

(a) in respect of paragraph (3)(a) and (b), 47 pence in the pound;

(b) in respect of paragraph (3)(c) and (d), 62 pence in the pound;

(c) in respect of paragraph (2)(b), 67 pence in the pound;

on the full net annual value of the hereditament;

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SCHEDULE 4

Section 310.

STATUTORY DEDUCTIONS FROM GROSS VALUE.

Deduction	*Class of hereditament*	*Section*
1. 20% of the gross value	(1) a dwellinghouse of a gross value not exceeding £40; (2) a Communal Services Tenement	Section 310(2)
2. 16 2/3% of the gross value	a dwellinghouse of a value exceeding £40	Section 310(2)
3. 16 2/3% of the gross value	a hereditament being other than a dwellinghouse	Section 310(3)

SCHEDULES 5 - 11
Repealed

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SCHEDULE 11A

Section 192KA

LIST OF WASTES PURSUANT TO ARTICLE 1(A) OF DIRECTIVE 75/442/EEC ON WASTE AND ARTICLE 1(4) OF DIRECTIVE 91/689/EEC ON HAZARDOUS WASTES

PART I

Introduction

1. The present list is a harmonised list of wastes. It will be periodically reviewed by the European Commission on the basis of new knowledge and, in particular, of research results, and if necessary revised in accordance with Article 18 of Directive 75/442/EEC. However, the inclusion of a material in the list does not mean that the material is a waste in all circumstances. Materials are considered to be waste only where the definition of waste in Article 1(a) of Directive 75/442/EEC is met.

2. Wastes included in the list are subject to the provisions of Directive 75/442/EEC except where Article 2(1)(b) of this Directive applies.

3. The different types of wastes in the list are fully defined by the six-digit code for the waste and the respective two-digit and four-digit chapter headings. This implies that the following steps should be taken to identify a waste in the list.

3.1. Identify the source generating the waste in chapters 01 to 12 or 17 to 20 and identify the appropriate six-digit code of the waste (excluding codes ending with 99 of these chapters). A specific production unit may need to classify its activities in several chapters. For instance, a car manufacturer may find its wastes listed in chapters 12 (wastes from shaping and surface treatment of metals), 11 (inorganic wastes containing metals from metal treatment and the coating of metals) and 08 (wastes from the use of coatings), depending on the different process steps.

Note: separately collected packaging waste (including mixtures of different packaging materials) shall be classified in 15 01, not in 20 01.

3.2. If no appropriate waste code can be found in chapters 01 to 12 or 17 to 20, the chapters 13, 14 and 15 must be examined to identify the waste.

3.3. If none of these waste codes apply, the waste must be identified according to chapter 16.

3.4. If the waste is not in chapter 16 either, the 99 code (wastes not otherwise specified) must be used in the section of the list corresponding to the activity identified in step one.

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4. Any waste marked with an asterisk (*) is considered as a hazardous waste pursuant to Directive 91/689/EEC on hazardous waste, and subject to the provisions of that Directive unless Article 1(5) of that Directive applies.

5. For the purpose of this Decision, 'dangerous substance' means any substance that has been or will be classified as dangerous in Directive 67/548/EEC and its subsequent amendments; 'heavy metal' means any compound of antimony, arsenic, cadmium, chromium(VI), copper, lead, mercury, nickel, selenium, tellurium, thallium and tin, as well as these materials in metallic form, as far as these are classified as dangerous substances.

6. If a waste is identified as hazardous by a specific or general reference to dangerous substances, the waste is hazardous only if the concentrations of those substances are such (i.e. percentage by weight) that the waste presents one or more of the properties listed in Annex III to Council Directive 91/689/EEC. As regards H3 to H8, H10 and H11, Article 2 of this Decision shall apply. For the characteristics H1, H2, H9 and H12 to H14 Article 2 of the present Decision does not provide specifications at present.

7. In line with Directive 1999/45/EC, which states in its preamble that the case of alloys has been considered to need further assessment because the characteristics of alloys are such that it may not be possible accurately to determine their properties using currently available conventional methods, the provisions of Article 2 would not apply to pure metal alloys (not contaminated by dangerous substances). This will be so pending further work that the Commission and Member States have taken the commitment to undertake on the specific approach of the classification of alloys. The waste materials which are specifically enumerated in this list, shall remain classified as at present.

8. The following rules for numbering of the items in the list have been used: For those wastes that were not changed, the code numbers from Commission Decision 94/3/EC have been used. The codes for wastes that were changed have been deleted and remain unused in order to avoid confusion after implementation of the new list. Wastes added have been given a code that has not been used in Commission Decision 94/3/EC and Commission Decision 2000/532/EC.

Index of Chapters of the list.

01 Wastes resulting from exploration, mining, quarrying, physical and chemical treatment of minerals

02 Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing

03 Wastes from wood processing and the production of panels and furniture, pulp, paper and cardboard

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04 Wastes from the leather, fur and textile industries

05 Wastes from petroleum refining, natural gas purification and pyrolytic treatment of coal

06 Wastes from inorganic chemical processes

07 Wastes from organic chemical processes

08 Wastes from the manufacture, formulation, supply and use (MFSU) of coatings (paints, varnishes and vitreous enamels), adhesives, sealants and printing inks

09 Wastes from the photographic industry

10 Wastes from thermal processes

11 Wastes from chemical surface treatment and coating of metals and other materials; non-ferrous hydro-metallurgy

12 Wastes from shaping and physical and mechanical surface treatment of metals and plastics

13 Oil wastes and wastes of liquid fuels (except edible oils, 05 and 12)

14 Waste organic solvents, refrigerants and propellants (except 07 and 08)

15 Waste packaging; absorbents, wiping cloths, filter materials and protective clothing not otherwise specified

16 Wastes not otherwise specified in the list

17 Construction and demolition wastes (including excavated soil from contaminated sites)

18 Wastes from human or animal health care and/or related research (except kitchen and restaurant wastes not arising from immediate health care)

19 Wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use

20 Municipal wastes (household waste and similar commercial, industrial and institutional wastes) including separately collected fractions

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01 WASTES RESULTING FROM EXPLORATION, MINING, QUARRYING, AND PHYSICAL AND CHEMICAL TREATMENT OF MINERALS

01 01	**wastes from mineral excavation**
01 01 01	wastes from mineral metalliferous excavation
01 01 02	wastes from mineral non-metalliferous excavation
01 03	**wastes from physical and chemical processing of metalliferous minerals**
01 03 04*	acid-generating tailings from processing of sulphide ore
01 03 05*	other tailings containing dangerous substances
01 03 06	tailings other than those mentioned in 01 03 04 and 01 03 05
01 03 07*	other wastes containing dangerous substances from physical and chemical processing of metalliferous minerals
01 03 08	dusty and powdery wastes other than those mentioned in 01 03 07
01 03 09	red mud from alumina production other than the wastes mentioned in 01 03 07
01 03 99	wastes not otherwise specified
01 04	**wastes from physical and chemical processing of non metalliferous minerals**
01 04 07*	wastes containing dangerous substances from physical and chemical processing of non-metalliferous minerals
01 04 08	waste gravel and crushed rocks other than those mentioned in 01 04 07
01 04 09	waste sand and clays
01 04 10	dusty and powdery wastes other than those mentioned in 01 04 07
01 04 11	wastes from potash and rock salt processing other than those mentioned in 01 04 07
01 04 12	tailings and other wastes from washing and cleaning of minerals other than those mentioned in 01 04 07 and 01 04 11

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01 04 13	wastes from stone cutting and sawing other than those mentioned in 01 04 07
01 04 99	wastes not otherwise specified
01 05	**drilling muds and other drilling wastes**
01 05 04	freshwater drilling muds and wastes
01 05 05*	oil-containing drilling muds and wastes
01 05 06*	drilling muds and other drilling wastes containing dangerous substances
01 05 07	barite-containing drilling muds and wastes other than those mentioned in 01 05 05 and 01 05 06
01 05 08	chloride-containing drilling muds and wastes other than those mentioned in 01 05 05 and 01 05 06
01 05 99	wastes not otherwise specified

02 WASTES FROM AGRICULTURE, HORTICULTURE, AQUACULTURE, FORESTRY, HUNTING AND FISHING, FOOD PREPARATION AND PROCESSING

02 01	**wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing**
02 01 01	sludges from washing and cleaning
02 01 02	animal-tissue waste
02 01 03	plant-tissue waste
02 01 04	waste plastics (except packaging)
02 01 06	animal faeces, urine and manure (including spoiled straw), effluent, collected separately and treated off-site
02 01 07	wastes from forestry
02 01 08*	agrochemical waste containing dangerous substances
02 01 09	agrochemical waste other than those mentioned in 02 01 08

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02 01 10	waste metal
02 01 99	wastes not otherwise specified
02 02	**wastes from the preparation and processing of meat, fish and other foods of animal origin**
02 02 01	sludges from washing and cleaning
02 02 02	animal-tissue waste
02 02 03	materials unsuitable for consumption or processing
02 02 04	sludges from on-site effluent treatment
02 02 99	wastes not otherwise specified
02 03	**wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation**
02 03 01	sludges from washing, cleaning, peeling, centrifuging and separation
02 03 02	wastes from preserving agents
02 03 03	wastes from solvent extraction
02 03 04	materials unsuitable for consumption or processing
02 03 05	sludges from on-site effluent treatment
02 03 99	wastes not otherwise specified
02 04	**wastes from sugar processing**
02 04 01	soil from cleaning and washing beet
02 04 02	off-specification calcium carbonate
02 04 03	sludges from on-site effluent treatment
02 04 99	wastes not otherwise specified
02 05	**wastes from the dairy products industry**

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02 05 01	materials unsuitable for consumption or processing
02 05 02	sludges from on-site effluent treatment
02 05 99	wastes not otherwise specified
02 06	**wastes from the baking and confectionery industry**
02 06 01	materials unsuitable for consumption or processing
02 06 02	wastes from preserving agents
02 06 03	sludges from on-site effluent treatment
02 06 99	wastes not otherwise specified
02 07	**wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa)**
02 07 01	wastes from washing, cleaning and mechanical reduction of raw materials
02 07 02	wastes from spirits distillation
02 07 03	wastes from chemical treatment
02 07 04	materials unsuitable for consumption or processing
02 07 05	sludges from on-site effluent treatment
02 07 99	wastes not otherwise specified

03 WASTES FROM WOOD PROCESSING AND THE PRODUCTION OF PANELS AND FURNITURE, PULP, PAPER AND CARDBOARD

03 01	**wastes from wood processing and the production of panels and furniture**
03 01 01	waste bark and cork
03 01 04*	sawdust, shavings, cuttings, wood, particle board and veneer containing dangerous substances
03 01 05	sawdust, shavings, cuttings, wood, particle board and veneer other than those mentioned in 03 01 04

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03 01 99	wastes not otherwise specified
03 02	**wastes from wood preservation**
03 02 01*	non-halogenated organic wood preservatives
03 02 02*	organochlorinated wood preservatives
03 02 03*	organometallic wood preservatives
03 02 04*	inorganic wood preservatives
03 02 05*	other wood preservatives containing dangerous substances
03 02 99	wood preservatives not otherwise specified
03 03	**wastes from pulp, paper and cardboard production and processing**
03 03 01	waste bark and wood
03 03 02	green liquor sludge (from recovery of cooking liquor)
03 03 05	de-inking sludges from paper recycling
03 03 07	mechanically separated rejects from pulping of waste paper and cardboard
03 03 08	wastes from sorting of paper and cardboard destined for recycling
03 03 09	lime mud waste
03 03 10	fibre rejects, fibre-, filler- and coating-sludges from mechanical separation
03 03 11	sludges from on-site effluent treatment other than those mentioned in 03 03 10
03 03 99	wastes not otherwise specified
04 WASTES FROM THE LEATHER, FUR AND TEXTILE INDUSTRIES	
04 01	**wastes from the leather and fur industry**
04 01 01	fleshings and lime split wastes
04 01 02	liming waste

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04 01 03*	degreasing wastes containing solvents without a liquid phase
04 01 04	tanning liquor containing chromium
04 01 05	tanning liquor free of chromium
04 01 06	sludges, in particular from on-site effluent treatment containing chromium
04 01 07	sludges, in particular from on-site effluent treatment free of chromium
04 01 08	waste tanned leather (blue sheetings, shavings, cuttings, buffing dust) containing chromium
04 01 09	wastes from dressing and finishing
04 01 99	wastes not otherwise specified
04 02	**wastes from the textile industry**
04 02 09	wastes from composite materials (impregnated textile, elastomer, plastomer)
04 02 10	organic matter from natural products (for example grease, wax)
04 02 14*	wastes from finishing containing organic solvents
04 02 15	wastes from finishing other than those mentioned in 04 02 14
04 02 16*	dyestuffs and pigments containing dangerous substances
04 02 17	dyestuffs and pigments other than those mentioned in 04 02 16
04 02 19*	sludges from on-site effluent treatment containing dangerous substances
04 02 20	sludges from on-site effluent treatment other than those mentioned in 04 02 19
04 02 21	wastes from unprocessed textile fibres
04 02 22	wastes from processed textile fibres
04 02 99	wastes not otherwise specified

05 WASTES FROM PETROLEUM REFINING, NATURAL GAS PURIFICATION AND PYROLYTIC TREATMENT OF COAL

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05 01	**wastes from petroleum refining**
05 01 02*	desalter sludges
05 01 03*	tank bottom sludges
05 01 04*	acid alkyl sludges
05 01 05*	oil spills
05 01 06*	oily sludges from maintenance operations of the plant or equipment
05 01 07*	acid tars
05 01 08*	other tars
05 01 09*	sludges from on-site effluent treatment containing dangerous substances
05 01 10	sludges from on-site effluent treatment other than those mentioned in 05 01 09
05 01 11*	wastes from cleaning of fuels with bases
05 01 12*	oil containing acids
05 01 13	boiler feedwater sludges
05 01 14	wastes from cooling columns
05 01 15*	spent filter clays
05 01 16	sulphur-containing wastes from petroleum desulphurisation
05 01 17	bitumen
05 01 99	wastes not otherwise specified
05 06	**wastes from the pyrolytic treatment of coal**
05 06 01*	acid tars
05 06 03*	other tars
05 06 04	waste from cooling columns

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05 06 99	wastes not otherwise specified
05 07	**wastes from natural gas purification and transportation**
05 07 01*	wastes containing mercury
05 07 02	wastes containing sulphur
05 07 99	wastes not otherwise specified

06 WASTES FROM INORGANIC CHEMICAL PROCESSES

06 01	**wastes from the manufacture, formulation, supply and use (MFSU) of acids**
06 01 01*	sulphuric acid and sulphurous acid
06 01 02*	hydrochloric acid
06 01 03*	hydrofluoric acid
06 01 04*	phosphoric and phosphorous acid
06 01 05*	nitric acid and nitrous acid
06 01 06*	other acids
06 01 99	wastes not otherwise specified
06 02	**wastes from the MFSU of bases**
06 02 01*	calcium hydroxide
06 02 03*	ammonium hydroxide
06 02 04*	sodium and potassium hydroxide
06 02 05*	other bases
06 02 99	wastes not otherwise specified
06 03	**wastes from the MFSU of salts and their solutions and metallic oxides**

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06 03 11*	solid salts and solutions containing cyanides
06 03 13*	solid salts and solutions containing heavy metals
06 03 14	solid salts and solutions other than those mentioned in 06 03 11 and 06 03 13
06 03 15*	metallic oxides containing heavy metals
06 03 16	metallic oxides other than those mentioned in 06 03 15
06 03 99	wastes not otherwise specified
06 04	**metal-containing wastes other than those mentioned in 06 03**
06 04 03*	wastes containing arsenic
06 04 04*	wastes containing mercury
06 04 05*	wastes containing other heavy metals
06 04 99	wastes not otherwise specified
06 05	**sludges from on-site effluent treatment**
06 05 02*	sludges from on-site effluent treatment containing dangerous substances
06 05 03	sludges from on-site effluent treatment other than those mentioned in 06 05 02
06 06	**wastes from the MFSU of sulphur chemicals, sulphur chemical processes and desulphurisation processes**
06 06 02*	wastes containing dangerous sulphides
06 06 03	wastes containing sulphides other than those mentioned in 06 06 02
06 06 99	wastes not otherwise specified
06 07	**wastes from the MFSU of halogens and halogen chemical processes**
06 07 01*	wastes containing asbestos from electrolysis
06 07 02*	activated carbon from chlorine production

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06 07 03*	barium sulphate sludge containing mercury
06 07 04*	solutions and acids, for example contact acid
06 07 99	wastes not otherwise specified
06 08	**wastes from the MFSU of silicon and silicon derivatives**
06 08 02*	wastes containing dangerous silicones
06 08 99	wastes not otherwise specified
06 09	**wastes from the MSFU of phosphorous chemicals and phosphorous chemical processes**
06 09 02	phosphorous slag
06 09 03*	calcium-based reaction wastes containing or contaminated with dangerous substances
06 09 04	calcium-based reaction wastes other than those mentioned in 06 09 03
06 09 99	wastes not otherwise specified
06 10	**wastes from the MFSU of nitrogen chemicals, nitrogen chemical processes and fertiliser manufacture**
06 10 02*	wastes containing dangerous substances
06 10 99	wastes not otherwise specified
06 11	**wastes from the manufacture of inorganic pigments and opacificiers**
06 11 01	calcium-based reaction wastes from titanium dioxide production
06 11 99	wastes not otherwise specified
06 13	**wastes from inorganic chemical processes not otherwise specified**
06 13 01*	inorganic plant protection products, wood-preserving agents and other biocides.
06 13 02*	spent activated carbon (except 06 07 02)

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06 13 03	carbon black
06 13 04*	wastes from asbestos processing
06 13 05*	soot
06 13 99	wastes not otherwise specified

07 WASTES FROM ORGANIC CHEMICAL PROCESSES

07 01	**wastes from the manufacture, formulation, supply and use (MFSU) of basic organic chemicals**
07 01 01*	aqueous washing liquids and mother liquors
07 01 03*	organic halogenated solvents, washing liquids and mother liquors
07 01 04*	other organic solvents, washing liquids and mother liquors
07 01 07*	halogenated still bottoms and reaction residues
07 01 08*	other still bottoms and reaction residues
07 01 09*	halogenated filter cakes and spent absorbents
07 01 10*	other filter cakes and spent absorbents
07 01 11*	sludges from on-site effluent treatment containing dangerous substances
07 01 12	sludges from on-site effluent treatment other than those mentioned in 07 01 11
07 01 99	wastes not otherwise specified
07 02	**wastes from the MFSU of plastics, synthetic rubber and man-made fibres**
07 02 01*	aqueous washing liquids and mother liquors
07 02 03*	organic halogenated solvents, washing liquids and mother liquors
07 02 04*	other organic solvents, washing liquids and mother liquors
07 02 07*	halogenated still bottoms and reaction residues
07 02 08*	other still bottoms and reaction residues

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07 02 09*	halogenated filter cakes and spent absorbents
07 02 10*	other filter cakes and spent absorbents
07 02 11*	sludges from on-site effluent treatment containing dangerous substances
07 02 12	sludges from on-site effluent treatment other than those mentioned in 07 02 11
07 02 13	waste plastic
07 02 14*	wastes from additives containing dangerous substances
07 02 15	wastes from additives other than those mentioned in 07 02 14
07 02 16*	wastes containing dangerous silicones
07 02 017	wastes containing silicones other than those mentioned in 07 02 16
07 02 99	wastes not otherwise specified
07 03	**wastes from the MFSU of organic dyes and pigments (except 06 11)**
07 03 01*	aqueous washing liquids and mother liquors
07 03 03*	organic halogenated solvents, washing liquids and mother liquors
07 03 04*	other organic solvents, washing liquids and mother liquors
07 03 07*	halogenated still bottoms and reaction residues
07 03 08*	other still bottoms and reaction residues
07 03 09*	halogenated filter cakes and spent absorbents
07 03 10*	other filter cakes and spent absorbents
07 03 11*	sludges from on-site effluent treatment containing dangerous substances
07 03 12	sludges from on-site effluent treatment other than those mentioned in 07 03 11
07 03 99	wastes not otherwise specified

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07 04	**wastes from the MFSU of organic plant protection products (except 02 01 08 and 02 01 09), wood preserving agents (except 03 02) and other biocides**
07 04 01*	aqueous washing liquids and mother liquors
07 04 03*	organic halogenated solvents, washing liquids and mother liquors
07 04 04*	other organic solvents, washing liquids and mother liquors
07 04 07*	halogenated still bottoms and reaction residues
07 04 08*	other still bottoms and reaction residues
07 04 09*	halogenated filter cakes and spent absorbents
07 04 10*	other filter cakes and spent absorbents
07 04 11*	sludges from on-site effluent treatment containing dangerous substances
07 04 12	sludges from on-site effluent treatment other than those mentioned in 07 04 11
07 04 13*	solid wastes containing dangerous substances
07 04 99	wastes not otherwise specified
07 05	**wastes from the MFSU of pharmaceuticals**
07 05 01*	aqueous washing liquids and mother liquors
07 05 03*	organic halogenated solvents, washing liquids and mother liquors
07 05 04*	other organic solvents, washing liquids and mother liquors
07 05 07*	halogenated still bottoms and reaction residues
07 05 08*	other still bottoms and reaction residues
07 05 09*	halogenated filter cakes and spent absorbents
07 05 10*	other filter cakes and spent absorbents
07 05 11*	sludges from on-site effluent treatment containing dangerous substances
07 05 12	sludges from on-site effluent treatment other than those mentioned in 07 05 11

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07 05 13*	solid wastes containing dangerous substances
07 05 14	solid wastes other than those mentioned in 07 05 13
07 05 99	wastes not otherwise specified
07 06	**wastes from the MFSU of fats, grease, soaps, detergents, disinfectants and cosmetics**
07 06 01*	aqueous washing liquids and mother liquors
07 06 03*	organic halogenated solvents, washing liquids and mother liquors
07 06 04*	other organic solvents, washing liquids and mother liquors
07 06 07*	halogenated still bottoms and reaction residues
07 06 08*	other still bottoms and reaction residues
07 06 09*	halogenated filter cakes and spent absorbents
07 06 10*	other filter cakes and spent absorbents
07 06 11*	sludges from on-site effluent treatment containing dangerous substances
07 06 12	sludges from on-site effluent treatment other than those mentioned in 07 06 11
07 06 99	wastes not otherwise specified
07 07	**wastes from the MFSU of fine chemicals and chemical products not otherwise specified**
07 07 01*	aqueous washing liquids and mother liquors
07 07 03*	organic halogenated solvents, washing liquids and mother liquors
07 07 04*	other organic solvents, washing liquids and mother liquors
07 07 07*	halogenated still bottoms and reaction residues
07 07 08*	other still bottoms and reaction residues
07 07 09*	halogenated filter cakes and spent absorbents

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07 07 10*	other filter cakes and spent absorbents
07 07 11*	sludges from on-site effluent treatment containing dangerous substances
07 07 12	sludges from on-site effluent treatment other than those mentioned in 07 07 11
07 07 99	wastes not otherwise specified

08 WASTES FROM THE MANUFACTURE, FORMULATION, SUPPLYAND USE (MFSU) OF COATINGS (PAINTS, VARNISHES AND VITREOUS ENAMELS), ADHESIVES, SEALANTS AND PRINTING INKS

08 01	**wastes from MFSU and removal of paint and varnish**
08 01 11*	waste paint and varnish containing organic solvents or other dangerous substances
08 01 12	waste paint and varnish other than those mentioned in 08 01 11
08 01 13*	sludges from paint or varnish containing organic solvents or other dangerous substances
08 01 14	sludges from paint or varnish other than those mentioned in 08 01 13
08 01 15*	aqueous sludges containing paint or varnish containing organic solvents or other dangerous substances
08 01 16	aqueous sludges containing paint or varnish other than those mentioned in 08 01 15
08 01 17*	wastes from paint or varnish removal containing organic solvents or other dangerous substances
08 01 18	wastes from paint or varnish removal other than those mentioned in 08 01 17
08 01 19*	aqueous suspensions containing paint or varnish containing organic solvents or other dangerous substances
08 01 20	aqueous suspensions containing paint or varnish other than those mentioned in 08 01 19
08 01 21*	waste paint or varnish remover

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08 01 99	wastes not otherwise specified
08 02	**wastes from MFSU of other coatings (including ceramic materials)**
08 02 01	waste coating powders
08 02 02	aqueous sludges containing ceramic materials
08 02 03	aqueous suspensions containing ceramic materials
08 02 99	wastes not otherwise specified
08 03	**wastes from MFSU of printing inks**
08 03 07	aqueous sludges containing ink
08 03 08	aqueous liquid waste containing ink
08 03 12*	waste ink containing dangerous substances
08 03 13	waste ink other than those mentioned in 08 03 12
08 03 14*	ink sludges containing dangerous substances
08 03 15	ink sludges other than those mentioned in 08 03 14
08 03 16*	waste etching solutions
08 03 17*	waste printing toner containing dangerous substances
08 03 18	waste printing toner other than those mentioned in 08 03 17
08 03 19*	disperse oil
08 03 99	wastes not otherwise specified
08 04	**wastes from MFSU of adhesives and sealants (including waterproofing products)**
08 04 09*	waste adhesives and sealants containing organic solvents or other dangerous substances
08 04 10	waste adhesives and sealants other than those mentioned in

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	08 04 09
08 04 11*	adhesive and sealant sludges containing organic solvents or other dangerous substances
08 04 12	adhesive and sealant sludges other than those mentioned in 08 04 11
08 04 13*	aqueous sludges containing adhesives or sealants containing organic solvents or other dangerous substances
08 04 14	aqueous sludges containing adhesives or sealants other than those mentioned in 08 04 13
08 04 15*	aqueous liquid waste containing adhesives or sealants containing organic solvents or other dangerous substances
08 04 16	aqueous liquid waste containing adhesives or sealants other than those mentioned in 08 04 15
08 04 17*	rosin oil
08 04 99	wastes not otherwise specified
08 05	**wastes not otherwise specified in 08**
08 05 01*	waste isocyanates

09 WASTES FROM THE PHOTOGRAPHIC INDUSTRY

09 01	**wastes from the photographic industry**
09 01 01*	water-based developer and activator solutions
09 01 02*	water-based offset plate developer solutions
09 01 03*	solvent-based developer solutions
09 01 04*	fixer solutions
09 01 05*	bleach solutions and bleach fixer solutions
09 01 06*	wastes containing silver from on-site treatment of photographic wastes

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09 01 07	photographic film and paper containing silver or silver compounds
09 01 08	photographic film and paper free of silver or silver compounds
09 01 10	single-use cameras without batteries
09 01 11*	single-use cameras containing batteries included in 16 06 01, 16 06 02 or 16 06 03
09 01 12	single-use cameras containing batteries other than those mentioned in 09 01 11
09 01 13*	aqueous liquid waste from on-site reclamation of silver other than those mentioned in 09 01 06
09 01 99	wastes not otherwise specified

10 WASTES FROM THERMAL PROCESSES

10 01	**wastes from power stations and other combustion plants (except 19)**
10 01 01	bottom ash, slag and boiler dust (excluding boiler dust mentioned in 10 01 04)
10 01 02	coal fly ash
10 01 03	fly ash from peat and untreated wood
10 01 04*	oil fly ash and boiler dust
10 01 05	calcium-based reaction wastes from flue-gas desulphurisation in solid form
10 01 07	calcium-based reaction wastes from flue-gas desulphurisation in sludge form
10 01 09*	sulphuric acid
10 01 13*	fly ash from emulsified hydrocarbons used as fuel
10 01 14*	bottom ash, slag and boiler dust from co-incineration containing dangerous substances
10 01 15	bottom ash, slag and boiler dust from co-incineration other than those mentioned in 10 01 14
10 01 16*	fly ash from co-incineration containing dangerous substances

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10 01 17	fly ash from co-incineration other than those mentioned in 10 01 16
10 01 18*	wastes from gas cleaning containing dangerous substances
10 01 19	wastes from gas cleaning other than those mentioned in 10 01 05, 10 01 07 and 10 01 18
10 01 20*	sludges from on-site effluent treatment containing dangerous substances
10 01 21	sludges from on-site effluent treatment other than those mentioned in 10 01 20
10 01 22*	aqueous sludges from boiler cleansing containing dangerous substances
10 01 23	aqueous sludges from boiler cleansing other than those mentioned in 10 01 22
10 01 24	sands from fluidised beds
10 01 25	wastes from fuel storage and preparation of coal-fired power plants
10 01 26	wastes from cooling-water treatment
10 01 99	wastes not otherwise specified
10 02	**wastes from the iron and steel industry**
10 02 01	wastes from the processing of slag
10 02 02	unprocessed slag
10 02 07*	solid wastes from gas treatment containing dangerous substances
10 02 08	solid wastes from gas treatment other than those mentioned in10 02 07
10 02 10	mill scales
10 02 11*	wastes from cooling-water treatment containing oil
10 02 12	wastes from cooling-water treatment other than those mentioned in 10 02 11
10 02 13*	sludges and filter cakes from gas treatment containing dangerous substances

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10 02 14	sludges and filter cakes from gas treatment other than those mentioned in 10 02 13
10 02 15	other sludges and filter cakes
10 02 99	wastes not otherwise specified
10 03	**wastes from aluminium thermal metallurgy**
10 03 02	anode scraps
10 03 04*	primary production slags
10 03 05	waste alumina
10 03 08*	salt slags from secondary production
10 03 09*	black drosses from secondary production
10 03 15*	skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
10 03 16	skimmings other than those mentioned in 10 03 15
10 03 17*	tar-containing wastes from anode manufacture
10 03 18	carbon-containing wastes from anode manufacture other than those mentioned in 10 03 17
10 03 19*	flue-gas dust containing dangerous substances
10 03 20	flue-gas dust other than those mentioned in 10 03 19
10 03 21*	other particulates and dust (including ball-mill dust) containing dangerous substances
10 03 22	other particulates and dust (including ball-mill dust) other than those mentioned in 10 03 21
10 03 23*	solid wastes from gas treatment containing dangerous substances
10 03 24	solid wastes from gas treatment other than those mentioned in 10 03 23

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10 03 25*	sludges and filter cakes from gas treatment containing dangerous substances
10 03 26	sludges and filter cakes from gas treatment other than those mentioned in 10 03 25
10 03 27*	wastes from cooling-water treatment containing oil
10 03 28	wastes from cooling-water treatment other than those mentioned in 10 03 27
10 03 29*	wastes from treatment of salt slags and black drosses containing dangerous substances
10 03 30	wastes from treatment of salt slags and black drosses other than those mentioned in 10 03 29
10 03 99	wastes not otherwise specified
10 04	**wastes from lead thermal metallurgy**
10 04 01*	slags from primary and secondary production
10 04 02*	dross and skimmings from primary and secondary production
10 04 03*	calcium arsenate
10 04 04*	flue-gas dust
10 04 05*	other particulates and dust
10 04 06*	solid wastes from gas treatment
10 04 07*	sludges and filter cakes from gas treatment
10 04 09*	wastes from cooling-water treatment containing oil
10 04 10	wastes from cooling-water treatment other than those mentioned in 10 04 09
10 04 99	wastes not otherwise specified
10 05	**wastes from zinc thermal metallurgy**
10 05 01	slags from primary and secondary production
10 05 03*	flue-gas dust

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10 05 04	other particulates and dust
10 05 05*	solid waste from gas treatment
10 05 06*	sludges and filter cakes from gas treatment
10 05 08*	wastes from cooling-water treatment containing oil
10 05 09	wastes from cooling-water treatment other than those mentioned in 10 05 08
10 05 10*	dross and skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
10 05 11	dross and skimmings other than those mentioned in 10 05 10
10 05 99	wastes not otherwise specified
10 06	**wastes from copper thermal metallurgy**
10 06 01	slags from primary and secondary production
10 06 02	dross and skimmings from primary and secondary production
10 06 03*	flue-gas dust
10 06 04	other particulates and dust
10 06 06*	solid wastes from gas treatment
10 06 07*	sludges and filter cakes from gas treatment
10 06 09*	wastes from cooling-water treatment containing oil
10 06 10	wastes from cooling-water treatment other than those mentioned in 10 06 09
10 06 99	wastes not otherwise specified
10 07	**wastes from silver, gold and platinum thermal metallurgy**
10 07 01	slags from primary and secondary production
10 07 02	dross and skimmings from primary and secondary production

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10 07 03	solid wastes from gas treatment
10 07 04	other particulates and dust
10 07 05	sludges and filter cakes from gas treatment
10 07 07*	wastes from cooling-water treatment containing oil
10 07 08	wastes from cooling-water treatment other than those mentioned in 10 07 07
10 07 99	wastes not otherwise specified
10 08	**wastes from other non-ferrous thermal metallurgy**
10 08 04	particulates and dust
10 08 08*	salt slag from primary and secondary production
10 08 09	other slags
10 08 10*	dross and skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
10 08 11	dross and skimmings other than those mentioned in 10 08 10
10 08 12*	tar-containing wastes from anode manufacture
10 08 13	carbon-containing wastes from anode manufacture other than those mentioned in 10 08 12
10 08 14	anode scrap
10 08 15*	flue-gas dust containing dangerous substances
10 08 16	flue-gas dust other than those mentioned in 10 08 15
10 08 17*	sludges and filter cakes from flue-gas treatment containing dangerous substances
10 08 18	sludges and filter cakes from flue-gas treatment other than those mentioned in 10 08 17
10 08 19*	wastes from cooling-water treatment containing oil

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10 08 20	wastes from cooling-water treatment other than those mentioned in 10 08 19
10 08 99	wastes not otherwise specified
10 09	**wastes from casting of ferrous pieces**
10 09 03	furnace slag
10 09 05*	casting cores and moulds which have not undergone pouring containing dangerous substances
10 09 06	casting cores and moulds which have not undergone pouring other than those mentioned in 10 09 05
10 09 07*	casting cores and moulds which have undergone pouring containing dangerous substances
10 09 08	casting cores and moulds which have undergone pouring other than those mentioned in 10 09 07
10 09 09*	flue-gas dust containing dangerous substances
10 09 10	flue-gas dust other than those mentioned in 10 09 09
10 09 11*	other particulates containing dangerous substances
10 09 12	other particulates other than those mentioned in 10 09 11
10 09 13*	waste binders containing dangerous substances
10 09 14	waste binders other than those mentioned in 10 09 13
10 09 15*	waste crack-indicating agent containing dangerous substances
10 09 16	waste crack-indicating agent other than those mentioned in 10 09 15
10 09 99	wastes not otherwise specified
10 10	**wastes from casting of non-ferrous pieces**
10 10 03	furnace slag

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10 10 05*	casting cores and moulds which have not undergone pouring, containing dangerous substances
10 10 06	casting cores and moulds which have not undergone pouring, other than those mentioned in 10 10 05
10 10 07*	casting cores and moulds which have undergone pouring, containing dangerous substances
10 10 08	casting cores and moulds which have undergone pouring, other than those mentioned in 10 10 07
10 10 09*	flue-gas dust containing dangerous substances
10 10 10	flue-gas dust other than those mentioned in 10 10 09
10 10 11*	other particulates containing dangerous substances
10 10 12	other particulates other than those mentioned in 10 10 11
10 10 13*	waste binders containing dangerous substances
10 10 14	waste binders other than those mentioned in 10 10 13
10 10 15*	waste crack-indicating agent containing dangerous substances
10 10 16	waste crack-indicating agent other than those mentioned in 10 10 15
10 10 99	wastes not otherwise specified
10 11	**wastes from manufacture of glass and glass products**
10 11 03	waste glass-based fibrous materials
10 11 05	particulates and dust
10 11 09*	waste preparation mixture before thermal processing, containing dangerous substances
10 11 10	waste preparation mixture before thermal processing, other than those mentioned in 10 11 09

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10 11 11*	waste glass in small particles and glass powder containing heavy metals (for example from cathode ray tubes)
10 11 12	waste glass other than those mentioned in 10 11 11
10 11 13*	glass-polishing and -grinding sludge containing dangerous substances
10 11 14	glass-polishing and -grinding sludge other than those mentioned in 10 11 13
10 11 15*	solid wastes from flue-gas treatment containing dangerous substances
10 11 16	solid wastes from flue-gas treatment other than those mentioned in 10 11 15
10 11 17*	sludges and filter cakes from flue-gas treatment containing dangerous substances
10 11 18	sludges and filter cakes from flue-gas treatment other than those mentioned in 10 11 17
10 11 19*	solid wastes from on-site effluent treatment containing dangerous substances
10 11 20	solid wastes from on-site effluent treatment other than those mentioned in 10 11 19
10 11 99	wastes not otherwise specified
10 12	**wastes from manufacture of ceramic goods, bricks, tiles and construction products**
10 12 01	waste preparation mixture before thermal processing
10 12 03	particulates and dust
10 12 05	sludges and filter cakes from gas treatment
10 12 06	discarded moulds
10 12 08	waste ceramics, bricks, tiles and construction products (after thermal processing)
10 12 09*	solid wastes from gas treatment containing dangerous substances
10 12 10	solid wastes from gas treatment other than those mentioned in 10 12 09

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10 12 11*	wastes from glazing containing heavy metals
10 12 12	wastes from glazing other than those mentioned in 10 12 11
10 12 13	sludge from on-site effluent treatment
10 12 99	wastes not otherwise specified
10 13	**wastes from manufacture of cement, lime and plaster and articles and products made from them**
10 13 01	waste preparation mixture before thermal processing
10 13 04	wastes from calcination and hydration of lime
10 13 06	particulates and dust (except 10 13 12 and 10 13 13)
10 13 07	sludges and filter cakes from gas treatment
10 13 09*	wastes from asbestos-cement manufacture containing asbestos
10 13 10	wastes from asbestos-cement manufacture other than those mentioned in 10 13 09
10 13 11	wastes from cement-based composite materials other than those mentioned in 10 13 09 and 10 13 10
10 13 12*	solid wastes from gas treatment containing dangerous substances
10 13 13	solid wastes from gas treatment other than those mentioned in 10 13 12
10 13 14	waste concrete and concrete sludge
10 13 99	wastes not otherwise specified
10 14	**waste from crematoria**
10 14 01*	waste from gas cleaning containing mercury

11 WASTES FROM CHEMICAL SURFACE TREATMENT AND COATING OF METALS AND OTHER MATERIALS; NON-FERROUS HYDRO-METALLURGY

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11 01	**wastes from chemical surface treatment and coating of metals and other materials (for example galvanic processes, zinc coating processes, pickling processes, etching, phosphating, alkaline degreasing, anodising)**
11 01 05*	pickling acids
11 01 06*	acids not otherwise specified
11 01 07*	pickling bases
11 01 08*	phosphatising sludges
11 01 09*	sludges and filter cakes containing dangerous substances
11 01 10	sludges and filter cakes other than those mentioned in 11 01 09
11 01 11*	aqueous rinsing liquids containing dangerous substances
11 01 12	aqueous rinsing liquids other than those mentioned in 11 01 11
11 01 13*	degreasing wastes containing dangerous substances
11 01 14	degreasing wastes other than those mentioned in 11 01 13
11 01 15*	eluate and sludges from membrane systems or ion exchange systems containing dangerous substances
11 01 16*	saturated or spent ion exchange resins
11 01 98*	other wastes containing dangerous substances
11 01 99	wastes not otherwise specified
11 02	**wastes from non-ferrous hydrometallurgical processes**
11 02 02*	sludges from zinc hydrometallurgy (including jarosite, goethite)
11 02 03	wastes from the production of anodes for aqueous electrolytical processes
11 02 05*	wastes from copper hydrometallurgical processes containing dangerous substances
11 02 06	wastes from copper hydrometallurgical processes other than those mentioned in 11 02 05

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11 02 07*	other wastes containing dangerous substances
11 02 99	wastes not otherwise specified
11 03	**sludges and solids from tempering processes**
11 03 01*	wastes containing cyanide
11 03 02*	other wastes
11 05	**wastes from hot galvanising processes**
11 05 01	hard zinc
11 05 02	zinc ash
11 05 03*	solid wastes from gas treatment
11 05 04*	spent flux
11 05 99	wastes not otherwise specified

12 WASTES FROM SHAPING AND PHYSICAL AND MECHANICAL SURFACE TREATMENT OF METALS AND PLASTICS

12 01	**wastes from shaping and physical and mechanical surface treatment of metals and plastics**
12 01 01	ferrous metal filings and turnings
12 01 02	ferrous metal dust and particles
12 01 03	non-ferrous metal filings and turnings
12 01 04	non-ferrous metal dust and particles
12 01 05	plastics shavings and turnings
12 01 06*	mineral-based machining oils containing halogens (except emulsions and solutions)
12 01 07*	mineral-based machining oils free of halogens (except emulsions and solutions)

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12 01 08*	machining emulsions and solutions containing halogens
12 01 09*	machining emulsions and solutions free of halogens
12 01 10*	synthetic machining oils
12 01 12*	spent waxes and fats
12 01 13	welding wastes
12 01 14*	machining sludges containing dangerous substances
12 01 15	machining sludges other than those mentioned in 12 01 14
12 01 16*	waste blasting material containing dangerous substances
12 01 17	waste blasting material other than those mentioned in 12 01 16
12 01 18*	metal sludge (grinding, honing and lapping sludge) containing oil
12 01 19*	readily biodegradable machining oil
12 01 20*	spent grinding bodies and grinding materials containing dangerous substances
12 01 21	spent grinding bodies and grinding materials other than those mentioned in 12 01 20
12 01 99	wastes not otherwise specified
12 03	**wastes from water and steam degreasing processes (except 11)**
12 03 01*	aqueous washing liquids
12 03 02*	steam degreasing wastes

13 OILWASTES ANDWASTES OF LIQUID FUELS (except edible oils, and those in chapters 05, 12 and 19)

13 01	**waste hydraulic oils**
13 01 01*	hydraulic oils, containing PCBs (1)
13 01 04*	chlorinated emulsions

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13 01 05*	non-chlorinated emulsions
13 01 09*	mineral-based chlorinated hydraulic oils
13 01 10*	mineral based non-chlorinated hydraulic oils
13 01 11*	synthetic hydraulic oils
13 01 12*	readily biodegradable hydraulic oils
13 01 13*	other hydraulic oils
13 02	**waste engine, gear and lubricating oils**
13 02 04*	mineral-based chlorinated engine, gear and lubricating oils
13 02 05*	mineral-based non-chlorinated engine, gear and lubricating oils
13 02 06*	synthetic engine, gear and lubricating oils
13 02 07*	readily biodegradable engine, gear and lubricating oils
13 02 08*	other engine, gear and lubricating oils
13 03	**waste insulating and heat transmission oils**
13 03 01*	insulating or heat transmission oils containing PCBs
13 03 06*	mineral-based chlorinated insulating and heat transmission oils other than those mentioned in 13 03 01
13 03 07*	mineral-based non-chlorinated insulating and heat transmission oils
13 03 08*	synthetic insulating and heat transmission oils
13 03 09*	readily biodegradable insulating and heat transmission oils
13 03 10*	other insulating and heat transmission oils
13 04	**bilge oils**
13 04 01*	bilge oils from inland navigation
13 04 02*	bilge oils from jetty sewers

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13 04 03*	bilge oils from other navigation
13 05	**oil/water separator contents**
13 05 01*	solids from grit chambers and oil/water separators
13 05 02*	sludges from oil/water separators
13 05 03*	interceptor sludges
13 05 06*	oil from oil/water separators
13 05 07*	oily water from oil/water separators
13 05 08*	mixtures of wastes from grit chambers and oil/water separators
13 07	**wastes of liquid fuels**
13 07 01*	fuel oil and diesel
13 07 02*	petrol
13 07 03*	other fuels (including mixtures)
13 08	**oil wastes not otherwise specified**
13 08 01*	desalter sludges or emulsions
13 08 02*	other emulsions
13 08 99*	wastes not otherwise specified

14 WASTE ORGANIC SOLVENTS, REFRIGERANTS AND PROPELLANTS (except 07 and 08)

14 06	**waste organic solvents, refrigerants and foam/aerosol propellants**
14 06 01*	chlorofluorocarbons, HCFC, HFC
14 06 02*	other halogenated solvents and solvent mixtures
14 06 03*	other solvents and solvent mixtures

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14 06 04* sludges or solid wastes containing halogenated solvents

14 06 05* sludges or solid wastes containing other solvents

15 WASTE PACKAGING; ABSORBENTS, WIPING CLOTHS, FILTER MATERIALS AND PROTECTIVE CLOTHING NOT OTHERWISE SPECIFIED

15 01 packaging (including separately collected municipal packaging waste)

15 01 01 paper and cardboard packaging

15 01 02 plastic packaging

15 01 03 wooden packaging

15 01 04 metallic packaging

15 01 05 composite packaging

15 01 06 mixed packaging

15 01 07 glass packaging

15 01 09 textile packaging

15 01 10* packaging containing residues of or contaminated by dangerous substances

15 01 11* metallic packaging containing a dangerous solid porous matrix (for example asbestos), including empty pressure containers

15 02 absorbents, filter materials, wiping cloths and protective clothing

15 02 02* absorbents, filter materials (including oil filters not otherwise specified), wiping cloths, protective clothing contaminated by dangerous substances

15 02 03 absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 15 02 02

16 WASTES NOT OTHERWISE SPECIFIED IN THE LIST

16 01 end-of-life vehicles from different means of transport (including off-road machinery) and wastes from dismantling of end-of-life vehicles and vehicle maintenance (except 13, 14, 16 06 and 16 08)

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16 01 03	end-of-life tyres
16 01 04*	end-of-life vehicles
16 01 06	end-of-life vehicles, containing neither liquids nor other hazardous components
16 01 07*	oil filters
16 01 08*	components containing mercury
16 01 09*	components containing PCBs
16 01 10*	explosive components (for example air bags)
16 01 11*	brake pads containing asbestos
16 01 12	brake pads other than those mentioned in 16 01 11
16 01 13*	brake fluids
16 01 14*	antifreeze fluids containing dangerous substances
16 01 15	antifreeze fluids other than those mentioned in 16 01 14
16 01 16	tanks for liquefied gas
16 01 17	ferrous metal
16 01 18	non-ferrous metal
16 01 19	plastic
16 01 20	glass
16 01 21*	hazardous components other than those mentioned in 16 01 07 to 16 01 11 and 16 01 13 and 16 01 14
16 01 22	components not otherwise specified
16 01 99	wastes not otherwise specified
16 02	**wastes from electrical and electronic equipment**
16 02 09*	transformers and capacitors containing PCBs

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16 02 10*	discarded equipment containing or contaminated by PCBs other than those mentioned in 16 02 09
16 02 11*	discarded equipment containing chlorofluorocarbons, HCFC, HFC
16 02 12*	discarded equipment containing free asbestos
16 02 13*	discarded equipment containing hazardous components (2) other than those mentioned in 16 02 09 to 16 02 12
16 02 14	discarded equipment other than those mentioned in 16 02 09 to 16 02 13
16 02 15*	hazardous components removed from discarded equipment
16 02 16	components removed from discarded equipment other than those mentioned in 16 02 15
16 03	**off-specification batches and unused products**
16 03 03*	inorganic wastes containing dangerous substances
16 03 04	inorganic wastes other than those mentioned in 16 03 03
16 03 05*	organic wastes containing dangerous substances
16 03 06	organic wastes other than those mentioned in 16 03 05
16 04	**waste explosives**
16 04 01*	waste ammunition
16 04 02*	fireworks wastes
16 04 03*	other waste explosives
16 05	**gases in pressure containers and discarded chemicals**
16 05 04*	gases in pressure containers (including halons) containing dangerous substances
16 05 05	gases in pressure containers other than those mentioned in 16 05 04
16 05 06*	laboratory chemicals, consisting of or containing dangerous substances, including mixtures of laboratory chemicals

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16 05 07*	discarded inorganic chemicals consisting of or containing dangerous substances
16 05 08*	discarded organic chemicals consisting of or containing dangerous substances
16 05 09	discarded chemicals other than those mentioned in 16 05 06, 16 05 07 or 16 05 08
16 06	**batteries and accumulators**
16 06 01*	lead batteries
16 06 02*	Ni-Cd batteries
16 06 03*	mercury-containing batteries
16 06 04	alkaline batteries (except 16 06 03)
16 06 05	other batteries and accumulators
16 06 06*	separately collected electrolyte from batteries and accumulators
16 07	**wastes from transport tank, storage tank and barrel cleaning (except 05 and 13)**
16 07 08*	wastes containing oil
16 07 09*	wastes containing other dangerous substances
16 07 99	wastes not otherwise specified
16 08	**spent catalysts**
16 08 01	spent catalysts containing gold, silver, rhenium, rhodium, palladium, iridium or platinum (except 16 08 07)
16 08 02*	spent catalysts containing dangerous transition metals (3) or dangerous transition metal compounds
16 08 03	spent catalysts containing transition metals or transition metal compounds not otherwise specified
16 08 04	spent fluid catalytic cracking catalysts (except 16 08 07)

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16 08 05*	spent catalysts containing phosphoric acid
16 08 06*	spent liquids used as catalysts
16 08 07*	spent catalysts contaminated with dangerous substances
16 09	**oxidising substances**
16 09 01*	permanganates, for example potassium permanganate
16 09 02*	chromates, for example potassium chromate, potassium or sodium dichromate
16 09 03*	peroxides, for example hydrogen peroxide
16 09 04*	oxidising substances, not otherwise specified
16 10	**aqueous liquid wastes destined for off-site treatment**
16 10 01*	aqueous liquid wastes containing dangerous substances
16 10 02	aqueous liquid wastes other than those mentioned in 16 10 01
16 10 03*	aqueous concentrates containing dangerous substances
16 10 04	aqueous concentrates other than those mentioned in 16 10 03
16 11	**waste linings and refractories**
16 11 01*	carbon-based linings and refractories from metallurgical processes containing dangerous substances
16 11 02	carbon-based linings and refractories from metallurgical processes others than those mentioned in 16 11 01
16 11 03*	other linings and refractories from metallurgical processes containing dangerous substances
16 11 04	other linings and refractories from metallurgical processes other than those mentioned in 16 11 03
16 11 05*	linings and refractories from non-metallurgical processes containing dangerous substances

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16 11 06	linings and refractories from non-metallurgical processes others than those mentioned in 16 11 05

17 CONSTRUCTION AND DEMOLITION WASTES (INCLUDING EXCAVATED SOIL FROM CONTAMINATED SITES)

17 01	**concrete, bricks, tiles and ceramics**
17 01 01	concrete
17 01 02	bricks
17 01 03	tiles and ceramics
17 01 06*	mixtures of, or separate fractions of concrete, bricks, tiles and ceramics containing dangerous substances
17 01 07	mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06
17 02	**wood, glass and plastic**
17 02 01	wood
17 02 02	glass
17 02 03	plastic
17 02 04*	glass, plastic and wood containing or contaminated with dangerous substances
17 03	**bituminous mixtures, coal tar and tarred products**
17 03 01*	bituminous mixtures containing coal tar
17 03 02	bituminous mixtures other than those mentioned in 17 03 01
17 03 03*	coal tar and tarred products
17 04	**metals (including their alloys)**
17 04 01	copper, bronze, brass
17 04 02	aluminium

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17 04 03	lead
17 04 04	zinc
17 04 05	iron and steel
17 04 06	tin
17 04 07	mixed metals
17 04 09*	metal waste contaminated with dangerous substances
17 04 10*	cables containing oil, coal tar and other dangerous substances
17 04 11	cables other than those mentioned in 17 04 10
17 05	**soil (including excavated soil from contaminated sites), stones and dredging spoil**
17 05 03*	soil and stones containing dangerous substances
17 05 04	soil and stones other than those mentioned in 17 05 03
17 05 05*	dredging spoil containing dangerous substances
17 05 06	dredging spoil other than those mentioned in 17 05 05
17 05 07*	track ballast containing dangerous substances
17 05 08	track ballast other than those mentioned in 17 05 07
17 06	**insulation materials and asbestos-containing construction materials**
17 06 01*	insulation materials containing asbestos
17 06 03*	other insulation materials consisting of or containing dangerous substances
17 06 04	insulation materials other than those mentioned in 17 06 01 and 17 06 03
17 06 05*	construction materials containing asbestos
17 08	**gypsum-based construction material**

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17 08 01*	gypsum-based construction materials contaminated with dangerous substances
17 08 02	gypsum-based construction materials other than those mentioned in 17 08 01
17 09	**other construction and demolition wastes**
17 09 01*	construction and demolition wastes containing mercury
17 09 02*	construction and demolition wastes containing PCB (for example PCB containing sealants, PCB-containing resin-based floorings, PCB-containing sealed glazing units, PCB-containing capacitors)
17 09 03*	other construction and demolition wastes (including mixed wastes) containing dangerous substances
17 09 04	mixed construction and demolition wastes other than those mentioned in 17 09 01, 17 09 02 and 17 09 03

18 WASTES FROM HUMAN OR ANIMAL HEALTH CARE AND/OR RELATED RESEARCH (except kitchen and restaurant wastes not arising from immediate health care)

18 01	**wastes from natal care, diagnosis, treatment or prevention of disease in humans**
18 01 01	sharps (except 18 01 03)
18 01 02	body parts and organs including blood bags and blood preserves (except 18 01 03)
18 01 03*	wastes whose collection and disposal is subject to special requirements in order to prevent infection
18 01 04	wastes whose collection and disposal is not subject to special requirements in order to prevent infection (for example dressings, plaster casts, linen, disposable clothing, diapers)
18 01 06*	chemicals consisting of or containing dangerous substances
18 01 07	chemicals other than those mentioned in 18 01 06
18 01 08*	cytotoxic and cytostatic medicines
18 01 09	medicines other than those mentioned in 18 01 08

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18 01 10*	amalgam waste from dental care
18 02	**wastes from research, diagnosis, treatment or prevention of disease involving animals**
18 02 01	sharps (except 18 02 02)
18 02 02*	wastes whose collection and disposal is subject to special requirements in order to prevent infection
18 02 03	wastes whose collection and disposal is not subject to special requirements in order to prevent infection
18 02 05*	chemicals consisting of or containing dangerous substances
18 02 06	chemicals other than those mentioned in 18 02 05
18 02 07*	cytotoxic and cytostatic medicines
18 02 08	medicines other than those mentioned in 18 02 07

19 WASTES FROM WASTE MANAGEMENT FACILITIES, OFF-SITE WASTE WATER TREATMENT PLANTS AND THE PREPARATION OF WATER INTENDED FOR HUMAN CONSUMPTION AND WATER FOR INDUSTRIAL USE

19 01	**wastes from incineration or pyrolysis of waste**
19 01 02	ferrous materials removed from bottom ash
19 01 05*	filter cake from gas treatment
19 01 06*	aqueous liquid wastes from gas treatment and other aqueous liquid wastes
19 01 07*	solid wastes from gas treatment
19 01 10*	spent activated carbon from flue-gas treatment
19 01 11*	bottom ash and slag containing dangerous substances
19 01 12	bottom ash and slag other than those mentioned in 19 01 11
19 01 13*	fly ash containing dangerous substances

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19 01 14	fly ash other than those mentioned in 19 01 13
19 01 15*	boiler dust containing dangerous substances
19 01 16	boiler dust other than those mentioned in 19 01 15
19 01 17*	pyrolysis wastes containing dangerous substances
19 01 18	pyrolysis wastes other than those mentioned in 19 01 17
19 01 19	sands from fluidised beds
19 01 99	wastes not otherwise specified
19 02	**wastes from physico/chemical treatments of waste (including dechromatation, decyanidation, neutralisation)**
19 02 03	premixed wastes composed only of non-hazardous wastes
19 02 04*	premixed wastes composed of at least one hazardous waste
19 02 05*	sludges from physico/chemical treatment containing dangerous substances
19 02 06	sludges from physico/chemical treatment other than those mentioned in 19 02 05
19 02 07*	oil and concentrates from separation
19 02 08*	liquid combustible wastes containing dangerous substances
19 02 09*	solid combustible wastes containing dangerous substances
19 02 10	combustible wastes other than those mentioned in 19 02 08 and 19 02 09
19 02 11*	other wastes containing dangerous substances
19 02 99	wastes not otherwise specified
19 03	**stabilised/solidified wastes** (4)
19 03 04*	wastes marked as hazardous, partly (5) stabilised
19 03 05	stabilised wastes other than those mentioned in 19 03 04

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19 03 06*	wastes marked as hazardous, solidified
19 03 07	solidified wastes other than those mentioned in 19 03 06
19 04	**vitrified waste and wastes from vitrification**
19 04 01	vitrified waste
19 04 02*	fly ash and other flue-gas treatment wastes
19 04 03*	non-vitrified solid phase
19 04 04	aqueous liquid wastes from vitrified waste tempering
19 05	**wastes from aerobic treatment of solid wastes**
19 05 01	non-composted fraction of municipal and similar wastes
19 05 02	non-composted fraction of animal and vegetable waste
19 05 03	off-specification compost
19 05 99	wastes not otherwise specified
19 06	**wastes from anaerobic treatment of waste**
19 06 03	liquor from anaerobic treatment of municipal waste
19 06 04	digestate from anaerobic treatment of municipal waste
19 06 05	liquor from anaerobic treatment of animal and vegetable waste
19 06 06	digestate from anaerobic treatment of animal and vegetable waste
19 06 99	wastes not otherwise specified
19 07	**landfill leachate**
19 07 02*	landfill leachate containing dangerous substances
19 07 03	landfill leachate other than those mentioned in 19 07 02
19 08	**wastes from waste water treatment plants not otherwise specified**

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19 08 01	screenings
19 08 02	waste from desanding
19 08 05	sludges from treatment of urban waste water
19 08 06*	saturated or spent ion exchange resins
19 08 07*	solutions and sludges from regeneration of ion exchangers
19 08 08*	membrane system waste containing heavy metals
19 08 09	grease and oil mixture from oil/water separation containing only edible oil and fats
19 08 10*	grease and oil mixture from oil/water separation other than those mentioned in 19 08 09
19 08 11*	sludges containing dangerous substances from biological treatment of industrial waste water 19 08 12 sludges from biological treatment of industrial waste water other than those mentioned in 19 08 11
19 08 13*	sludges containing dangerous substances from other treatment of industrial waste water
19 08 14	sludges from other treatment of industrial waste water other than those mentioned in 19 08 13
19 08 99	wastes not otherwise specified
19 09	**wastes from the preparation of water intended for human consumption or water for industrial use**
19 09 01	solid waste from primary filtration and screenings
19 09 02	sludges from water clarification
19 09 03	sludges from decarbonation
19 09 04	spent activated carbon
19 09 05	saturated or spent ion exchange resins
19 09 06	solutions and sludges from regeneration of ion exchangers

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19 09 99	wastes not otherwise specified
19 10	**wastes from shredding of metal-containing wastes**
19 10 01	iron and steel waste
19 10 02	non-ferrous waste
19 10 03*	fluff-light fraction and dust containing dangerous substances
19 10 04	fluff-light fraction and dust other than those mentioned in 19 10 03
19 10 05*	other fractions containing dangerous substances
19 10 06	other fractions other than those mentioned in 19 10 05
19 11	**wastes from oil regeneration**
19 11 01*	spent filter clays
19 11 02*	acid tars
19 11 03*	aqueous liquid wastes
19 11 04*	wastes from cleaning of fuel with bases
19 11 05*	sludges from on-site effluent treatment containing dangerous substances
19 11 06	sludges from on-site effluent treatment other than those mentioned in 19 11 05
19 11 07*	wastes from flue-gas cleaning
19 11 99	wastes not otherwise specified
19 12	**wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified**
19 12 01	paper and cardboard
19 12 02	ferrous metal
19 12 03	non-ferrous metal

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19 12 04	plastic and rubber
19 12 05	glass
19 12 06*	wood containing dangerous substances
19 12 07	wood other than that mentioned in 19 12 06
19 12 08	textiles
19 12 09	minerals (for example sand, stones)
19 12 10	combustible waste (refuse derived fuel)
19 12 11*	other wastes (including mixtures of materials) from mechanical treatment of waste containing dangerous substances
19 12 12	other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11
19 13	**wastes from soil and groundwater remediation**
19 13 01*	solid wastes from soil remediation containing dangerous substances
19 13 02	solid wastes from soil remediation other than those mentioned in 19 13 01
19 13 03*	sludges from soil remediation containing dangerous substances
19 13 04	sludges from soil remediation other than those mentioned in 19 13 03
19 13 05*	sludges from groundwater remediation containing dangerous substances
19 13 06	sludges from groundwater remediation other than those mentioned in 19 13 05
19 13 07*	aqueous liquid wastes and aqueous concentrates from groundwater remediation containing dangerous substances
19 13 08	aqueous liquid wastes and aqueous concentrates from groundwater remediation other than those mentioned in 19 13 07

20 MUNICIPAL WASTES (HOUSEHOLD WASTE AND SIMILAR COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL WASTES) INCLUDING SEPARATELY COLLECTED FRACTIONS

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20 01	**separately collected fractions (except 15 01)**
20 01 01	paper and cardboard
20 01 02	glass
20 01 08	biodegradable kitchen and canteen waste
20 01 10	clothes
20 01 11	textiles
20 01 13*	solvents
20 01 14*	acids
20 01 15*	alkalines
20 01 17*	photochemicals
20 01 19*	pesticides
20 01 21*	fluorescent tubes and other mercury-containing waste
20 01 23*	discarded equipment containing chlorofluorocarbons
20 01 25	edible oil and fat
20 01 26*	oil and fat other than those mentioned in 20 01 25
20 01 27*	paint, inks, adhesives and resins containing dangerous substances
20 01 28	paint, inks, adhesives and resins other than those mentioned in 20 01 27
20 01 29*	detergents containing dangerous substances
20 01 30	detergents other than those mentioned in 20 01 29
20 01 31*	cytotoxic and cytostatic medicines
20 01 32	medicines other than those mentioned in 20 01 31

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20 01 33*	batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
20 01 34	batteries and accumulators other than those mentioned in 20 01 33
20 01 35*	discarded electrical and electronic equipment other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components (6)
20 01 36	discarded electrical and electronic equipment other than those mentioned in 20 01 21, 20 01 23 and 20 01 35
20 01 37*	wood containing dangerous substances
20 01 38	wood other than that mentioned in 20 01 37
20 01 39	plastics
20 01 40	metals
20 01 41	wastes from chimney sweeping
20 01 99	other fractions not otherwise specified
20 02	**garden and park wastes (including cemetery waste)**
20 02 01	biodegradable waste
20 02 02	soil and stones
20 02 03	other non-biodegradable wastes
20 03	**other municipal wastes**
20 03 01	mixed municipal waste
20 03 02	waste from markets
20 03 03	street-cleaning residues
20 03 04	septic tank sludge
20 03 06	waste from sewage cleaning
20 03 07	bulky waste

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20 03 99 municipal wastes not otherwise specified

(1) For the purpose of this list of wastes, PCBs will be defined as in Directive 96/59/EC.

(2) Hazardous components from electrical and electronic equipment may include accumulators and batteries mentioned in 16 06 and marked as hazardous; mercury switches, glass from cathode ray tubes and other activated glass, etc.

(3) For the purpose of this entry, transition metals are: scandium, vanadium, manganese, cobalt, copper, yttrium, niobium, hafnium, tungsten, titanium, chromium, iron, nickel, zinc, zirconium, molybdenum and tantalum. These metals or their compounds are dangerous if they are classified as dangerous substances. The classification of dangerous substances shall determine which among those transition metals and which transition metal compounds are hazardous.

(4) Stabilisation processes change the dangerousness of the constituents in the waste and thus transform hazardous waste into non-hazardous waste. Solidification processes only change the physical state of the waste (e.g. liquid into solid) by using additives without changing the chemical properties of the waste.

(5) A waste is considered as partly stabilised if, after the stabilisation process, dangerous constituents which have not been changed completely into non-dangerous constituents could be released into the environment in the short, middle or long term.

(6) Hazardous components from electrical and electronic equipment may include accumulators and batteries mentioned in 16 06 and marked as hazardous; mercury switches, glass from cathode ray tubes and other activated glass etc.

PART II
PROPERTIES OF WASTE WHICH RENDER IT HAZARDOUS

H1 "Explosive": substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.

H2 "Oxidizing": substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.

H3-A "Highly flammable":

- liquid substances and preparations having a flash point below 21°C (including extremely flammable liquids), or

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- substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or

- solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed afterremoval of the source of ignition, or

- gaseous substances and preparations which are flammable in air at normal pressure, or

- substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities.

H3-B "Flammable": liquid substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C.

H4 "Irritant": non-corrosive substances and preparations which, through immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation.

H5 "Harmful": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.

H6 "Toxic": substances and preparations (including very toxic substances and preparations) which, if they are inhaled or ingested or if they penetrate the skin, may involve serious, acute or chronic health risks and even death.

H7 "Carcinogenic": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce cancer or increase its incidence.

H8 "Corrosive": substances and preparations which may destroy living tissue on contact.

H9 "Infectious": substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.

H10 "Toxic for reproduction": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence.

H11 "Mutagenic": substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce hereditary genetic defects or increase their incidence.

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H12 Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid.

H13* Substances and preparations which, if they are inhaled or if they penetrate the sin, are capable of eliciting a reaction of hypersensitisation such that on further exposure to the substance or preparation, characteristic adverse effects are produced.

H14 "Ecotoxic": substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment (*) As far as testing methods are available.

H15 Waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above.

Notes

1. Attribution of the hazardous properties 'toxic' (and 'very toxic'), 'harmful', 'corrosive', 'irritant', 'carcinogenic', 'toxic to reproduction', 'mutagenic' and 'eco-toxic' is made on the basis of the criteria laid down by Annex VI, to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (1).

2. Where relevant the limit values listed in Annex II and III to Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (2) shall apply.

Test methods

The methods to be used are described in Annex V to Directive 67/548/EEC and in other relevant CEN-notes.

PART III

THRESHOLDS FOR CERTAIN HAZARDOUS PROPERTIES

In the waste:

- the total concentration of substances classified as irritant and having assigned to them any of the risk phrases R36 ("irritating to the eyes"), R37 ("irritating to the respiratory system") or R38 ("irritating to the skin") is equal to or greater than 20%;

- the total concentration of substances classified as irritant and having assigned to them the risk phrase R41 ("risk of serious damage to eyes") is equal to or greater than 10%;

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- the total concentration of substances classified as harmful is equal to or greater than 25%;

- the total concentration of substances classified as very toxic is equal to or greater than 0.1%;

- the total concentration of substances classified as toxic is equal to or greater than 3%;

- the total concentration of substances classified as carcinogenic and placed by the approved classification and labelling guide in category 1 or 2 of that classification is equal to or greater than 0.1%;

- the total concentration of substances classified as corrosive and having assigned to them the risk phrase R34 ("causes burns") is equal to or greater than 5%; and

- the total concentration of substances classified as corrosive and having assigned to them the risk phrase R35 ("causes severe burns") is equal to or greater than 1%.".

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SCHEDULE 11B

192C(5)(a)

WASTE HIERARCHY

1. The following waste hierarchy shall apply as a priority order in waste prevention and management−

(a) prevention;

(b) preparing for re-use;

(c) recycling;

(d) other recovery, e.g. energy recovery; and

(e) disposal.

2. When applying the waste hierarchy referred to in paragraph 1, the competent authority shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.

3. The competent authority shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts.

3A. The Government shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Schedule 11C or other appropriate instruments and measures.

PRINCIPLES OF SELF-SUFFICIENCY AND PROXIMITY

4. The competent authority shall take appropriate measures, in cooperation with competent authorities in other Member States where this is necessary or advisable, to establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account best available techniques.

5. By way of derogation from Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, the competent authority may, in order to protect the network referred to in paragraph 4, limit incoming shipments of waste destined to incinerators that are classified as recovery, where it has been established that such shipments

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would result in national waste having to be disposed of or waste having to be treated in a way that is not consistent with its waste management plans. The Government shall ensure that the Commission is notified of any such decision. The competent authority may also limit outgoing shipments of waste on environmental grounds as set out in Regulation (EC) No 1013/2006.

6. The network referred to in paragraph 4 shall be designed to enable the European Union as a whole to become self-sufficient in waste disposal as well as in the recovery of waste referred to in paragraph 4, and to enable the competent authority to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

7. The network referred to in paragraph 4 shall enable waste to be disposed of or waste referred to in paragraph 4 to be recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.

8. The principles of proximity and self-sufficiency shall not mean that the competent authority has to possess the full range of final recovery facilities within Gibraltar.

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SCHEDULE 11C

Section 192C(5)(a), 192MA and Schedule 11B

Examples of economic instruments and other measures to provide incentives for the application of the waste hierarchy referred to in Schedule 11B.

1. Charges and restrictions for the landfilling and incineration of waste which incentivise waste prevention and recycling, while keeping landfilling the least preferred waste management option;

2. "Pay as you throw" schemes that charge waste producers or importers on the basis of the actual amount of waste generated and provide incentives for separation at source of recyclable waste and for reduction of mixed waste;

3. Fiscal incentives for donation of products, in particular food;

4. Extended producer responsibility schemes for various types of waste and measures to increase their effectiveness, cost efficiency and governance;

5. Deposit-refund schemes and other measures to encourage efficient collection of used products and materials;

6. Sound planning of investments in waste management infrastructure;

7. Sustainable public procurement to encourage better waste management and the use of recycled products and materials;

8. Phasing out of subsidies which are not consistent with the waste hierarchy;

9. Use of fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled;

10. Support to research and innovation in advanced recycling technologies and remanufacturing;

11. Use of best available techniques for waste treatment;

12. Promotion of waste prevention and intensification of separate collection schemes, while avoiding support to landfilling and incineration;

13. Public awareness campaigns, in particular on separate collection, waste prevention and litter reduction, and mainstreaming these issues in education and training;

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14. Systems of coordination, including by digital means, between all competent public authorities involved in waste management;

15. Promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.

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SCHEDULE 12

Section 192A

DISPOSAL OPERATIONS

D 1. Deposit into or onto land (e.g. landfill, etc.);

D 2. Land treatment (e.g. biodegradation of liquid or sludgy discards in soils etc.);

D 3. Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories etc.);

D 4. Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons etc.);

D 5. Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.);

D 6. Release into a water body except seas/oceans;

D 7. Release into seas/oceans including seabed insertion;

D 8. Biological treatment not specified elsewhere in this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12;

D 9. Physico-chemical treatment not specified elsewhere in this Schedule which results in the final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcinations, etc.);

D 10. Incineration on land;

D 11. Incineration at sea(*);

D 12. Permanent storage (e.g. emplacement of containers in a mine etc.);

D 13. Blending or mixture prior to submission to any of the operations numbered D 1 to D 12(**);

D 14. Repacking prior to submission to any of the operations numbered D 1 to D 13;

D 15. Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage, pending collection, on the site where ~~it~~ the waste is produced)(***).

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(*) This operation is prohibited by EU legislation and international conventions.

(**) If there is no other D code appropriate, this can include preliminary operations prior to disposal including pre-processing such as, inter alia, sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to any of the operations numbered D1 to D12.

(***) Temporary storage means preliminary storage according to point (10) of Article 3.

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SCHEDULE 13

Section 192A

OPERATIONS WHICH MAY LEAD TO RECOVERY

R1. Use principally as a fuel or other means to generate energy(1);

R2. Solvent reclamation/regeneration;

R3. Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes) [2];

R4. Recycling/reclamation of metal and metal compounds[2a];

R5. Recycling/reclamation of other inorganic materials [3];

R6. Regeneration of acids or bases;

R7. Recovery of components used for pollution abatement;

R8. Recovery of components from catalysts;

R9. Oil re-refining or other reuses of oil;

R10. Land treatment resulting in benefit to agriculture or ecological improvement;

R11. Use of waste obtained from any of the operations numbered R1 to R10;

R12. Exchange of waste~~s~~ for submission to any of the operations numbered R1 to R11(4);

R13. Storage of waste~~s~~ pending any of the operations numbered R1 to R12 (excluding temporary storage, pending collection, on the site where ~~it~~ the waste is produced)(5);

(1) This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or above:

— 0,60 for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009,

— 0,65 for installations permitted after 31 December 2008, using the following formula:

Energy efficiency = (Ep - (Ef + Ei))/(0,97 × (Ew + Ef))

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In which:

Ep means annual energy produced as heat or electricity. It is calculated with energy in the form of electricity being multiplied by 2,6 and heat produced for commercial use multiplied by 1,1 (GJ/year)

Ef means annual energy input to the system from fuels contributing to the production of steam (GJ/year)

Ew means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year)

Ei means annual energy imported excluding Ew and Ef (GJ/year)
0,97 is a factor accounting for energy losses due to bottom ash and radiation.

This formula shall be applied in accordance with the reference document on Best Available Techniques for waste incineration.

The energy efficiency formula value will be multiplied by a climate correction factor (CCF) as shown below:

1. CCF for installations in operation and permitted in accordance with applicable Union legislation before 1 September 2015.

CCF = 1 if HDD >= 3 350

CCF = 1,25 if HDD <= 2 150

CCF = – (0,25/1 200) × HDD + 1,698 when 2 150 < HDD < 3 350

2. CCF for installations permitted after 31 August 2015 and for installations under 1 after 31 December 2029:

CCF = 1 if HDD >= 3 350
CCF = 1,12 if HDD <= 2 150

CCF = – (0,12/1 200) × HDD + 1,335 when 2 150 < HDD < 3 350

(The resulting value of CCF will be rounded at three decimal places).

The value of HDD (Heating Degree Days) should be taken as the average of annual HDD values for the incineration facility location, calculated for a period of 20 consecutive years before the year for which CCF is calculated. For the calculation of the value of HDD the following method established by Eurostat should be applied: HDD is equal to (18 °C — Tm)

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× d if Tm is lower than or equal to 15 °C (heating threshold) and is nil if Tm is greater than 15 °C; where Tm is the mean (Tmin + Tmax)/2 outdoor temperature over a period of d days. Calculations are to be executed on a daily basis (d = 1), added up to a year.

(2) This includes preparing for re-use, gasification and pyrolysis using the components as chemicals and recovery of organic materials in the form of backfilling.

(2a) This includes preparing for re-use.

(3) This includes preparing for re-use, recycling of inorganic construction materials, recovery of inorganic materials in the form of backfilling, and soil cleaning resulting in recovery of the soil.

(4) If there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as, inter alia, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of the operations numbered R1 to R11.

(5) Temporary storage means preliminary storage as defined in section 192A.

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SCHEDULE 14A

Section 192C

SEPARATE COLLECTION CERTAIN WASTE AND COLLECTION TARGETS

1. By 2015 separate collection shall be set up for at least the following: paper, metal, plastic and glass, and, by 1st January 2025, for textiles.

2. By 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight.

3. By 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

4. By 2025, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 55 % by weight.

5.By 2030, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 60 % by weight.

6.By 2035, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 65 % by weight.

7.The Government may postpone the deadlines for attaining targets referred to in paragraphs 4, 5 and 6 of this Schedule by up to five years provided that the Government-

(a) prepared for re-use and recycled less than 20% or landfilled more than 60% of its municipal waste generated in 2013 as reported under the Joint Questionnaire of the OECD and Eurostat;

(b) at the latest 24 months before the respective deadline laid down in paragraph 4,5 or 6 of this Schedule, notifies the Commission of its intention to postpone the respective deadline; and

(c) submits an implementation plan in accordance with paragraph 21 of this Schedule.

8.The Government shall, if it postpones the deadlines for attaining targets pursuant to paragraph 7, take the necessary measures to increase the preparing for re-use and the recycling of municipal waste-

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(a) to a minimum of 50% by 2025 in the event of postponing the deadline for attaining the target referred to in paragraph 4 of this Schedule;

(b) to a minimum of 55% by 2030 in the event of postponing the deadline for attaining the target referred to in paragraph 5 of this Schedule;

(c) to a minimum of 60% by 2035 in the event of postponing the deadline for attaining the target referred to in paragraph 6 of this Schedule.

9.For the purpose of calculating whether the targets laid down in paragraphs 4, 5, 6 and 7 of this Schedule have been attained-

(a) the Government must calculate the weight of the municipal waste generated and prepared for re-use or recycled in a given calendar year;

(b) the weight of the municipal waste prepared for re-use shall be calculated as the weight of products or components of products that have become municipal waste and have undergone all necessary checking, cleaning or repairing operations to enable re-use without further sorting or pre-processing;

(c) the weight of the municipal waste recycled shall be calculated as the weight of waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

10. For the purposes of point (c) of paragraph 9, the weight of the municipal waste recycled shall be measured when the waste enters the recycling operation.

11. By way of derogation from paragraph 10, the weight of municipal waste recycled may be measured at the output of any sorting operation provided that-

(a) such output waste is subsequently recycled;

(b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

12. The Government must establish an effective system of quality control and traceability of municipal waste to ensure that the conditions laid down in point (c) of paragraph 9 and in paragraph 10 of this Schedule are met.

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13. To ensure the reliability and accuracy of the data gathered on recycled waste, the system may consist of electronic registries set up, technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be obtained otherwise and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to paragraph 10 of Article 11a of the Directive.

14. For the purpose of calculating whether the targets laid down in paragraphs 4,5,6 and 7 of this Schedule have been attained, the amount of municipal biodegradable waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, the Government may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

15. The Government may, as from 1 January 2027, count municipal bio-waste entering aerobic or anaerobic treatment as recycled only if, in accordance with section 192MC, it has been separately collected or separated at source.

16. For the purposes of calculating whether the targets laid down in paragraphs 4,5,6 and 7 of this Schedule have been attained, the amount of waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes.

17. End-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

18. For the purposes of calculating whether the targets laid down in paragraphs 4,5,6 and 7 of this Schedule have been attained, the Government may take into account the recycling of metals separated after incineration of municipal waste provided that the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to paragraph 9 of Article 11a of the Directive.

19. Waste sent by the Government to another Member State for the purposes of preparing for re-use, recycling or backfilling in that other Member State may only be counted towards the attainment of the targets laid down in paragraphs 4,5,6 and 7 of this Schedule if that waste was collected in Gibraltar.

20. Waste exported from the European Union for preparing for re-use or recycling shall count towards the attainment of the targets laid down in paragraphs 4,5,6 and 7 of this Schedule if the requirements of paragraphs 12 and 13 of this Schedule are met and if, in accordance with

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Regulation (EC) No 1013/2006, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of waste outside the European Union took place in conditions that are broadly equivalent to the requirements of the relevant European Union environmental legislation.

21. The implementation plan to be submitted pursuant to paragraph 7(c) shall contain the following:

(a) assessment of the past, current and projected rates of recycling, landfilling and other treatment of municipal waste and the streams of which it is composed;

(b) assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to sections 192M and 192MA;

(c) reasons for which the Government considers that it might not be able to attain the relevant target laid down in paragraphs 4,5 and 6 of this Schedule within the deadline set therein and an assessment of the time extension necessary to meet that target;

(d) measures necessary to attain the targets set out in paragraphs 4,5,6 and 8 that are applicable to Gibraltar during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Schedule 11B and having regard to the provisions of Schedule 11C where applicable;

(e) a timetable for the implementation of the measures identified in paragraph 21(d), determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;

(f) information on funding for waste management in line with the polluter-pays principle;

(g) measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.

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SCHEDULE 14B

Section 192W(3)

1. In order to strengthen the re-use and the prevention, recycling and other recovery of waste, the Government may take measures to ensure that a person who professionally develops, manufactures, processes, treats, sells or imports products (producer of the product) has extended producer responsibility.

2. Measures under paragraph 1 may include−

(a) an acceptance of returned products and of the waste that remains after those products have been used, as well as the subsequent management of the waste and financial responsibility for such activities; and

(b) the obligation to provide publicly available information as to the extent to which the product is re-usable and recyclable.

2A. Where such measures include the establishment of extended producer responsibility schemes, the general minimum requirements laid down in Schedule 14C shall apply.

2B. The Government may decide that producers or importers of products that undertake financial or financial and organisational responsibilities for the management of the waste stage of a product's life cycle of their own accord should apply some or all of the general minimum requirements laid down in Schedule 14C.

3. The Government may take appropriate measures to encourage the design of products and components of products in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products, and in order to ensure that the recovery and disposal of products that have become waste take place in accordance with Articles 4 and 13 of the Directive.

4. Measures under paragraph 3 of this Schedule should encourage the development, production and marketing of products and components of products that are suitable for multiple use, that contain recycled materials, that are technically durable and easily reparable and that are, after having become waste, suitable for preparing for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the impact of products throughout their life cycle, the waste hierarchy and, where appropriate, the potential for multiple recycling.

5. When applying extended producer responsibility, account shall be had to the technical feasibility and economic viability and the overall environmental, human health and social impacts, respecting the need to ensure the proper functioning of the internal market.

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6. The extended producer responsibility shall be applied without prejudice to the responsibility for waste management as provided for in Article 15(1) of the Directive and without prejudice to existing waste stream specific and product specific legislation.

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SCHEDULE 14C

Section 192W(3) and Schedule 14B

General minimum requirements for extended producer responsibility schemes

1. Where extended producer responsibility schemes are established in accordance with section 192W(3) and paragraph 2A of Schedule 14B, including pursuant to other legislative acts of the European Union, the Government must:

(a) define in a clear way the roles and responsibilities of all relevant actors involved, including producers or importers of products placing products on Gibraltar's market, organisations implementing extended producer responsibility obligations on their behalf, private or public waste operators, local authorities and, where appropriate, re-use and preparing for re-use operators and social economy enterprises;

(b) in line with the waste hierarchy, set waste management targets, aiming to attain at least the quantitative targets relevant for the extended producer responsibility scheme as laid down in the Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU of the European Parliament and of the Council, and set other quantitative targets and/or qualitative objectives that are considered relevant for the extended producer responsibility scheme;

(c) ensure that a reporting system is in place to gather data on the products placed on Gibraltar's market by the producers or importers of products subject to extended producer responsibility and data on the collection and treatment of waste resulting from those products specifying, where appropriate, the waste material flows, as well as other data relevant for the purposes of point (b) of this paragraph 1;

(d) ensure equal treatment of producers or importers of products regardless of their origin or size, without placing a disproportionate regulatory burden on producers or importers, including small and medium-sized enterprises, of small quantities of products.

2. The Government must take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with section 192W(3) and paragraph 2A of Schedule 14B, are informed about waste prevention measures, centres for re-use and preparing for re-use, take-back and collection systems, and the prevention of littering. The Government must also take measures to create incentives for the waste holders to assume their responsibility to deliver their waste into the separate collection systems in place, notably, where appropriate, through economic incentives or regulations.

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3. The Government must take the necessary measures to ensure that any producer or importer of products or organisation implementing extended producer responsibility obligations on behalf of producers or importers of products-

(a) has a clearly defined geographical, product and material coverage without limiting those areas to those where the collection and management of waste are the most profitable;

(b) provides an appropriate availability of waste collection systems within the areas referred to in point (a) of this paragraph 3;

(c) has the necessary financial means or financial and organisational means to meet its extended producer responsibility obligations;

(d) puts in place an adequate self-control mechanism, supported, where relevant, by regular independent audits, to appraise:

(i) its financial management, including compliance with the requirements laid down in points (a) and (b) of paragraph 4 of this Schedule;

(ii) the quality of data collected and reported in accordance with point (c) of paragraph 1 of this Schedule and with the requirements of Regulation (EC) No 1013/2006;

(e) makes publicly available information about the attainment of the waste management targets referred to in point (b) of paragraph 1 of this Schedule, and, in the case of collective fulfilment of extended producer responsibility obligations, also information about:

(i) its ownership and membership;

(ii) the financial contributions paid by producers or importers of products per unit sold or per tonne of product placed on the market; and

(iii) the selection procedure for waste management operators.

4. The Government must take the necessary measures to ensure that the financial contributions paid by the producer or importer of the product to comply with its extended producer responsibility obligations –

(a) cover the following costs for the products that the producer or importer puts on Gibraltar's market:

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costs of separate collection of waste and its subsequent transport and treatment, including treatment necessary to meet the European Union waste management targets, and costs necessary to meet other targets and objectives as referred to in point (b) of paragraph 1 of this Schedule, taking into account the revenues from re-use, from sales of secondary raw material from its products and from unclaimed deposit fees,

costs of providing adequate information to waste holders in accordance with paragraph 2 of this Schedule,

costs of data gathering and reporting in accordance with point (c) of paragraph 1 of this Schedule.

This paragraph 4(a) shall not apply to extended producer responsibility schemes established pursuant to Directive 2000/53/EC, 2006/66/EC or 2012/19/EU.

(b) in the case of collective fulfilment of extended producer responsibility obligations, are modulated, where possible, for individual products or groups of similar products, notably by taking into account their durability, reparability, re-usability and recyclability and the presence of hazardous substances, thereby taking a life-cycle approach and aligned with the requirements set by relevant European Union legislation, and where available, based on harmonised criteria in order to ensure a smooth functioning of the internal market; and

(c) do not exceed the costs that are necessary to provide waste management services in a cost-efficient way. Such costs shall be established in a transparent way between the actors concerned.

5. Where justified by the need to ensure proper waste management and the economic viability of the extended producer responsibility scheme, the Government may depart from the division of financial responsibility as laid down in point (a) of paragraph 4 of this Schedule, provided that-

(a) in the case of extended producer responsibility schemes established to attain waste management targets and objectives established under legislative acts of the European Union, the producers or importers of products bear at least 80 % of the necessary costs;

(b) in the case of extended producer responsibility schemes established on or after 4 July 2018 to attain waste management targets and objectives solely established in Gibraltar legislation, the producers or importers of products bear at least 80 % of the necessary costs;

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(c) in the case of extended producer responsibility schemes established before 4 July 2018 to attain waste management targets and objectives solely established in Gibraltar legislation, the producers or importers of products bear at least 50 % of the necessary costs,

and provided that the remaining costs are borne by original waste producers, importers or distributors.

6. The derogation referred to in paragraph 5 may not be used to lower the proportion of costs borne by producers or importers of products under extended producer responsibility schemes established before 4 July 2018.

7. The Government must establish an adequate monitoring and enforcement framework with a view to ensuring that producers or importers of products and organisations implementing extended producer responsibility obligations on their behalf implement their extended producer responsibility obligations, including in the case of distance sales, that the financial means are properly used and that all actors involved in the implementation of the extended producer responsibility schemes report reliable data.

8. Where, in Gibraltar, multiple organisations implement extended producer responsibility obligations on behalf of producers or importers of products, the Government shall appoint at least one body independent of private interests or entrust a public authority to oversee the implementation of extended producer responsibility obligations.

9. The Government shall allow the producers or importers of products established in another Member State and placing products in Gibraltar to appoint a legal or natural person established in Gibraltar as an authorised representative for the purposes of fulfilling the obligations of a producer related to extended producer responsibility schemes in Gibraltar.

10. For the purposes of monitoring and verifying compliance with the obligations of the producer or importer of the product in relation to extended producer responsibility schemes, the Government may lay down requirements, such as registration, information and reporting requirements, to be met by a legal or natural person to be appointed as an authorised representative in Gibraltar.

11. The Government shall ensure a regular dialogue between relevant stakeholders involved in the implementation of extended producer responsibility schemes, including producers, importers and distributors, private or public waste operators, local authorities, civil society organisations and, where applicable, social economy actors, re-use and repair networks and preparing for re-use operators.

12. The Government shall take measures to ensure that extended producer responsibility schemes that have been established before 4 July 2018, comply with the provisions of this Schedule by 5 January 2023.

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13. The provision of information to the public under this Schedule shall be without prejudice to preserving the confidentiality of commercially sensitive information in conformity with the relevant European Union and Gibraltar legislation.

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SCHEDULE 15A

Section 192MA (2)

EXAMPLES OF WASTE PREVENTION MEASURES REFERRED TO IN ARTICLE 29 OF THE DIRECTIVE

Measures that can affect the framework conditions related to the generation of waste.

1. The use of planning measures, or other economic instruments promoting the efficient use of resources.

2. The promotion of research and development into the area of achieving cleaner and less wasteful products and technologies and the dissemination and use of the results of such research and development.

3. The development of effective and meaningful indicators of the environmental pressures associated with the generation of waste aimed at contributing to the prevention of waste generation at all levels, from product
comparisons at Community level through action by local authorities to national measures.

Measures that can affect the design and production and distribution phase.

4. The promotion of eco-design (the systematic integration of environmental aspects into product design with the aim to improve the environmental performance of the product throughout its whole life cycle).

5. The provision of information on waste prevention techniques with a view to facilitating the implementation of best available techniques by industry.

6. Organise training of competent authorities as regards the insertion of waste prevention requirements in permits under this Directive and Directive 96/61/EC.

7. The inclusion of measures to prevent waste production at installations not falling under Directive 96/61/EC. Where appropriate, such measures could include waste prevention assessments or plans.

8. The use of awareness campaigns or the provision of financial, decision making or other support to businesses. Such measures are likely to be particularly effective where they are aimed at, and adapted to, small and medium sized enterprises and work through established business networks.

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9. The use of voluntary agreements, consumer/producer panels or sectoral negotiations in order that the relevant businesses or industrial sectors set their own waste prevention plans or objectives or correct wasteful products or packaging.

10. The promotion of creditable environmental management systems, including EMAS and ISO 14001.

Measures that can affect the consumption and use phase.

11. Economic instruments such as incentives for clean purchases or the institution of an obligatory payment by consumers for a given article or element of packaging that would otherwise be provided free of charge.

12. The use of awareness campaigns and information provision directed at the general public or a specific set of consumers.

13. The promotion of creditable eco-labels.

14. Agreements with industry, such as the use of product panels such as those being carried out within the framework of Integrated Product Policies or with retailers on the availability of waste prevention information and products with a lower environmental impact.

15. In the context of public and corporate procurement, the integration of environmental and waste prevention criteria into calls for tenders and contracts, in line with the Handbook on environmental public procurement published by the Commission on 29 October 2004.

16. The promotion of the reuse and/or repair of appropriate discarded products or of their components, notably through the use of educational, economic, logistic or other measures such as support to or establishment of accredited repair and reuse-centres and networks especially in densely populated regions.

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SCHEDULE 16

Section 192D(4)(f)

WASTE BATTERIES AND ACCUMULATORS: TREATMENT AND RECYCLING REQUIREMENTS

PART A: TREATMENT

1. Treatment shall, as a minimum, include removal of all fluids and acids.

2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

PART B: RECYCLING

3. Recycling processes shall achieve the following minimum recycling efficiencies−

(a) recycling of 65 % by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;

(b) recycling of 75 % by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and

(c) recycling of 50 % by average weight of other waste batteries and accumulators.

SCHEDULE 17

Repealed.

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SCHEDULE 18

Section 192K(5)

Article 4 in the Marking Directive

1.The separate collection mark shall cover 3% of the area of the largest side of the battery or accumulator, up to a maximum size of 5cm x 5cm. For cylindrical cells the mark shall cover 3% of half the surface area of the battery or accumulator and shall have a maximum size of 5cm x 5cm.

Where the size of the battery or accumulator is such that the mark would be smaller than 0.5cm x 0.5cm, the battery or accumulator need not be marked but a separate collection mark measuring 1cm x 1cm shall be printed on the packaging.

2.The relevant heavy metal content mark shall be printed beneath the separate collection mark. The relevant heavy metal content mark shall cover an area of at least one quarter of the size of the separate collection mark.

3.The separate collection mark and the relevant heavy metal content mark shall be printed visibly, legibly and indelibly.

SCHEDULE 19

Deleted

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SCHEDULE 20

Section 98ZO

Application for approval of a financial guarantee

Interpretation.

1. In this Schedule, "working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act.

Shipment of waste from Gibraltar.

2.(1) The following procedure applies to the application for an approval of a financial guarantee or equivalent insurance for the purposes of Article 6(4), first paragraph and Article 7(4) of the 2024 Regulation as applied by the TSW Regulation.

(2) Only the notifier may apply for approval of a financial guarantee or equivalent insurance.

(3) He must apply for approval to the competent authority in Gibraltar.

(4) The competent authority must ensure that its decision is issued in writing within 20 working days after the receipt of the application.

Import of waste from third countries.

3.(1) The following procedure applies to the application for a review of the amount of cover of a financial guarantee or equivalent insurance and the approval of an additional financial guarantee or equivalent insurance in accordance with Article 6(4), second paragraph.

(2) Only the notifier (or the consignee, if authorised in writing by the notifier) may apply for a review of the amount of cover and approval of a financial guarantee or equivalent insurance.

(3) He must apply to the competent authority in Gibraltar whenever that authority is the competent authority of destination.

(4) The competent authority must ensure that its decision is issued in writing within 20 working days after the receipt of the application.

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SCHEDULE 21

Section 98ZQ

Enforcement powers

PART 1
Powers of authorised persons

Information notice.

1. An authorised person may, by notice served on any person, require that person to provide such information as is specified in the notice in such form and within such period following service of the notice or at such time as is so specified.

Enforcement and prohibition notices.

2.(1) An authorised person may serve a notice on any person who contravenes or who the authorised person has reasonable grounds to suspect may contravene this Part or the TSW Regulation–

(a) requiring him to act in accordance with this Part or the TSW Regulation (in this Schedule referred to as an "enforcement notice"); or

(b) prohibiting him from acting in breach of them (in this Schedule referred to as a "prohibition notice").

(2) The notice must give reasons for serving it and, if appropriate, specify what action must be taken and give time limits.

Appeals against enforcement and prohibition notices.

3.(1) Any person who is aggrieved by an enforcement or prohibition notice may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court is by way of complaint.

(3) The period within which an appeal may be brought is 28 days or, in the case of an enforcement notice, the period specified in the notice, whichever ends earlier.

(4) An enforcement or prohibition notice must state–

(a) the right of appeal to a magistrates' court;

(b) the period in which such an appeal may be brought.

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Powers to seize waste.

4.(1) This paragraph applies if an authorised person has reasonable grounds to suspect that–

(a) the provisions of the TSW Regulation or this Part or any regulations made under section 98LA or section 98AB are not being, have not been or are not likely to be complied with in respect of any waste; or

(b) the shipment, recovery or disposal of any waste cannot be completed in accordance with the notification and movement documents or the contract between the notifier and consignee.

(2) The authorised person may do any of the following–

(a) seize that waste;

(b) serve a notice on any person who appears to him to be in control of such waste–

(i) requiring that person to send the waste to any place specified in the notice; or

(ii) prohibiting or restricting the movement of that waste.

(3) In this paragraph any reference to waste includes–

(a) any thing that the authorised person has reasonable grounds to suspect is waste; and

(b) the container in which the waste or thing is carried.

Seizure procedures.

5.(1) If an authorised person seizes any waste under paragraph 4, he must give to the person in control of it a notice (a "seizure notice")–

(a) giving the grounds for seizing it; and

(b) setting out the rights under this paragraph to make a claim, and the address for the service of the claim.

(2) If an authorised person is not immediately able to remove any waste seized under paragraph 4, he may mark it in any way he sees fit and serve a notice on the person in control of it, identifying it and prohibiting its removal from the premises until it is collected by, or under the direction of, an authorised person.

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(3) Any person (other than an authorised person or a person acting under his direction) who removes waste referred to in subparagraph (2) from the premises is guilty of an offence.

(4) If it appears that the waste seized is–

(a) waste from a shipment that cannot be completed as intended, as referred to in Article 22; or

(b) an illegal shipment, as referred to in Article 23,

and it is seized in an area that is not under the jurisdiction of the competent authority with responsibility for take-back pursuant to those Articles, the competent authority that seizes it must store it pending action by the competent authority with such responsibility.

(5) If the owner of the waste claims that the waste was not liable to seizure he may, within 28 days of the seizure, notify his claim to the competent authority at the address specified in the seizure notice, setting out the grounds in full.

(6) If a notification of a claim is not received within 28 days, the competent authority must take such steps as it considers appropriate to ensure the recovery or disposal of the waste and for these purposes may serve a notice on the notifier requiring him to recover or dispose of the waste in the manner and within the time period specified in the notice.

(7) If a notification of a claim is received within 28 days, the competent authority must either return the waste or take proceedings for an order for the confirmation of the notice and the recovery or disposal of the waste in a magistrates' court and if the court confirms the notice it must order its recovery or disposal.

PART 2
Powers of customs officers

Powers of customs officers.

6. If he is requested to do so by the competent authority in Gibraltar, a customs officer may detain any waste that has been brought into Gibraltar or is to be dispatched from Gibraltar.

7. Any thing detained under this paragraph may be detained for no longer than 5 working days and must be dealt with during the period of its detention in such manner as the Collector of Customs may direct.

8. In this Part "waste" includes–

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(a) any thing that the competent authority has reasonable grounds to suspect is waste; and

(b) the container in which the waste or thing is carried.

PART 3
Take-back etc. of waste

Shipments of waste that cannot be completed.

9. If the competent authority in Gibraltar, acting as competent authority of dispatch, receives notification from another competent authority under Article 22 (or the corresponding provision of the 2024 Regulation) (take-back when a shipment cannot be completed as intended), it may serve a notice on the notifier of the shipment requiring him to act in accordance with Article 22 (or the corresponding provision of the 2024 Regulation) within a specified time.

Illegal shipments of waste.

10. If the competent authority in Gibraltar, acting as competent authority of dispatch, receives notification from another competent authority under Article 24 (take-back when a shipment is illegal), it may serve a notice on the notifier of the shipment (or if it is not notifiable waste, the person who arranged the shipment) requiring him to act in accordance with Article 24 within a specified time.

Recovery or disposal of illegal shipment.

11. If the competent authority in Gibraltar, acting as competent authority of destination, receives notification from another competent authority under Article 24 (take-back when a shipment is illegal), it may serve a notice on the consignee of the shipment requiring him to act in accordance with Article 24(3) within a specified time.

Take-back by the competent authority.

12. If a competent authority, acting under the TSW Regulation, brings back waste into its area of jurisdiction from outside that area, it may recover or dispose of it as it sees fit at the notifier's expense.

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SCHEDULE 22

Section 92A

First Column **Class of case**	**Second Column** **Permitted Period**
1. When new fires are being lit preparatory to raising steam	10 minutes in the aggregate in any period of 1 hour
2. When a breakdown has affected the combustion equipment	10 minutes in the aggregate in any period of 1 hour
3. When it is necessary, because of navigational difficulties, to force the combustion equipment to the detriment of its operation	10 minutes in the aggregate in any period of 1 hour
4. Emissions from a natural draught oil-fired furnace or a coal-fired boiler furnace in the following cases:	
(a) a tug not under way but preparatory to getting under way or supplying power to other vessels or to shore installations	10 minutes in the aggregate in any period of 1 hour
(b) a vessel not under way but using main power for the purpose of dredging, lifting, pumping or performing some other special operation for which the vessel is designed	10 minutes in the aggregate in any period of 1 hour
5. Emissions for any other source	5 minutes in the aggregate in any period of 1 hour

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