
END-OF LIFE VEHICLES RULES 2004**Subsidiary
2004/106**

Rules made under s. 337 of the Public Health Ordinance as read with section 23 of the Interpretation and General Clauses Ordinance.

END-OF LIFE VEHICLES RULES 2004**(LN. 2004/106)***Commencement* **18.11.2004**

Amending enactments	Relevant current provisions	Commencement date
LN. 2010/136	r.2	1.12.2010
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EU Legislation/International Agreements involved:

Directive 76/768/EEC

Directive 88/378/EEC

Directive 1999/13/EC

Directive 2000/53/EC

Directive 2002/96/EC

Directive 2004/42/EC

Directive 2008/99/EC

Directive 2008/112/EC

Directive 2011/37/EU

Regulation (EC) No 1272/2008

Commission Decision 2002/151/EC

Commission Decision 2002/525/EC

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In exercise of the powers conferred on him by section 337 of the Public Health Act as read with section 23 of the Interpretation and General Clauses Act and in order to transpose into the law of Gibraltar Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles as amended by Commission Decision of 19 February 2002, 2002/151/EC and Commission Decision of 27 June 2002, 2002/525/EC the Governor has made the following Rules-

Title.

1. These Rules may be cited as the End-of Life Vehicles Rules 2004.

PART I**PRELIMINARY****Interpretation.**

2. In these Rules—

“Annex II” means Annex II to the Directive;

“authorised treatment facility” means any establishment or undertaking carrying out treatment operations which obtains a permit from or is registered with the competent authorities in compliance with these Rules and the Public Health Act, or in the case of an EEA State, has a permit from or is registered with the national competent authorities;

“depollute”, in relation to an end-of life vehicle, means to carry out on it any of the operations described in paragraph 3 of Schedule 4 that are possible (or, in the case of a component identified as containing mercury, feasible) in respect of it, and only when all such operations have been completed shall a vehicle qualify as “depolluted”; “depollution” and any cognate expressions shall be construed accordingly;

“Directive” means Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles as amended from time to time;

“dismantling information,” means all information required for the correct and environmentally sound treatment of end-of life vehicles;

“end-of life vehicle” means a vehicle which is waste within the meaning of section 192KA as read with Schedule 11A of the Public Health Act;

“Enforcement Authority” means a person designated under rule 7;

“hazardous substance” means any substance which fulfils the criteria for any of the following hazard classes or categories set out in Annex I of Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures;

- (a) hazard classes 2.1 to 2.4, 2.6 and 2.7, 2.8 types A and B, 2.9, 2.10, 2.12, 2.13 categories 1 and 2, 2.14 categories 1 and 2, 2.15 types A to F;
- (b) hazard classes 3.1 to 3.6, 3.7 adverse effects on sexual function and fertility or on development, 3.8 effects other than narcotic effects, 3.9 and 3.10;
- (c) hazard class 4.1;
- (d) hazard class 5.1;

“Minister” means the Minister with responsibility for the environment;

“prevention” means measures aiming at the reduction of the quantity and the harmfulness for the environment of end-of life vehicles, their materials and substances;

“producer” means the vehicle manufacturer or the professional importer of a vehicle into Gibraltar;

“recovery” means any of the applicable operations set out in Schedule 5;

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes but excluding energy recovery. Energy recovery means the use of combustible waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

“reuse” means any operation by which components of end-of life vehicles are used for the same purpose for which they were conceived;

“re-use”, as a noun, means any operation by which any component of an end-of life vehicle or, as the case may be, any scrap metal other than that contained in, or originating from, an end-of life vehicle is used, for the second or subsequent time, for the same purpose as that for which it was originally conceived;

“scrap metal” includes any old metal, and any broken, worn-out, defaced or partly manufactured articles made wholly or partly of metal and any metallic wastes, and also includes old, broken, worn-out, or defaced tool tips or dies made of any of the materials commonly known as hard metal or of cemented or sintered metallic carbides;

“treatment” means any activity after the end-of life vehicle has been handed over to a facility for depollution, dismantling, shearing, shredding, recovery or preparation for disposal of the shredder wastes, and any other operation carried out for the recovery and/or disposal of the end-of life vehicle and its components;

“vehicle” means any vehicle which—

- (i) is designed for the carriage of passengers;
- (ii) does not have more than 8 seats;
- (iii) does not exceed 3.75 tonnes in weight; and
- (iv) is not a motor tricycle;

“the Waste Directive” means Council Directive 75/442/EC of 15 July 1975 on waste.

PART II APPLICATION

Vehicles and end-of life vehicles to which these Rules apply.

3.(1) These Rules apply to vehicles and end-of life vehicles including their components and materials.

(2) Notwithstanding rule 20(2) these Rules shall apply irrespective of how the vehicle has been serviced or repaired during use and irrespective of whether it is equipped with components supplied by the producer or with other components whose fitting as spare or replacement parts accords with the appropriate Community provisions or domestic provisions.

Existing Community legislation and relevant national legislation.

4. Nothing in these Rules shall affect the application of existing Community legislation and relevant national legislation, in particular as regards safety standards, air emissions and noise controls and the protection of soil and water.

Exemptions for certain vehicles.

5.(1) Rules 6 to 9 shall not apply to a producer who only makes or imports vehicles to which Article 8(2)(a) of Directive 70/156/EEC of 6 February 1970 applies, as set out in Schedule 7.

(2) Schedule 5 shall not apply to special-purpose vehicles as defined in the second indent of Article 4(1)(a) of Directive 70/156/EEC, set out in Schedule 7.

Prevention.

5A.(1) In order to promote the prevention of waste, the Government must encourage—

- (a) producers in Gibraltar to liaise with vehicle, material and equipment manufacturers in order—
 - (i) to limit the use of hazardous substances in vehicles imported for sale in Gibraltar and to reduce hazardous substances as far as possible from the conception of the vehicle onwards, so as to, in particular, prevent their release into the environment, make recycling easier, and avoid the need to dispose of hazardous waste; and
 - (ii) to integrate an increasing quantity of recycled material in vehicles and other products, in order to develop the markets for recycled materials; and
- (b) the import of new vehicles for sale in Gibraltar which are designed and produced in a manner that takes into full account and facilitates the dismantling, reuse and recovery, in particular the recycling, of end-of life vehicles, their components and materials.

(2) Every producer in Gibraltar must ensure that materials and components of vehicles imported into Gibraltar after 1 February 2012 do not contain lead, mercury, cadmium or hexavalent chromium other than in cases listed in Annex II under the conditions specified therein.

**PART III
INFORMATION REQUIREMENTS****Dismantling information.**

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6.(1) A producer shall provide dismantling information to the Enforcement Authority for each type of new vehicle (except for a 3 wheeled motor vehicle) put on the market within six months after the date that the vehicle is put on the market.

(2) The dismantling information shall identify, in so far as it is needed by treatment facilities, the different materials and components of the vehicle, and the location of all hazardous substances in the vehicles in order to achieve the following objectives–

- (a) the reuse of components which are suitable for reuse;
- (b) the recovery of components which cannot be reused; and
- (c) giving preference to recycling when environmentally viable;

without prejudice to requirements regarding the safety of vehicles and environmental requirements such as air emissions and noise control.

(3) The obligation in sub-rule (1) is without prejudice to any duty of confidence in respect of industrial or commercial information apart from that imposed by these Rules.

Enforcement Authority.

7.* The Minister may designate by notice in the Gazette such person or persons as he deems appropriate to ensure the enforcement of these Rules or any part of them.

Compliance Notices.

8.(1) Where the Enforcement Authority has reasonable grounds for suspecting that any or all of the requirements of rule 6 have not been complied it may serve a notice in writing, referred to as a compliance notice in these Rules, on the producer.

(2) Schedule 2 shall have effect in respect of a compliance notice.

Offences.

9.(1) Subject to sub-rule (2), a producer who fails to comply with any or all of the requirements of rule 6 shall be guilty of an offence.

* See LN. 2012/058 appointing the Environmental Agency Limited.

(2) The Enforcement Authority shall not commence proceedings for an offence under this Part unless a compliance notice has been served on the producer and the time limit specified for compliance in the compliance notice has expired.

(3) A producer who is guilty of an offence under sub-rule (1) above shall be liable on summary conviction to fine not exceeding level 3 on the standard scale.

**PART IV
CERTIFICATE OF DESTRUCTION**

Interpretation.

10. In this Part of the Rules—

“register” means the record kept by or on behalf of the Licensing Authority of the vehicles registered in Gibraltar under the provisions of the Traffic Act.

Issue of the certificate of destruction.

11. Subject to rule 12 an authorised treatment facility or any person or organisation on its behalf shall issue a certificate of destruction to the last owner or holder of an end-of life vehicle transferred to it for treatment.

Prohibition of charges.

12. No charge shall be made for the issuing of a certificate of destruction.

Form and content of certificate of destruction.

13. A certificate of destruction shall contain at least the information listed in Schedule 1.

Duty to notify Licensing Authority.

14. When an end-of life vehicle is transferred to a person or organisation for onward transmission to an authorised treatment facility for treatment that person or organisation shall—

- (a) notify the Licensing Authority appointed under the Traffic Act; and
- (b) not issue a certificate of destruction until the Licensing Authority confirms that the process of checking the vehicle’s

registration details against the register has been satisfactorily completed.

Certificates of destruction and changes to the register kept and maintained by the Licensing Authority in respect of the end-of life vehicle

15. When an end-of life vehicle is transferred to a person or organisation for onward transmission to an authorised treatment facility for treatment and the requirements of rule 14 are fulfilled, that person or organisation shall issue a certificate of destruction to the last owner or holder of the vehicle.

Maintenance of electronic systems.

16.(1) Every authorised treatment facility may–

- (a) maintain in operation an electronic system for the issue and notification of certificates of destruction;
- (b) ensure, in so far as it is within its control, that the electronic system remains connected to the vehicle registration database.

(2) Subject to sub-rule (3), an authorised treatment facility or any person or organisation on its behalf, may issue and notify each certificate of destruction to the Licensing Authority by means of its electronic system.

(3) Where it is not practicable to check either the particulars in the register or to notify the Licensing Authority of the issue of a certificate of destruction by electronic means, the authorised treatment facility may–

- (a) issue a certificate of destruction to the last owner or holder of the vehicle; and
- (b) send a copy of the certificate of destruction by post to the Licensing Authority.

Certificates of destruction issued by other EEA States.

17. A certificate of destruction validly issued–

- (1) by an authorised treatment facility in another EEA State; or
- (2) where permitted by a licensing authority in another EEA State, by a producer, dealer, collector or other person on behalf of an authorised treatment facility;

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in accordance with provisions substantially equivalent to the End-of Life Vehicle Rules 2004, shall have legal effect in Gibraltar and all rights, powers, liabilities, obligations and restrictions arising out of or incidental to such certificates or their issue shall be recognised and available in law, and be enforced, allowed and followed accordingly.

Restrictions on disclosure of information.

18.(1) Subject to the following provisions of this rule, a person shall be guilty of an offence if he discloses any information which was obtained by him from—

- (a) the register;
- (b) the electronic system established for the issue and notification of certificates of destruction as mentioned in rule 16(1).

(2) Sub-rule (1) shall not apply to a disclosure made to any of the following—

- (i) the Government of Gibraltar;
- (ii) the Enforcement Authority;
- (iii) the Chamber of Commerce.

(3) A person guilty of an offence under this rule shall be liable—

- (a) on summary conviction to a fine not exceeding level 3 on the standard scale;
- (b) on conviction on indictment to a fine.

**PART V
DELIVERY OF END-OF LIFE VEHICLES TO TREATMENT
FACILITIES**

Application.

19.(1) Subject to sub-rule (2), this Part of the Rules applies to end-of life vehicles that are vehicles put on the market on or after the coming into force of these Rules, and which have no market value.

(2) This Part applies as from 1 January 2007 to vehicles that are put on the market prior to the coming into force of these Rules and which have no market value.

Delivery of an end-of life vehicle to a treatment facility.

20.(1) Subject to sub-rule (2) an authorised treatment facility shall accept delivery of an end-of life vehicle without imposing a charge on the last owner or holder as a result of the end-of life vehicle having no market value.

(2) In circumstances where the end-of life vehicle does not contain the essential components of a vehicle, in particular the engine and coachwork, or contains waste which has been added to the end-of life vehicle an authorised treatment facility may impose a charge at a level approved by the Enforcement Authority.

Producers to meet significant part of costs.

21.(1) Producers, in respect of vehicles which they have put on the market on or after the coming into force of these Rules, shall be responsible for meeting a significant part of the costs of transfer of end-of life vehicles to authorised treatment facilities and their disposal at such facilities.

(2) The Minister may prescribe by notice published in the Gazette the amount which each producer shall have to pay and the manner of payment.

Offences.

22.(1) A person who contravenes rule 20(1) shall be guilty of an offence.

(2) A person guilty of an offence under sub-rule (1) shall be liable—

- (a) on summary conviction to a fine not exceeding level 3 on the standard scale; or
- (b) on conviction on indictment to a fine.

PART VI

STORAGE AND TREATMENT OF END-OF LIFE VEHICLES

Applications.

23.(1) An application made to the Enforcement Authority under any provision of this Part shall—

- (i) be made on a form provided for the purpose by the Enforcement Authority;

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- (ii) include such information as the Enforcement Authority shall reasonably require, and
- (iii) be accompanied by the appropriate charge prescribed for the purpose by the Minister.

(2) An application made under these Rules may be withdrawn at any time before it is determined.

Obligation to treat end-of life vehicles.

24. No person shall intentionally deal with an end-of life vehicle in such a way as to avoid its submission for treatment at an authorised treatment facility in accordance with these Rules.

Storage or treatment of end-of life vehicles: general requirements.

25.(1) No person shall store or temporarily store an end-of life vehicle unless—

- (a) he holds a valid waste licence issued under Part VA of the Public Health Act;
- (b) he does so in a manner serving to ensure that the end-of life vehicle is stored 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 and plants and animals,
 - (ii) without causing a nuisance through noise or odours,
 - (iii) without adversely affecting the Upper Rock Nature Reserve or any place of special interest, and
- (c) he complies with the technical requirements applicable to such storage which are set out in Schedule 3.

(2) No person shall treat an end-of life vehicle unless—

- (a) he holds a valid waste licence issued under Part VA of the Public Health Act;
- (b) he does so in a manner serving to ensure that the end-of life vehicle is stored 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 and plants and animals,
 - (ii) without causing a nuisance through noise or odours,
 - (iii) without adversely affecting the Upper Rock Nature Reserve or any place of special interest, and
- (c) he complies with the technical requirements applicable to such treatment which are set out in Schedule 3 and fulfils the following obligations—
- (i) save where it has already been so treated he shall first—
 - (a) strip the vehicle in a way that minimises any adverse impact on the environment of both that and any subsequent treatment or equivalent arrangement, and
 - (bb) trip any component or material which has been labelled or otherwise made identifiable in accordance with Article 4(2)(iv) of Directive 2000/53;
 - (ii) save where it has already been so treated in whole or in part, and subject to paragraph (i), he shall complete the depollution of the vehicle as soon as possible;
 - (iii) he shall segregate any hazardous materials or components that he removes in such a way so as not to contaminate any part of the vehicle that is subsequently to be shredded;
 - (iv) he shall perform any stripping or storage of the vehicle that he carries out in such a way as to ensure the suitability of its components for recycling, but if that is not possible then for re-use or recovery.

Storage or treatment of end-of life vehicles: requirement for permit or registered exemption.

26.(1) Subject to sub-rule (2) and to rule 30, no person shall store or treat any end-of life vehicle except under, and to the extent and at the place authorised by, a permit granted by the Enforcement Authority under these Rules.

(2) Where the treatment consists only in the carrying out of one or more operations for recovery on a depolluted end-of life vehicle and is conducted in accordance with the general rules contained in Schedule 4, those operations may instead be carried out under the terms of an exemption registered with the Enforcement Authority.

Permits or registered exemptions: extension to treatment of scrap metal.

27. A permit to treat any end-of life vehicle may, in addition, authorise the treatment of any scrap metal (other than such metal contained in, or originating from, an end-of life vehicle), and to the extent that such is authorised by a permit under these Rules.

Storage or treatment permits: general provisions.

28.(1) An application for a permit to treat any end-of life vehicle shall be made to the Enforcement Authority.

(2) Any person desiring to treat scrap metal under cover of a permit described in rule 27 shall so inform the Enforcement Authority in his application for a permit under sub-rule (1).

(3) Subject to sub-rule (4), where an application for a permit is duly made to it, the Enforcement Authority shall either grant the permit subject to the conditions required or authorised to be imposed by rule 31 or refuse to grant the permit.

(4) A permit shall not be granted unless the Enforcement Authority considers that the applicant will become the operator were the permit to be granted or that, upon becoming the operator, he will ensure that any treatment will comply with the conditions to which the permit would be subject.

(5) A permit shall not be granted unless the Enforcement Authority is satisfied that the applicant is a fit and proper person to carry out the treatment that is the subject of his application, but this provision shall not apply to a person for the time being holding a waste management licence granted to him under the Public Health Act.

(6) A permit may authorise any one or more types of treatment.

(7) The Enforcement Authority shall notify the applicant in writing of its decision on his application within three months of its receipt of his application.

(8) If the Enforcement Authority refuses to grant a permit, it shall notify the applicant in writing of its reasons for refusal.

Exemptions registered with the Enforcement Authority in respect of the treatment of depolluted end-of life vehicles: general provisions.

29.(1) An application to register an exemption from the requirement to have a permit in respect of the treatment of any depolluted end-of life vehicle (whether or not also covering the treatment of any other scrap metal as described in rule 27) shall be made to the Enforcement Authority.

(2) Upon receipt of an application under sub-rule (1), the Enforcement Authority shall register the exemption, unless—

- (a) it considers that the applicant will not be the operator under the registered exemption;
- (b) it is unable to verify, further to its inspection of the site (including any plant and other facilities) at which the treatment that is the subject of the registered exemption is to take place—
 - (i) the type or types of waste to be treated;
 - (ii) the quantity of such waste to be treated;
 - (iii) the general technical requirements that are to be met in respect of such treatment;
 - (iv) the safety precautions that are to be taken in respect of such treatment,

in order that the provisions of Part VA of the Public Health Act are complied with in respect of such treatment.

(3) A registered exemption may be in respect of any one or more types of treatment of a depolluted end-of life vehicle.

(4) If, further to sub-rule (2), the Enforcement Authority is unable to register the exemption, it shall notify the applicant in writing of its reasons for that inability.

(5) Details of all registered exemptions made under this rule shall be kept by the Enforcement Authority in a register, and shall contain the following particulars in respect of each such registration—

- (a) the name and address of the person who applied to register the exemption;

- (b) the type or types of treatment covered by the registered exemption, and stating whether or not the exemption extends to treatment of other scrap metal as described in rule 27;
- (c) the place where such treatment is to be carried out.

Waste management licences.

30.(1) A person who is already carrying out storage or treatment (or both) of any end-of life vehicle at the time of coming into force of these Rules under the authority of—

- (a) a waste management licence granted to him under the Public Health Act, or
- (b) any other licence that is treated as such a waste management licence pursuant to that Act,

may continue to carry out such storage or treatment (or both) under the terms of that licence subject to his always fulfilling the further requirements in respect of such storage or treatment (or both) now imposed upon him by rule 25.

Conditions of permits.

31.(1) Any permit granted under rule 28—

- (a) is subject to the condition that such of the technical requirements for the storage and treatment of end-of life vehicles set out in Schedule 3 as apply in respect of any activity carried out under such permit shall be complied with or, as the case may be, shall not be contravened;
- (b) is subject to the condition that no significant alteration shall be made—
 - (i) to the site, the plant, or other facilities otherwise than by way of repairs or maintenance, or
 - (ii) to the method of operation at the site,

without the Enforcement Authority's prior agreement in writing.

- (c) shall be subject to any further condition, specific to the site, the plant, or other facilities, or the storage or treatment in respect of which the permit is granted, as the Enforcement Authority

considers it appropriate to impose (any such conditions being referred to hereinafter as “specific conditions”).

(2) The Minister for the Environment may give directions to the Enforcement Authority—

- (a) as to the specific conditions which are, or are not, to be included in—
 - (i) all permits, in permits of a specified description or in any particular permit;
 - (ii) as to the objectives which are to be achieved by conditions included in such permits.

(3) The Enforcement Authority may at any time alter the specific conditions of a permit, whether in response to an application made to it or where it appears to it to be necessary or expedient so to do.

(4) An operator may apply to the Enforcement Authority for an alteration of the specific conditions to which his permit is subject.

(5) Where an application is made to it under sub-rule (4), the Enforcement Authority shall determine whether to alter the specific conditions of the permit in question.

(6) Where the Enforcement Authority decides to alter the specific conditions of a permit, whether on an application to it under sub-rule (4) or otherwise, it shall serve on the operator a notice in writing specifying the alteration of those conditions of the permit and the date on which the alteration is to take effect.

(7) Where the Enforcement Authority decides on an application under sub-rule (4) not to alter the specific conditions of the permit, it shall notify the operator in writing of its reasons for refusal.

Application to transfer a permit.

32.(1) If an operator wishes to transfer the permit granted to him under rule 28 to another person (“the proposed transferee”) he and the proposed transferee shall jointly make an application to the Enforcement Authority to effect the transfer.

(2) Where an application is made to it under sub-rule (1) the Enforcement Authority shall—

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- (a) if satisfied, on the basis of the information supplied to it in the application that the proposed transferee—
 - (i) is a fit and proper person, and
 - (ii) will become the operator under the permit after it has been transferred, and that he will ensure that any storage or treatment (or both) will comply with the specific conditions (including any new specific conditions imposed at the time of the transfer) to which the permit is subject,

effect the requested transfer, or

- (b) if not so satisfied, give notice in writing to both the operator and the proposed transferee, stating that the application has been refused.

(3) The Enforcement Authority shall effect a transfer under this rule by causing the permit to be endorsed with the name and other particulars of the proposed transferee as now being the operator in respect of the storage or treatment (or both) thenceforth to be carried out under it.

(4) The Enforcement Authority may, by notice in writing, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the Enforcement Authority may require for the purpose of determining an application under this rule.

Application to surrender a permit.

33.(1) If an operator has ceased, or if he intends to cease, to store or to treat end-of life vehicles under a permit granted under rule 28, he may apply to the Enforcement Authority to surrender that permit.

(2) Where an application is made to it under sub-rule (1), the Enforcement Authority shall—

- (a) if satisfied, on the basis of the information supplied to it in the application, that such steps (if any) as are appropriate to avoid any pollution risk resulting from the storage or treatment carried out on such of the site as is the subject of the requested surrender and to return the said site to a satisfactory state have been taken by the operator, accept the surrender and give the operator notice of this, and the permit in question shall cease to have effect on the date specified in the application;

- (b) if not so satisfied, give to the operator a notice in writing stating that the application has been refused.

(3) The Enforcement Authority shall notify the operator under sub-rule (2)(a) or (b) within three months of its receipt of his application.

Revocation of a permit.

34.(1) The Enforcement Authority may at any time revoke a permit, in whole or in part, by serving a notice (a “revocation notice”) in writing on the operator.

(2) Without prejudice to the generality of sub-rule (1), the Enforcement Authority may serve a revocation notice in relation to a permit where–

- (a) it appears to the Enforcement Authority that an operator in relation to whom, in the course of his application for a permit, it determined that he was a fit and proper person, has ceased to be such a person,
- (b) the person to whom that permit was granted has ceased to be the operator under that permit.

(3) A revocation notice shall specify–

- (a) the extent of the revocation;
- (b) the date on which the revocation shall take effect;
- (c) any steps which the Enforcement Authority considers that it is appropriate to require the operator to take to–
 - (i) avoid any pollution risk resulting from the treatment carried out on the site, or that part of it, affected by the revocation;
 - (ii) return the site, or that part of it, to a satisfactory state,

and the date by which these steps are to be taken, which may be a later date than the date on which the revocation is to take effect.

(4) A permit in respect of which a revocation notice has been served shall be revoked to the extent, and on the date, specified in that notice.

(5) Before the date specified in any revocation notice as the date on which the revocation is to take effect, the Enforcement Authority may withdraw that notice.

Duty of the Enforcement Authority to ensure compliance with conditions.

35. While a permit is in force, it shall be the duty of the Enforcement Authority to take such action under these Rules as may be necessary for the purpose of ensuring that the conditions of the permit are complied with.

Enforcement notices.

36.(1) If the Enforcement Authority is of the opinion that an operator has contravened, is contravening or is likely to contravene any condition of his permit it may serve on him a notice (an “enforcement notice”) in writing.

(2) An enforcement notice shall—

- (a) state that the Enforcement Authority is of that opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) The steps that may be specified in an enforcement notice as steps that must be taken to remedy the contravention of any conditions of a permit may include both steps that must be taken to make the carrying out of any treatment comply with the conditions of the permit and steps that must be taken to remedy the effects of any pollution caused by the contravention.

(4) The Enforcement Authority may withdraw an enforcement notice at any time.

Suspension notices.

37.(1) If the Enforcement Authority is of the opinion, as respects any storage or treatment authorised under a permit granted under these Rules, that the carrying out of that storage or treatment involves an imminent risk of serious pollution, it shall, unless it intends to arrange for steps to be taken under rule 38(1) in relation to the risk, serve a notice in writing under this rule (a “suspension notice”) on the operator.

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(2) Sub-rule (1) applies whether or not the storage or treatment in question is regulated by or contravenes a condition of the permit.

(3) If the Enforcement Authority is of the opinion, as respects the carrying out of any storage or treatment under a permit granted under these Rules, that the operator carrying out the activities has ceased to be a fit and proper operator in relation to those activities by reason of their management having ceased to be in the hands of a technically competent person, it may serve a suspension notice on that operator.

(4) A suspension notice shall—

- (a) state the Enforcement Authority's opinion, as mentioned in sub-rule (1) or (3), as the case may be;
- (b) in the case of a notice served under sub-rule (1), specify—
 - (i) the imminent risk involved in the storage or treatment;
 - (ii) the steps that must be taken to remove it and the period within which they must be taken;
- (c) state that the permit in question shall, until the notice is withdrawn, cease to have effect to authorise the carrying out of the treatment specified, and
- (d) where the permit in question is to continue to have effect to authorise the carrying out of any storage or treatment, state any steps, in addition to those already required to be taken by the conditions of the permit, that are to be taken in carrying out that storage or treatment (or both).

(5) Where a suspension notice is served under this rule the permit shall, on the service of the notice, cease to have effect as stated in the notice.

(6) The Enforcement Authority may withdraw a suspension notice at any time and shall withdraw a notice when it is satisfied—

- (a) in the case of a notice served under sub-rule (1), that the steps required by the notice to remove the imminent risk of serious pollution have been taken;
- (b) in the case of a notice served under sub-rule (3), that the management of the storage or treatment is in the hands of a technically competent person.

**PART VII
FINAL PROVISIONS**

Power of Enforcement Authority to prevent or remedy pollution.

38.(1) If the Enforcement Authority is of the opinion, as respects any storage or treatment under a permit granted under these Rules, that the carrying out of that storage or treatment involves an imminent risk of serious pollution, it may arrange for steps to be taken to remove that risk.

(2) Where the commission of an offence under rule 40 causes any pollution the Enforcement Authority may arrange for steps to be taken towards remedying the effects of the pollution.

(3) In the event that it intends to arrange for steps to be taken under sub-rule (2) the Enforcement Authority shall, at least seven days before the steps are taken, notify the operator in writing of the steps that are to be taken.

(4) Subject to sub-rule (5), where the Enforcement Authority arranges for steps to be taken under this rule it may recover the cost of taking those steps from the operator concerned.

(5) No costs shall be recoverable under sub-rule (4) where the Enforcement Authority arranges for steps to be taken under sub-rule (1) if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by the Enforcement Authority.

Appeals to the Magistrates' Court.

39.(1) Subject to sub-rule (3), the following persons, namely—

- (a) a person who has been refused the grant of a permit under rule 28;
- (b) a person who has been refused the alteration of the specific conditions of a permit, on an application under rule 31(4);
- (c) a person who is aggrieved by the specific conditions attached to a permit granted to him following an application under rule 28 or by an alteration in such conditions following an application under rule 31(4);
- (d) a person whose application under rule 32(1) for the Enforcement Authority to effect the transfer of a permit has

been refused, or who is aggrieved by the specific conditions attached to his permit to take account of the transfer;

- (e) a person whose application under rule 33 for the surrender of a permit has been refused, or who is aggrieved by the specific conditions attached to his permit to take account of such surrender,

may appeal against the decision of the Enforcement Authority to the Magistrates' Court.

(2) Subject to sub-rule (3), a person on whom a notice of alteration of specific conditions, other than following an application under rule 31(4), or on whom a revocation notice is served, may appeal against the notice to the Magistrates' Court.

(3) Sub-rule (1) and (2) shall not apply where the decision or notice, as the case may be, implements a direction given by the Minister under rule 31(2).

(4) On the determination of an appeal against a decision of the Enforcement Authority under sub-rule (1) the Magistrates' Court may—

- (a) confirm the decision;
- (b) where the decision was a refusal to grant a permit or to alter the specific conditions of a permit, direct the Enforcement Authority to grant the permit or to alter the specific conditions of the permit, as the case may be;
- (c) where the decision was as to the specific conditions attached to a permit, quash all or any of the specific conditions in question;
- (d) where the decision was a refusal to effect the transfer or to accept the surrender of a permit, direct the Enforcement Authority either to effect the transfer or to accept the surrender, as the case may be,

and where he exercises any of the powers in paragraph (b) or (c) he may give directions as to the specific conditions to be attached to the permit in question.

(5) On the determination of an appeal under sub-rule (2) the court may either quash or affirm the notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.

(6) Where an appeal is brought under sub-rule (1)(b), (c), (d) or (e) in relation to the specific conditions attached to a permit, the bringing of the

appeal shall not have the effect of suspending the operation of those specific conditions.

(7) Where an appeal is brought under sub-rule (2) against a notice of alteration of specific conditions, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(8) Where an appeal is brought under sub-rule (2) against a revocation notice, the revocation shall not take effect pending the final determination, or the withdrawal, of the appeal.

Offences.

40.(1) It is an offence for a person—

- (a) to fail to comply with or to contravene a condition of a permit granted under these Rules;
- (b) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, for the purpose of obtaining for himself or another any grant of a permit, any registered exemption, any alteration of the specific conditions of a permit, any transfer of a permit, or any acceptance of the surrender of a permit;
- (c) to fail to comply with an enforcement notice served on him under rule 36;
- (d) intentionally to make a false entry in any record required to be kept by virtue of a permit;
- (e) to breach any general rule contained in any Schedule.

(2) A person found guilty of an offence under sub-rule (1) shall be liable—

- (a) upon summary conviction, to a fine not exceeding level 3 on the standard scale;
- (b) upon conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Liability of bodies corporate - general.

40A.(1) A corporate body shall be liable for an offence under these Rules where that offence is committed for its benefit by a person, acting either

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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 subrule (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 these Rules committed by a person referred to in subrule (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 these Rules 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 subrule (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, subrule (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 these Rules 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.

Amendments to the Traffic (Licensing and Registration) Regulations.

41. The Traffic (Licensing and Registration) Regulations shall be amended in accordance with Schedule 6.

SCHEDULE 1

Rule 13

**MINIMUM REQUIREMENTS FOR THE CERTIFICATE OF
DESTRUCTION ISSUED IN ACCORDANCE WITH ARTICLE 5(3)
OF DIRECTIVE 2002/151/EC**

1. Name, address, signature and registration or identification number of the establishment or undertaking issuing the certificate.
2. Name and address of competent authority responsible for the permit in accordance with Article 6(2) of Directive 2000/53/EC for the establishment or undertaking issuing the certificate of destruction.
3. Where the certificate is issued by a producer, dealer or collector on behalf of an authorised treatment facility, the name and address and registration or identification number of the establishment or undertaking issuing the certificate.
4. Date of issue of the certificate of destruction.
5. Vehicle nationality mark and registration number (attach the registration document or a statement by the establishment or undertaking issuing the certificate that the registration document has been destroyed (3)).
6. Class of vehicle, make and model.
7. Vehicle identification number (chassis).
8. Name, address, nationality and signature of the holder or owner of the vehicle delivered.

(1) This requirement may be waived in the case where the national registration or identification system does not provide for such number.

(2) In the case where no registration document exists on paper due to the use of an electronic registration system, this requirement may be waived.

SCHEDULE 2

Rule 8

SPECIMEN FORM OF COMPLIANCE NOTICE

(1) A compliance notice shall-

- (a) state that the Enforcement Authority suspects a requirement of the Rules has been contravened;
- (b) specify the reason it is suspected that a requirement in the Rules has been contravened and give particulars thereof;
- (c) require the producer to comply with the requirement; and
- (d) specify the time limit within which the producer must comply with the requirement; and
- (e) warn the producer that unless the requirement is complied with or satisfactory evidence has been provided within the period specified in the notice he may be prosecuted under rule 25.

SCHEDULE 3

Rules 25(1)(c), (2)(c) and 31(1)(a)

**TECHNICAL REQUIREMENTS FOR THE TREATMENT AND
STORAGE OF END-OF LIFE VEHICLES**

1. The storage or temporary storage of an end-of life vehicle prior to treatment shall only be carried out at a site—
 - (a) having, in appropriate areas, impermeable surfaces and provided with spillage collection facilities, decanters, and cleanser-degreasers, and
 - (b) provided with equipment for the treatment of water (including rainwater) in compliance with all applicable legislation concerning health and environmental matters.

2. The treatment of an end-of life vehicle shall only be carried out at a site—
 - (a) having, in appropriate areas, impermeable surfaces and provided with spillage collection facilities, decanters and cleanser-degreasers;
 - (b) provided with storage facilities that are appropriate for dismantled spare parts, including impermeable storage facilities for spare parts that are contaminated with oil;
 - (c) provided with containers that are appropriate for the storage of batteries (whether electrolyte neutralisation is carried out on-site or elsewhere), filters, and condensers containing any PCB or PCT or both;
 - (d) provided with storage tanks that are appropriate for the separate segregated storage of any fluid from an end-of life vehicle;
 - (e) provided with equipment for the treatment of water (including rainwater) in compliance with all applicable legislation concerning health and environmental matters;
 - (f) at which there is appropriate storage for used tyres without excessive stockpiling, and minimising any risk of fire.

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3. Treatment operations for the depollution of an end-of life vehicle shall consist of–

- (a) the removal of the battery or batteries;
- (b) the removal of the liquefied gas tank;
- (c) the removal or neutralisation of all potentially explosive components (including air bags);
- (d) the removal and separate collection and storage of all of–
 - (i) the fuel;
 - (ii) the oil from the engine, from the transmission system, from the gearbox, and from the hydraulic system;
 - (iii) the cooling liquids;
 - (iv) the anti-freeze;
 - (v) the brake fluids;
 - (vi) the fluids from the air-conditioning system,

and any other fluid contained in the said vehicle, but excluding any of the foregoing which is to be retained in the part of the vehicle in which it is found by reason of being necessary for the re-use of that part;

- (e) the removal, so far as is feasible, of all components identified as containing mercury.

4. The following treatment operations must be carried out (where the listed article or other thing is first present in an end-of life vehicle) for the purpose of recycling–

- (a) the removal of the catalyst or catalysts;
- (b) the removal (either during shredding or separately) of all metal components containing one or more of copper, aluminium and magnesium;
- (c) the removal (either during shredding or separately) of the tyres;
- (d) the removal (either during shredding or separately) of all large plastic components (including bumpers, the dashboard, and any

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fluid container) in such a way that they can be effectively recycled as materials;

- (e) the removal of all glass.

5. Any storage operations shall be carried out in such a manner as avoids damage to—

- (a) any component containing a fluid or fluids;
- (b) any recoverable components;
- (c) any spare part.

SCHEDULE 4

Rules 26(2)

**GENERAL RULES (AS REQUIRED TO BE ADOPTED FURTHER
TO ARTICLE 11(1) OF THE WASTE DIRECTIVE)****Part 1****GOVERNING ANY TREATMENT OF OTHER SCRAP METAL, AS
DESCRIBED IN RULE 7(2), UNDER THE TERMS OF A
REGISTERED EXEMPTION**

1. The carrying out, on a type of scrap metal described in Table 1, of any of the treatments specified in Table 1 in relation to that type of scrap metal—
- (a) shall not, in any period of seven days, exceed the limit specified in relation to that kind of waste in Table 1;
 - (b) shall be carried out with a view to the recovery ,recycling or re-use of the scrap metal (whether or not by the person carrying out the treatment listed in Table 1);
 - (c) every part of that place upon which the treatment is carried out is surfaced with an impermeable surface provided with a sealed drainage system; and
 - (d) the plant or equipment used in carrying out the treatment is maintained in reasonable working order.

TABLE 1

Type of scrap metal	Types of treatment	7-day limit
Ferrous metals or ferrous alloys in metallic non-dispersible form (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	8,000 tonnes

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The following non-ferrous metals, namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys).	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	400 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories.	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	300 tonnes

Note: “shearing” means the cold cutting of metal by purpose-made shears.

PART 2

GOVERNING ANY TREATMENTS, AS APPLICABLE

1. In relation to the carrying out of any treatment at any place under the terms of an exemption registered with the Enforcement Authority, the operator-

- (a) shall have established administrative arrangements to ensure that-
 - (i) only depolluted end-of life vehicles and, if such be the case, scrap metal of a type listed in Table 1 are accepted at that place; and
 - (ii) no such vehicles and, if such be the case, scrap metal are accepted at that place in such a quantity as would cause there to be a breach of any of the terms and conditions of the registration; and
- (b) shall carry out a monthly audit to confirm compliance with the terms and conditions of the registration;

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- (c) shall keep records showing, for each calendar month, the total quantity of depolluted end-of life vehicles and, if applicable, scrap metal of a type listed in Table 1 recovered during that month at that place, and shall send details each January of the total quantities of all such vehicles and scrap metal recovered at that place during the preceding year to the Enforcement Authority.

SCHEDULE 5

Rule 2

RECOVERY OPERATIONS

- (R 1) Use principally as a fuel or other means to generate energy.
- (R 2) Solvent reclamation/regeneration
- (R 3) Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
- (R 4) Recycling/reclamation of metals and metal compounds.
- (R 5) Recycling/reclamation of other inorganic materials.
- (R 6) Regeneration of acids or bases.
- (R 7) Recovery of components from catalysts.
- (R 8) Recovery of components from catalysts.
- (R 9) Oil re-refining or other reuses of oil.
- (R 10) Land treatment resulting in benefit to agriculture or ecological improvement.
- (R 11) Use of wastes obtained from any of the operations numbered R 1 to R 10.
- (R 12) Exchange of wastes for submission to any of the operations numbered R 1 to R 11.
- (R 13) Storage of wastes pending any of the operations numbered R 1 to R 12 (excluding temporary storage, pending collection, on the site where it is produced).

SCHEDULE 6

Rule 41

**CONSEQUENTIAL AMENDMENTS TO THE TRAFFIC
(LICENSING AND REGISTRATION) REGULATIONS**

The Traffic (Licensing and Registration) Regulations are amended as follows—

- (a) in regulation 11, prior to the words “The Licensing Authority may remove” there shall be inserted the words “subject to rule 11A”; and
- (b) after regulation 11 the following shall be inserted—

“Vehicles to which the End-of life Rules 2004 apply”

11A.(1) This regulation applies to vehicles which-

(a) are registered under these Regulations; and

(b) are vehicles to which the End-of life Rules 2004 apply.

(2) Where a vehicle to which this rule applies is transferred to an authorised treatment facility or a collecting agent on behalf of such a facility the treatment facility shall notify the Licensing Authority of the issue of a certificate of destruction and at the same time surrender the registration document to him.

(3) Where the Licensing Authority has been notified of the issue of a certificate of destruction it shall not as respects the vehicle to which it relates record in the Register any further change of keeper.

(4) The Licensing Authority shall not remove the registration details from that part of the register which records vehicles registered in Gibraltar of a vehicle to which the End-of life Vehicles Rules apply unless the Licensing Authority has been notified that an end-of life vehicle has been transferred to an authorised treatment facility and is satisfied that the process of checking the vehicle’s registration details against the register has been satisfactorily completed.

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(5) In this regulation “authorised treatment facility”, “certificate of destruction”, “EEA State” and “regulated vehicle” have the meanings that they have in the End-of life Vehicles Rules 2004.”.

SCHEDULE 7

Rule 5

Exemptions

This Schedule reproduces Articles 4(1)(a) and 8(2)(a) of Directive 1970/156/EEC for information purposes only.

Article 4

The type-approval process

1. Each Member State shall grant:

- (a) vehicle type-approval to:
 - vehicle types which conform to the particulars in the information folder and which meet the technical requirements of all the relevant separate Directives as prescribed in Annex IV,
 - special-purpose vehicle types mentioned in Annex XI which conform to the particulars in the information folder and which meet the technical requirements of the separate Directives as denoted in the relevant column of Annex XI.

This process shall be satisfied by the procedures described in Annex V;

Article 8

Exemptions and alternative procedures

2. Each Member State may, at the request of the manufacturer, exempt from one or more of the provisions of one or more of the separate Directives:

- (a) Vehicles produced in small series In this case, the number of vehicles of a family of types per year registered, sold or entering service in that Member State shall be limited to not more than the number of units shown in Annex XII. Each year the Member States shall send to the Commission a list of such approvals. The Member State granting such an approval shall send a copy of the approval certificate and its attachments to the approval authorities of the other Member States designated by the manufacturer, stating the nature of exemptions which have been granted. Within three months these Member States shall decide whether, and for which number of units, they accept the type approval for vehicles to be registered within

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their territory. For the purposes of approvals granted in accordance with this point (a), the requirements of Articles 3, 4, 5, 6, 10 and 11 shall apply only in so far as they are deemed to be relevant by the approval authority. Where an exemption is granted in accordance with this point (a) the Member State may require a relevant alternative provision.