

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 4,325 of 15th December, 2016**

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**B. 25/16**

**BILL**

**FOR**

**AN ACT** to amend the Public Health Act.

**ENACTED** by the Legislature of Gibraltar.

**Title.**

1. This Act may be cited as the Public Health (Amendment) Act 2017.

**Commencement.**

2. This Act comes into operation on the day of publication.

**Amendment of Public Health Act.**

3. The Public Health Act is amended in accordance with the provisions of sections 4 and 5.

**Amendment of Part I Sanitation and Buildings.**

4. In section 39(1) of the Public Health Act after the two places where “if he so elects,” appears insert “subject to the prior approval, and in accordance with any conditions imposed on any approval, of the Development and Planning Commission,”.

**Amendment of Part VA Waste.**

- 5.(1) In section 192A(1) of the Public Health Act the definition of “Incineration of Hazardous Waste Directive” is deleted.

(2) In section 192C(3)(a) of the Public Health Act for “is and where it is not recovered that it is disposed of” substitute “management is carried out”.

(3) Section 192D of the Public Health Act is amended as follows-

(a) after subsection (2)(a)(iii) insert-

“(iv) storage;”;

(b) for subsection (2)(d) substitute-

“(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;”;

(c) subsection (4) is amended as follows-

(i) in paragraph (e) for the full-stop substitute a semi-colon;

(ii) in subparagraph (f)(ii) for the full-stop substitute a semi-colon;

(iii) after paragraph (f) insert-

“(g) if it is not in the public interest.”;

(d) for subsection (6A) substitute-

“(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.”;
- (e) after subsection (7) insert-
  - “(7A) A person guilty of an offence under subsection (7) may have his licence revoked by the Government.”;
- (f) for subsection (8) substitute-
  - “(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.”;
- (g) in subsection (11) for “Industrial Emissions Regulations 2013” substitute “Pollution Prevention and Control Regulations 2013”.

(4) Section 192E of the Public Health Act is amended as follows-

- (a) after subsection (1) insert-
  - “(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.”;
- (b) In subsection (6) for “shall” substitute “may”;
- (c) after subsection (6) insert-
  - “(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.”;

(d) after subsection (8) insert-

“(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.”.

(5) For section 192JA of the Public Health Act substitute-

“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.”.

(6) Section 192KB of the Public Health Act is amended as follows-

(a) in subsection (4) “with the intention of subsequently disposing of it” is deleted;

(b) in subsection (7) “or (ii)” is deleted.

- (7) In subsection 192KC(2) of the Public Health Act “(b)” is deleted.
- (8) In section 192P of the Public Health Act after “The Government shall,” insert “where necessary in order to achieve the objectives of this Part,”.
- (9) Section 192Q of the Public Health Act is amended as follows-
- (a) in subsection (3) for “to deal with an apprehended emergency” substitute “in an emergency situation or where it is in the public interest”;
  - (b) after subsection (5) insert-
    - “(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).”;
  - (c) in subsection (6) for “thereafter” substitute “of the date of publication of the notice in the Gazette or newspaper, whichever is the later,”.
  - (d) in subsection (7)(b) for “within the prescribed time” substitute “in accordance with subsection (6)”.

**EXPLANATORY MEMORANDUM**

This Bill amends the provisions of Part I (Sanitation and Buildings) and Part VA (Waste) of the Public Health Act.

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