

Subsidiary Legislation made under s.64.

Recycling Regulations 2023

LN.2023/142

	<i>Commencement (LN.2025/013)</i>	16.1.2025
Amending enactments	Relevant current provisions	Commencement date
LN.2025/043	rr. 5, 7, 8(1), (4)(a), (5), Sch.	6.2.2025

ARRANGEMENT OF REGULATIONS

Regulation

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SCHEDULE

FIXED PENALTY NOTICE PURSUANT TO REGULATION 8 OF THE RECYCLING REGULATIONS 2023

In exercise of the powers conferred on him by section 64 of the Climate Change Act 2019 and all other enabling powers, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Recycling Regulations 2023.

Commencement.

2. These Regulations come into operation on a day to be appointed by the Minister by notice in the Gazette and different days may be appointed for different regulations.

Interpretation.

- 3.(1) In these Regulations-

“business” includes any trade, profession or vocation and includes any association, canteen, club, school, hospital or institution, whether carried on for profit or not;

“collection” means the gathering of waste, including the preliminary sorting and preliminary storage of such waste for the purposes of transport to a waste treatment facility;

“non-household waste” means waste from premises used wholly or mainly for the purposes of a business excluding—

- (a) household waste;
- (b) waste of any other description prescribed by notice published in the Gazette made by the Minister;

“dry recyclable waste” means non-household waste that is—

- (a) glass;
- (b) metals;
- (c) plastics;
- (d) paper;
- (e) card (including cardboard); or

(f) carton packaging for liquids,

and dry recyclable waste of the same type (such as glass) is referred to as a “dry waste stream”;

“food business” means an undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the delivery, processing, preparation or sale of food;

“food waste” means non-household waste that was at any time food intended for human consumption (even if of no nutritional value), and includes biodegradable waste produced as a consequence of the processing or preparation of food, but does not include drink or used cooking oil;

“household waste” means waste from—

- (a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for residential purposes;
- (b) a caravan which usually and for the time being is situated on a caravan site;
- (c) a residential home;

“officer” means-

- (a) a member of the Royal Gibraltar Police as defined in section 2 of the Police Act 2006;
- (b) the Chief Environmental Health Officer or such person as he or she shall appoint from the Environment Agency Limited;
- (c) the Chief Executive Officer of the Department of the Environment, Heritage and Climate Change and/ or such person as he or she shall appoint; and
- (d) a Customs Officer of Her Majesty’s Customs.

“separate collection” means that waste is presented for collection, and collected, in a manner that ensures that—

- (a) dry recyclable waste is kept separate from other waste;

- (b) waste from one dry waste stream is kept separate from waste in another such stream; and
- (c) food waste is kept separate from other waste;

“waste” shall have the meaning ascribed to it in section 192A of the Public Health Act.

(2) The Minister may, by notice published in the Gazette, provide that waste of a description prescribed in the notice shall be treated for the purposes of these regulations as being or not being household waste or non-household waste; and references to waste do not include sewage (including matter in or from a privy) except so far as the Minister provides otherwise.

Duty to recycle.

4.(1) It shall be the duty of any person who produces non-household waste to take all reasonable steps to ensure the separate collection of dry waste streams for all dry recyclable waste.

(2) It shall be the duty of any person who controls or manages a food business that produces food waste to ensure the separate collection of food waste from dry recyclable waste produced by the business.

(3) The duty in subregulation (2) does not apply to food waste—

- (a) produced on premises in use as a hospital; or
- (b) that includes catering waste that originates from means of transport operating internationally.

(4) The duty in subregulation (2) shall not apply where food waste is mixed with other biodegradable waste to the extent that the mixed waste is presented for collection in a manner that ensures that the amount of food waste collected is not significantly less than would be the case were the wastes not mixed.

(5) It shall be the duty of any person who produces food waste to ensure that food waste is not deposited in a public drain or sewer, or in a drain or sewer that connects to a public drain or sewer.

Transport of non-household waste.

5. It shall be the duty of any person who transports non-household waste to collect and transport separately from other waste any waste presented—

- (a) for collection in accordance with subregulation 4(1) or 4(2);
- (b) for collection in a separate receptacle.

Management of waste.

6. It shall be the duty of any person who produces or manages non-household waste, or who as a broker or dealer has control of such waste, to take all reasonable steps to—

- (a) ensure that the waste meets any quality standard for the management of material included in the waste;
- (b) ensure that the waste is managed in a manner that promotes high quality recycling; and
- (c) prevent any contravention by another person of this subregulation.

Offences.

7. A person in contravention of regulation 4, 5, or 6 is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Fixed penalty notices.

8.(1) Where on any occasion an officer finds a person whom the officer has reason to believe on that occasion has committed an offence pursuant to regulation 7 by contravening or having contravened a provision specified in regulations 4, 5, or 6, the officer may give that person a notice offering that person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person has been given a notice under this regulation in respect of an offence—

- (a) no proceedings must be instituted for that offence before the expiration of twenty-eight days following the date of the service of that notice; and
- (b) the person must not be proceeded further against for that offence if the person pays the fixed penalty before the expiration of that period.

(3) In sub regulations (1) and (2) “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under sub regulation (1), and “conviction” shall be construed in like manner.

(4) A notice under this section shall be in a form substantially similar to that appearing in the Schedule hereto and shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

- (a) a reference to the regulation which has been contravened;
- (b) the period during which, by virtue of sub regulation (2), proceedings are not to be taken for the offence;
- (c) the amount of the fixed penalty; and
- (d) the address of the Clerk of the Magistrates' Court to whom the fixed penalty shall be paid; and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(5) The fixed penalty payable in pursuance of a notice under this regulation is £300.00.

Discounts for prompt payment.

9.(1) This regulation applies where a person is served a fixed penalty notice under regulation 8.

(2) Where this regulation applies, a person who makes payment within 14 days of the fixed penalty notice being issued shall only be liable to pay 50% of the amount of the fixed penalty.

SCHEDULE

Regulation 8

**FIXED PENALTY NOTICE PURSUANT TO REGULATION 8
OF THE RECYCLING REGULATIONS 2023**

Notice Number:

Notice Served on:

By Officer:

Who had reason to believe that the following contravention had occurred and that a penalty charge is now payable:

[INSERT THE DETAILS OF THE CONTRAVENTION INCLUDING A REFERENCE TO A BREACH OF REGULATION 4, 5 OR 6 CONSTITUTING AN OFFENCE UNDER REGULATION 7]

Date of contravention:

Time:

Location:

A penalty charge of £300.00 is now payable. Payment must be received by the Clerk of the Magistrates' Court, no later than the last day of the period of 28 days beginning with the date on which this notice was issued.

The fixed penalty will be reduced by a discount of 50% to £150.00 if payment is received no later than the last day of the period of 14 days beginning with the date on which this Fixed Penalty Notice was issued.

SEE OVERLEAF FOR

How to pay

What happens if the charge is not paid.

-----DETACH HERE-----

Payment Slip

Fixed Penalty Notice number:

2019-29

Climate Change

2023/142

Recycling Regulations 2023

Notice issued on:

Contravention:

The penalty charge is £300.00 or £150.00 if payment is received by the Clerk of the Magistrates' Court no later than the last day of the period of 14 days beginning with the date on which this payment was served.

DO NOT IGNORE THIS NOTICE

Within 14 days from the date of issue of this notice you can

- Pay the reduced fixed penalty detailed overleaf which will be accepted as full settlement. Payment must be received by the Clerk of the Magistrates' Court within 14 days from the date of service of this notice to be eligible for the reduced penalty charge.

After the expiry of the 14 day discount period you can

- Pay the full fixed penalty detailed overleaf.

After 28 days from the date of service of this notice

- If the fixed penalty is not paid in full the notice will be forwarded to the Magistrates' Court and a Summons issued.

HOW TO PAY

By cash or other accepted means of payment in person or by post, in all cases to the Clerk of the Magistrates' Court at 32-36 Town Range, Gibraltar. A receipt for the payment will be given. Part payment will not be accepted. The person paying the penalty must forward with the remittance the payment slip of the notice. This notice is deemed to have been given to the person liable for the offence indicated above. If the fixed penalty is not paid within the time limit set, the offender is liable to be prosecuted.