

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4848 GIBRALTAR Thursday 29th April 2021

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LEGAL NOTICE NO. 252 OF 2021.

## EUROPEAN UNION LAWS (VOLUNTARY IMPLEMENTATION) ACT 2019

### RESPONSIBLE AND SAFE MANAGEMENT OF SPENT FUEL AND RADIOACTIVE WASTE (AMENDMENT) REGULATIONS 2021

In exercise of the powers conferred on him by section 4 of the European Union Laws (Voluntary Implementation) Act 2019 and in order to give effect, in part, to Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community Framework for the responsible and safe management of spent fuel and radioactive waste, the Minister has made the following Regulations-

#### **Title.**

1. These Regulations may be cited as the Responsible and Safe Management of Spent Fuel and Radioactive Waste (Amendment) Regulations 2021.

#### **Commencement.**

2. These Regulations come into operation on the day of publication.

#### **Amendment to regulations.**

3.(1) The Responsible and Safe Management of Spent Fuel and Radioactive Waste Regulations 2013 are amended in accordance with this regulation.

(2) In regulation 5(1) delete paragraphs (c) and (e).

(3) After regulation 5 insert-

#### **“Requirement to hold a licence.**

6A.(1) A person who-

- (a) is concerned in any activity involving spent fuel, radioactive waste or both; or
- (b) operates a waste management facility in which spent fuel or radioactive waste is handled,

without a licence under these Regulations commits an offence.

(2) The requirement to hold a licence under this regulation is cumulative to the requirement to hold any licence or permit under any other enactment.

- (3) A person who contravenes the provisions of this regulation is liable to imprisonment for 6 months or to a fine at level 3 on the standard scale, or to both.

**Licences: general.**

6B.(1) Applications for a licence under these Regulations are to be made to the competent regulatory authority.

- (2) In considering an application for a licence the competent regulatory authority must-

- (a) be satisfied that the applicant has the necessary expertise and skill to undertake the activities to which the licence relates;
- (b) has the necessary human and financial resources to undertake the activities;
- (c) have regard to the Nuclear Waste Management Framework.

- (3) A licence issued under these Regulations-

- (a) must state the period of validity;
- (b) is not transferrable;
- (c) may be renewed for such further period as stated in the licence.

- (4) A licence may be issued subject to such conditions as the competent regulatory authority deems appropriate and may be amended at any time to include any provisions that may lead to improved safety.”.

(4) In regulation 8(1) for “Government shall ensure that the Nuclear Waste Management Framework requires licence holders to” substitute “competent regulatory authority must, having regard to the purpose for which the licence is required, include conditions in each licence for licence holders to”.

- (5) After regulation 23 insert-

*“Further enforcement provisions*

**Requests for information.**

24.(1) The competent regulatory authority may request a licensee to provide any information that the competent regulatory authority requires-

- (a) for the purpose of assessing whether the conditions of a licence are being observed;

(b) to enable the competent regulatory authority to discharge its functions,  
and a person who receives such a request must endeavour to provide the information  
as soon as is reasonably practicable.

(2) A person is not required to provide the competent regulatory authority with any  
information that that person cannot be compelled to give in any civil  
proceedings.

**Powers of entry.**

25.(1) An enforcement officer may on giving reasonable notice enter any premises  
except premises used wholly or mainly as a private dwelling-house at any  
reasonable hour for the purposes of enforcing these Regulations.

(2) The requirement to give notice does not apply-

(a) where reasonable efforts to agree an appointment have failed;

(b) where an enforcement officer reasonably believes that giving notice  
would defeat the object of the entry;

(c) where an enforcement officer has a reasonable suspicion of a breach of  
these Regulations or a licence or a condition of a licence issued under  
these Regulations.

(3) An enforcement officer must, if requested to do so, produce evidence of his  
identity.

(4) A justice of the peace may by signed warrant permit an enforcement officer to  
enter any premises, including dwelling-houses, if necessary by reasonable force  
if the justice on sworn information in writing is satisfied-

(a) that there are reasonable grounds to enter those premises for the purpose  
of enforcing these Regulations, and

(b) that one or more of the conditions in subregulation (5) are met.

(5) The conditions are-

(a) entry to the premises has been, or is likely to be, refused, and notice of the  
intention to apply for a warrant has been given to the occupier;

(b) asking for admission to the premises, or giving such a notice, would  
defeat the object of the entry;

(c) entry is required urgently;

- (d) the premises are unoccupied or the occupier is temporarily absent.
- (6) A warrant is valid for 30 days from the date of signature.
- (7) An enforcement officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (8) An enforcement officer may-
  - (a) be accompanied by such other persons as the enforcement officer considers necessary;
  - (b) bring on to the premises such equipment as the enforcement officer considers necessary.
- (9) In this regulation and in regulation 26 “enforcement officer” means the Chief Environmental Health Officer and any person authorised by him in writing.

**Powers on entry.**

- 26.(1) An enforcement officer who has entered premises under regulation 25 may-
- (a) inspect and search the premises;
  - (b) take photographs;
  - (c) mark any item for identification purposes;
  - (d) require the production of any label, document or record (in whatever form it is held);
  - (e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;
  - (f) inspect and open any container or item;
  - (g) inspect any plant, machinery or equipment;
  - (h) have access to, inspect and check the data on, and operation of, any computer and any associated apparatus used in connection with a document or record to which this regulation relates;
  - (i) where a document or record is kept by means of a computer, require the label, document or record to be produced in a form in which it may be taken away;

- (j) seize and detain any computer equipment for the purpose of copying any data or for further inspection where adequate inspection has not been able to be carried out on the premises, if the enforcement officer has reason to believe that a person is in contravention of these Regulations or a licence and that the data may be relevant to the contravention;
  - (k) seize and detain potential evidentiary material, that is to say, any document, record, equipment, container or item if the enforcement officer has reason to believe that a person is in contravention of these Regulations or a licence and that the potential evidentiary material may be relevant to the contravention.
- (2) If it is decided that anything seized and detained under subregulation (1) by an enforcement officer is no longer needed the enforcement officer must return it as soon as reasonably practicable after that decision.”.

Dated: 29<sup>th</sup> April 2021.

PROF J CORTES,  
Minister with responsibility for the Environment.

### **EXPLANATORY MEMORANDUM**

These Regulations give effect, in part, to Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community Framework for the responsible and safe management of spent fuel and radioactive waste by amending the Responsible and Safe Management of Spent Fuel and Radioactive Waste Regulations 2013.