

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4907 GIBRALTAR Thursday 14th October 2021

LEGAL NOTICE NO. 422 OF 2021

EUROPEAN UNION (WITHDRAWAL) ACT 2019

ENVIRONMENT (EU EXIT) REGULATIONS 2021

In exercise of the powers conferred upon him by section 11(1) of, and paragraph 1 of Schedule 3 to, the European Union (Withdrawal) Act 2019, the Minister has made the following Regulations-

Title.

1. These Regulations may be cited as the Environment (EU Exit) Regulations 2021.

Commencement.

2. These Regulations are deemed to have come into operation on 1 January 2021.

Amendment of the Environment Act 2005.

- 3.(1) The Environment Act 2005 is amended in accordance with this regulation.

(2) In section 2-

- (a) in the definition "Directive" after the words "programmes on the environment" insert "as it had effect immediately before 1 January 2021";
- (b) in the definition "Habitats Directive" for "as adapted to technical and scientific progress by Council Directive 97/62/EC;" substitute "as it had effect immediately before 1 January 2021";
- (c) in the definition "plans and programmes" for "Community" substitute "Union".

(3) In section 4-

- (a) in subsection (2)(b) for "Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC" substitute "Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment";
- (b) in subsection (3) after "pursuant to" insert "any law that implemented".

- (4) In section 6, including in the heading, “Community” substitute “Union” on each occasion that word appears.
- (5) In section 7(2)(a) for “Community” substitute “Union”.
- (6) In section 11(4) for “Community legislation” substitute “retained EU law”.
- (7) In section 13(1) and (3)(a) for “another Member” substitute “a Member”.
- (8) In section 14-
 - (a) in the heading omit “other”;
 - (b) in subsection (4)(b) and (d) for “under Article 7.1 of the Directive” substitute “by the Member State”.
- (9) In section 17-
 - (a) in the heading for “Community Legislation” substitute “retained EU law”;
 - (b) in subsection (1) for “Community provision other than the Directive” substitute “provision in retained EU legislation”
 - (c) in subsection (2) for “the Directive and another Community provision” substitute “this Act and another provision in retained EU legislation”.
- (10) In section 18(c) for “European Union” substitute “international”.
- (11) In Schedule 1-
 - (a) in paragraph 1(e) for “Community legislation” substitute “retained EU law”;
 - (b) in paragraph 2(g) for “Community” substitute “European Union”.
- (12) In Schedule 2-
 - (a) in paragraph (4) for “Council Directive 79/409/EEC” substitute “Directive 2009/147/EC”;
 - (b) in paragraph 5 for “Community or Member State” substitute “European Union or national”.

(13) For Schedule 3 substitute-

“SCHEDULE 3

This Schedule reproduces Annexes I and II of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

ANNEX I

PROJECTS REFERRED TO IN ARTICLE 4(1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
- 2.(a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more;
- (b) Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors⁽¹⁾ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
- 3.(a) Installations for the reprocessing of irradiated nuclear fuel;
- (b) Installations designed:
 - (i) for the production or enrichment of nuclear fuel;
 - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste;
 - (iii) for the final disposal of irradiated nuclear fuel;
 - (iv) solely for the final disposal of radioactive waste;
 - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

(1) Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

- 4.(a) Integrated works for the initial smelting of cast iron and steel;
 - (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:
- (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.
- 7.(a) Construction of lines for long-distance railway traffic and of airports⁽²⁾ with a basic runway length of 2 100 m or more;
- (b) Construction of motorways and express roads⁽³⁾;

(2) For the purposes of this Directive, 'airport' means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14).

(3) For the purposes of this Directive, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

- (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in a continuous length.
- 8.(a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;
- (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste under heading D9, or landfill of hazardous waste, as defined in point 2 of Article 3 of that Directive.
10. Waste disposal installations for the incineration or chemical treatment as defined in Annex I to Directive 2008/98/EC under heading D9 of non- hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
- 12.(a) Works for the transfer of water resources between river basins where that transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
- (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of that flow.

In both cases transfers of piped drinking water are excluded.

13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in point 6 of Article 2 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 cubic metres/day in the case of gas.

15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines with a diameter of more than 800 mm and a length of more than 40 km:
 - (a) for the transport of gas, oil, chemicals;
 - (b) for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.
17. Installations for the intensive rearing of poultry or pigs with more than:
 - (a) 85 000 places for broilers, 60 000 places for hens;
 - (b) 3 000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.
18. Industrial plants for the production of:
 - (a) pulp from timber or similar fibrous materials;
 - (b) paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.
22. Storage sites pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide.
23. Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations covered by this Annex, or where the total yearly capture of CO₂ is 1,5 megatonnes or more.
24. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.

ANNEX II

PROJECTS REFERRED TO IN ARTICLE 4(2)

1. AGRICULTURE, SILVICULTURE AND AQUACULTURE

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea.

2. EXTRACTIVE INDUSTRY

- (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
 - (i) geothermal drilling;
 - (ii) drilling for the storage of nuclear waste material;
 - (iii) drilling for water supplies;

with the exception of drillings for investigating the stability of the soil;

- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

3. ENERGY INDUSTRY

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);

- (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);
- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms);
- (j) Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not covered by Annex I to this Directive.

4. PRODUCTION AND PROCESSING OF METALS

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
 - (i) hot-rolling mills;
 - (ii) smitheries with hammers;
 - (iii) application of protective fused metal coats;
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;

- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

5. MINERAL INDUSTRY

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos products (projects not included in Annex I);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

6. CHEMICAL INDUSTRY (PROJECTS NOT INCLUDED IN ANNEX I)

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

7. FOOD INDUSTRY

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;

(h) Fish-meal and fish-oil factories;

(i) Sugar factories.

8. TEXTILE, LEATHER, WOOD AND PAPER INDUSTRIES

(a) Industrial plants for the production of paper and board (projects not included in Annex I);

(b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;

(c) Plants for the tanning of hides and skins;

(d) Cellulose-processing and production installations.

9. RUBBER INDUSTRY

Manufacture and treatment of elastomer-based products.

10. INFRASTRUCTURE PROJECTS

(a) Industrial estate development projects;

(b) Urban development projects, including the construction of shopping centres and car parks;

(c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);

(d) Construction of airfields (projects not included in Annex I);

(e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);

(f) Inland-waterway construction not included in Annex I, canalisation and flood-relief works;

(g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);

(h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;

(i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Annex I);

- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
- (m) Works for the transfer of water resources between river basins not included in Annex I.

11. OTHER PROJECTS

- (a) Permanent racing and test tracks for motorised vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex D);
- (c) Waste-water treatment plants (projects not included in Annex D);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. TOURISM AND LEISURE

- (a) Ski runs, ski lifts and cable cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent campsites and caravan sites;
- (e) Theme parks.

- 13.(a) Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I);
- (b) Projects in Annex I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.”.

Dated: 14th October 2021.

PROF. J CORTES,
Minister with responsibility for the environment.

EXPLANATORY MEMORANDUM

These Regulations are made pursuant to the powers in section 11 and paragraph 1(b) of Schedule 3 of the European Union (Withdrawal) Act 2019 to address deficiencies arising from withdrawal from the European Union. These Regulations amend the Environment Act 2005.