

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

LEGAL NOTICE NO. 541 OF 2020.

HEALTH PROTECTION (IONISING RADIATION) ACT 1995

INTERPRETATION AND GENERAL CLAUSES ACT

RESPONSIBLE AND SAFE MANAGEMENT OF SPENT FUEL AND RADIOACTIVE WASTE (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred on it by section 2 the Health Protection (Ionising Radiation) Act 1995 and by section 23(g)(i) of the Interpretation and General Clauses Act and for the purpose of further transposing into the law of Gibraltar 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 Government 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 2020.

Commencement.

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

Amendment of Regulations.

3. After regulation 15 of the Responsible and Safe Management of Spent Fuel and Radioactive Waste Regulations 2013 insert-

*“Additional provisions regarding enforceability
of national polices and national frameworks*

Interpretation: supplementary.

16. In regulations 17 to 21-

“conduct” includes any act as well as any failure to act;

“the national framework” means the Nuclear Waste Management Framework for spent fuel and radioactive waste management established in accordance with regulation 5(1);

“the national policy” means the policy on spent fuel and radioactive waste management established in accordance with regulation 4(3).

Enforcement notices.

17.(1) This regulation applies to conduct which is included in-

- (a) the national policy; and
 - (b) the national framework.
- (2) The competent authority may issue a notice in writing (an enforcement notice) to any person whose conduct is, in the opinion of the competent authority, not in compliance with the national policy or national framework.
- (3) An enforcement notice must state the-
- (a) conduct that the competent authority has reason to believe is not in compliance with the national policy or national framework;
 - (b) reasons why the competent authority considers that such conduct does not comply with the national policy or national framework;
 - (c) what action is required; and
 - (d) the time by which such action must be taken.

Breach of enforcement notice.

18. A person who without reasonable excuse fails to comply with an enforcement notice within the time stated in the notice or at all commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement notice: appeal.

- 19.(1) A person who has been issued with an enforcement notice under regulation 16 may within 28 days from the date of the notice appeal to the Magistrates' Court.
- (2) The court after considering such an appeal may make such order as it deems fit.
- (3) The lodging of an appeal under this regulation does not affect the requirement to comply with it unless the court orders otherwise.

Further provisions as to licences.

Condition of licence.

20. It is a condition of every licence issued under these regulations that the holder of that licence must at all times that the holder is undertaking an activity to which the licence relates have regard to the national policy and the national framework.

Amendment of licence.

- 21.(1) Where the competent authority has reason to believe that a licence is permitting conduct that is not conducive to the implementation of the national policy or the national framework the competent authority must amend that licence.
- (2) Where the competent authority intends to exercise the powers under subregulation (1) the competent authority must inform the licence holder of its intention and allow the licence holder to make representations to it.

Breach of terms of licence.

- 22.(1) The competent authority may suspend, vary or revoke a licence if it is satisfied that the licence holder has not complied with any of the terms under which the licence was issued.
- (2) Where the competent authority intends to exercise the powers under subregulation (1) the competent authority must inform the licence holder of its intention and allow the licence holder to make representations to it.

Licence: appeals.

- 23.(1) A person who has had a licence suspended, varied or revoked under regulation 22 may within 28 days from the date of suspension, variation or revocation appeal to the Magistrates' Court.
- (2) The court after considering such an appeal may make such order as it deems fit.”.

Dated: 24th December 2020.

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For the Government.