

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3886 of 27 October, 2011

LEGAL NOTICE NO. 214 OF 2011.

INTERPRETATION AND GENERAL CLAUSES ACT

**LANDFILL ACT 2002 (AMENDMENT)
REGULATIONS 2011**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and all other enabling powers, and in order to partly transpose Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, the Government has made the following Regulations-

Title and commencement.

1. These Regulations may be cited as the Landfill Act 2002 (Amendment) Regulations 2011 and come into operation on the day of publication.

Amendment of Act.

2. The Landfill Act, 2002 (“the principal Act”) is amended in accordance with these Regulations.

Amendment of section 2.

3.(1) In section 2(1) of the principal Act-

(a) immediately before the definition “biodegradable waste” insert the following definitions-

““automotive battery or accumulator” means any battery or accumulator used for automotive starter, lighting or ignition power;

“Batteries Directive” means Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and

accumulators and repealing Directive 91/157/EEC, as amended from time to time;

“battery” or “accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable), but does not include a battery or accumulator which is excluded from the scope of the Environment (Waste) Regulations 2007 pursuant to regulation 14B of those Regulations;”;

(b) after the definition of “holder” insert the following definition-

“industrial battery or accumulator” means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle;”;

(c) after the definition of “operator” insert the following definition-

“portable battery or accumulator” means any battery, button cell, battery pack or accumulator that-

- (a) is sealed;
- (b) can be hand-carried; and
- (c) is neither an industrial battery or accumulator nor an automotive battery or accumulator;

(d) at the end of the definition of “treatment” insert the words “, except in relation to waste batteries;”;

(e) in the definition of “waste” for “192” substitute “192A”.

(2) After subsection (2) insert the following subsection-

“(2B) The terms “automotive battery or accumulator”, “battery or accumulator”, “industrial battery or accumulator” and “portable battery or accumulator” in subsection (1) shall be

interpreted in the same way as those terms are interpreted and applied in the Environment (Waste) Regulations 2007.”

Amendment of section 5.

4. In section 5 of the principal Act–

- (a) in subsection (1)(f)(ii) delete the word “and”;
- (b) after subsection (1)(f) insert the following paragraph–
 - “(fa) waste industrial or automotive batteries; and”;
- (c) after subsection (2) insert–

“(2A) Subsection (1)(fa) does not prohibit the acceptance of residues of any batteries and accumulators that have undergone both treatment and recycling, provided that the treatment and recycling–

- (a) used best available techniques, in terms of the protection of health and the environment; and
- (b) complied, as a minimum, with European Union legislation, in particular as regards health and safety and waste management.

(2B) This section shall not apply–

- (a) to the disposal of portable batteries and accumulators in landfills or underground storage if no viable end market is available for portable batteries or accumulators that contain cadmium, mercury or lead; or
- (b) where as part of a strategy to phase out heavy metals, and based on a detailed assessment of the environmental, economic, and social impacts, the disposal of portable batteries and accumulators in landfills or underground storage is to be preferred over recycling.

(2C) The detailed assessment referred to in subsection (2B)(b) shall be made public and the Competent

Authority shall ensure that the Commission is notified of draft measures in accordance with the provisions of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services.

- (2D) For the purposes of subsections (2A) and (2B) waste batteries and accumulators shall be deemed to have been treated where the minimum requirements set out in Schedule 5 have been attained.”.

Schedule 5.

5. After Schedule 4 to the principal Act insert the following schedule—

**“SCHEDULE 5
TREATMENT REQUIREMENTS**

Section 5(2D)

1. Treatment shall, as a minimum, include removal of all fluids and acids.
2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.”.

Dated 27th October, 2011.

P R CARUANA,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations partly transpose Directive 2006/66/EC on batteries and accumulators.

The Regulations provide for a prohibition on the disposal of waste industrial batteries and accumulators in landfill sites subject to certain exceptions.

