

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4727 GIBRALTAR Thursday 18th June 2020

LEGAL NOTICE NO. 225 OF 2020

INTERPRETATION AND GENERAL CLAUSES ACT

LANDFILL ACT 2002 (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred on it by section 23(g)(ii) of the Interpretation and General Clauses Act and all other enabling powers, and in order to transpose into the Law of Gibraltar Directive (EU) 2018/850 of the European Parliament and of the Council of 18 May 2018 amending Council Directive 1999/31/EC on the landfill of waste and to ensure a progressive reduction thereof, the Government has made the following Regulations-

Title.

1. These Regulations may be cited as the Landfill Act 2002 (Amendment) Regulations 2020.

Commencement.

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

Amendment to Act.

3. The Landfill Act 2002 (the “Act”) is amended in accordance with the provisions of these Regulations.

Amendment of section 2.

4. In section 2-

(a) in subsection (1)-

- (i) the words “as may be amended from time to time” are included in the definition of “the Directive” between the word “waste” and “;”;
- (ii) after the definition of “the Directive”, the following new definition is inserted-

““disposal” shall have the meaning given to it in section 192A of the Public Health Act;”;

- (iii) the definition of “municipal waste” is replaced with-

““municipal waste” has the meaning given to it in section 192A of the Public Health Act;”;

- (iv) after the definition of “portable battery or accumulator” the following new definitions are inserted –

““preparing for re-use” has the meaning given to it in section 192A of the Public Health Act;

“recovery” has the meaning given to it in section 192A of the Public Health Act;

“recycling” has the meaning given to it in section 192A of the Public Health Act;

“separate collection” has the meaning given to it in section 192A of the Public Health Act;”;

- (v) the following new definition is inserted after the definition of “waste”-

““waste management” has the meaning given to it in section 192A of the Public Health Act.”;

- (b) subsection (6)(c), is replaced in its entirety with-

“(c) the management of waste from land-based extractive industries including waste arising from the prospecting, extraction, including the pre-production development stage, treatment and storage of mineral resources and from the working of quarries.”;

- (c) the following new subsection (7) is inserted after subsection (6)-

“(7) The Competent Authority shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those listed in Schedule 11C of the Public Health Act in order to contribute to the objectives laid down in this Act.”.

Amendment of Section 5.

5. In section 5–

- (a) in subsection (1)(fa), the “and” is removed immediately following the “;” and the following new subsection (fb) is inserted-

“(fb) waste that has been separately collected for preparing for re-use and recycling pursuant to sections 192C(3)(a)-(ae) and 192MC of the Public Health Act, with the exception of waste resulting from subsequent

treatment operations of the separately collected waste for which landfilling delivers the best environmental outcome;”;

(b) the following new subsections are inserted immediately after subsection (2D)-

“(2E) The Competent Authority must take measures to ensure that:

- (a) by 2030, all waste suitable for recycling or other recovery, in particular municipal waste, shall not be accepted in a landfill with the exception of waste for which landfilling delivers the best environmental outcome and the Competent Authority shall include this information in the waste management plans referred to in section 192M of the Public Health Act; and
- (b) by 2035 the amount of municipal waste landfilled is reduced to 10% or less of the total amount of municipal waste generated (by weight).

(2F) The deadline referred to in subsection (2E)(b) may be postponed for a period of no more than 5 years provided that the Competent Authority:

- (a) landfilled more than 60% of its municipal waste generated in 2013 as reported under the Joint Questionnaire of the OECD and Eurostat; and
- (b) at the latest 24 months before the deadline laid down in subsection (2E)(b), the Competent Authority shall ensure that the Commission is notified of the Competent Authority’s intention to postpone the deadline and shall submit and implementation plan in accordance with the provisions of Schedule 6.

(2G) In the event of postponing the deadline referred to in subsection (2E)(b) in accordance with subsection (2F), the Competent Authority must implement the necessary measures to reduce by 2035 the amount of municipal waste landfilled to 25% or less of the total amount of municipal waste generated (by weight).

(2H) For the purpose of calculating whether the targets laid down in subsections (2E)(b) and (2F) have been attained:

- (a) the weight of the municipal waste generated and directed to landfilling shall be calculated in a given calendar year;
- (b) the weight of waste resulting from treatment operations prior to recycling or other recovery of municipal waste, such as sorting or mechanical biological treatment and which is subsequently landfilled must be included in the weight of municipal waste reported as landfilled;

- (c) the weight of municipal waste that enters incineration disposal operations and the weight of the waste produced in the stabilisation operations of the biodegradable fraction of municipal waste in order to be subsequently landfilled shall be reported as landfilled;
 - (d) the weight of waste produced during recycling or other recovery operations of municipal waste which is subsequently landfilled shall not be included in the weight of municipal waste reported as landfilled;
 - (e) where municipal waste is shipped to another Member State or exported from the European Union for the purposes of landfilling, it shall be counted towards the amount of waste landfilled by the Competent Authority.
- (2I) The Competent Authority shall report the data concerning the implementation of subsections (2E) and (2F) for each calendar year to the Commission and such reports shall be of such nature, and shall be sent at such a frequency, as is required by Article 15 of the Directive.”.

Amendment to Section 6.

6. In section 6, the following new subsection (2A) is inserted immediately after subsection (2)-

“(2A) The Competent Authority must ensure that the measures taken by an operator of a landfill pursuant to subsection (2) do not compromise the achievement of the objectives of the Public Health Act and Directive 2008/98/EC on the waste hierarchy and on the increase of preparing for re-use and recycling.”.

Insertion of Schedule 6.

7. The following new Schedule 6, shall be inserted immediately following Schedule 5-

“SCHEDULE 6

Implementation Plan to be Submitted

Section 5(2F)

The implementation plan to be submitted pursuant to section 5(2F) shall contain the following:

1. an assessment of the past, current and projected rates of recycling, landfilling and other treatment of municipal waste and the streams of which it is composed;
2. an assessment of the implementation of waste management plans and waste prevention measures in place pursuant to sections 192M and 192MA of the Public Health Act;

3. the reasons for which the Competent Authority considers that it might not be able to attain the relevant target laid down in section 5(2E)(b) within the deadline set therein and an assessment of the time extension necessary to meet the target;
4. the measures necessary to attain the target set out in section 5(2G) during the time extension, including the appropriate economic instruments and other measures used as appear in Schedule 11C of the Public Health Act;
5. a timetable for the implementation of the measures identified in paragraph 4 of this Schedule, the determination of a body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
6. information on funding for waste management in line with the polluter pays principle;
7. measures to improve data quality, if appropriate, with a view to better planning and monitoring performance in waste management.”.

Dated: 18th June 2020

PROF. J CORTES,
for the Government.