

L.N. 285 of 2011

**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)**

Waste Management (Shipments of Waste) Regulations, 2011

IN EXERCISE of the powers conferred by articles 61 and 62 of the Environment and Development Planning Act, the Prime Minister, after consultation with the Malta Environment and Planning Authority, has made the following regulations:-

1. (1) The title of these regulations is the Waste Management (Shipments of Waste) Regulations, 2011.

Title, scope and commencement.

(2) The scope of these regulations is to transpose the provisions of Council Regulation (EC) No 1013/2006 on shipments of waste in order to establish a system of supervision and control of shipments of waste, so as to guarantee protection of human health and the environment.

(3) These regulations shall come into force on such date as the Minister may establish by means of a notice in the Gazette.

2. (1) For the purposes of these regulations, and unless the context otherwise requires, the following definitions shall apply:

Definitions.

“the Act” means the Environment and Development Planning Act;

“application” means the application submitted by any person to obtain a permit for the importation, transit, transshipment or exportation of waste;

“authorisation” means any authorisation granted under these regulations and in relation to authorised providers and services means a permit, licence, warrant, appointment, concession or any decision concerning access to a service activity or the exercise thereof;

“authorised provider” means and includes any person who is a trader or importer in terms of these regulations and who is in possession of an authorisation or permit issued in his favour by the Competent Authority;

“the Community” means the European Community as established by the Treaty of the European Union;

“the Competent Authority” means the Malta Environment and Planning Authority and such other body or person as the Minister may, by order in the Gazette prescribe, and such other bodies or persons as may be designated for different purposes of these regulations;

“competent authority of destination” means the competent authority which imports waste into its country from the competent authority of dispatch for trading purposes;

“competent authority of dispatch” means the competent authority which exports waste from its country to the competent authority of transit or destination for trading purposes;

“competent authority of transit” means the competent authority which either:

(a) imports waste so that it is then transferred or transhipped to another member state or country of destination for trading purposes; or

(b) who exports waste after having imported such waste into its country from the country or competent authority of dispatch for trading purposes;

“Member State” means a state which is a member of the European Union;

“the Minister” means the Minister responsible for the environment;

“person” means any natural or legal person;

“third country” means a country which is not a member state of the European Union;

“transhipment of waste” means and includes the activity of transporting waste by ships or vessels in, within or out of the Community;

“trade” means for the purpose of these regulations,

trade between Member States or between a Member State and a third country in transshipment of waste, a business or occupation to make profit or gain, and includes dealings in a particular business activity.

(2) All other terms shall have the same meaning as that assigned to them in regulation 4 of the Waste Regulations, 2011. L.N. 184 of 2011.

3. (1) The provisions contained in Council Regulation (EC) No 1013/2006 on shipments of waste shall *mutatis mutandis* apply. Applicability.

(2) All shipments of waste destined for disposal in Malta shall be prohibited. Where a notification is submitted to the Competent Authority, as a competent authority of destination, regarding a planned shipment of waste destined for disposal in Malta, the Competent Authority shall *ipso jure* object.

(3) These regulations shall be without prejudice to rights and obligations under international law and shall apply without prejudice to the Waste Regulations, 2011, and other existing national legislation which may apply in this regard.

4. (1) Applications for a permit for the transshipment of waste according to these regulations, shall be accompanied by a fee as may be prescribed by the Competent Authority set out in the Schedule to these regulations. Fees.

(2) These regulations shall be without prejudice to rights and obligations imposed by the competent authority of destination and the competent authority or authorities of transit.

5. Any person shall be guilty of an offence under these regulations if: Offences.

(a) he fails to comply with or breaches any provisions of these regulations or fails to comply with permit conditions or with any order lawfully issued in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or fails to abide by any requirement imposed by or issued under these regulations; or

(c) he unlawfully conspires, aids, instigates, or abets, or attempts to conspire, aid, instigate or abet any other person, by whatever means, including advertising, counselling or procurement to contravene any of the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully issued in terms of any such provisions, or to contravene any restriction, prohibition or to fail to abide by any requirement imposed by or issued under the said regulations.

Penalties.

6. Any person who commits an offence against these regulations in terms of regulation 5 hereof shall, on conviction, be liable:

(a) on a first conviction, to a fine (*multa*) of not less than one thousand and one hundred and seventy euro (€1,170), but not exceeding two thousand and three hundred and thirty euro (€2,330);

(b) on a second conviction or subsequent convictions, to a fine (*multa*) of not less than two thousand and three hundred and thirty euro (€2,330), but not exceeding four thousand and six hundred and sixty euro (€4,660), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that, without prejudice to paragraphs (a) and (b) of this regulation, whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, shall be held liable in the same manner and degree:

Provided further, that without prejudice to the penalties for which the offender may be held liable in terms of this regulation, the court may order any person who has been found guilty of committing an offence under these regulations to pay for the expenses incurred by the Competent Authority in terms of these regulations as a result of the said offence, the revocation of the permit issued by the Competent Authority and the confiscation of the *corpus delicti*, including the vehicle, if the case may be.

Applicability of
the Criminal Code.
Cap. 9.

7. (1) Without prejudice to regulation 6 hereof, the provisions of articles 23 and 30 of the Criminal Code shall *mutatis mutandis* apply to proceedings in respect of offences committed

against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence committed against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) both as a court of criminal judicature, as the case may be, and shall be regulated in accordance with the provisions of the Criminal Code.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal before the Court of Criminal Appeal from any judgment given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) both as a court of criminal judicature in respect of any proceedings for any offence committed against these regulations.

8. The Environment Protection (Control of Transboundary Movement of Toxic and Other Substances) Regulations, 2000 are hereby being revoked.

Revokes L.N. 205 of 2000.

SCHEDULE

(Regulation 5)

APPLICATION FEES CHARGED BY THE COMPETENT AUTHORITY

1. For the processing of a written notification by the Competent Authority as Competent Authority of dispatch or transshipment, a fixed fee of €350 shall apply. Any expenses relating to shipping of the notification documents by courier to the competent authorities of transit and destination, and those relating to the treatment facility in the country of destination, shall be borne by the notifier.

2. For the processing of a written notification by the Competent Authority as Competent Authority of destination, a fixed fee of €500 shall apply.

3. For the processing of a movement document for every shipment (per container) by the Competent Authority, as Competent Authority of dispatch or transfer or as Competent Authority of destination, a fixed fee of €35 shall apply.

4. For the processing of a written notification by the Competent Authority as Competent Authority of transit, a fixed fee of €250 should apply.

