

L.N. 146 of 2021

**ENVIRONMENT PROTECTION ACT
(CAP. 549)**

Waste (Amendment) Regulations, 2021

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister for the Environment, Climate Change and Planning, after consultation with the Environment and Resources Authority, has made the following regulations:-

1. The title of these regulations is the Waste (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the Waste Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 549. 63.

2. Regulation 2 of the principal regulations shall be amended as follows:

Amends
regulation 2 of
the principal
regulations.

(a) sub-regulation (2) thereof shall be substituted by the following new sub-regulation:

"(2) The objective of these regulations is to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use, which are crucial for the transition to a circular economy and for guaranteeing the European Union's long-term competitiveness.";

(b) sub-regulation (3) thereof shall be amended as follows:

(i) in paragraph (b) thereof the word "and" shall be deleted;

(ii) in paragraph (c) thereof, the words "and repealing certain Directives." shall be substituted by the words "and repealing certain Directives;"; and

(iii) immediately after paragraph (c) thereof there shall be added the following new paragraphs:

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"(d) the provisions of Council Regulation (EU) 2017/997 of 8 June 2017 amending Annex III to Directive 2008/98/EC of the European Parliament and of the Council as regards the hazardous property HP 14 'Ecotoxic'; and

(e) the provisions of Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste."

Amends
regulation 3 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

(a) sub-regulation (2) thereof shall be amended as follows:

(i) in paragraph (d) thereof, the words "and Backfilling) Regulations." shall be substituted by the words "and Backfilling) Regulations;"; and

(ii) immediately after paragraph (d) thereof there shall be added the following new paragraph:

"(e) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC) No 767/2009 of the European Parliament and of the Council and that do not consist of or contain animal by-products*."; and

(b) in sub-regulation (3) of the Maltese version thereof, for the words "li jerġhu jitpoġġew taht wiċċ l-ilma" shall be substituted by the words "li jerġghu jitpoġġew fl-ilma tal-wiċċ"; and the words "jew riklamazzjoni" shall be substituted by the words "jew ta' riklamazzjoni".

Amends
regulation 4 of
the principal
regulations.

4. Regulation 4 of the principal regulations shall be amended as follows:

(a) immediately after the definition "the Act", there shall be added the following new definition:

" "the Agency" means the Resource, Recovery and Recycling Agency established by the
S.L. 595. 28. Resource, Recovery and Recycling Agency (Establishment) Order;";

* OJ L 229, 1.9.2009, p. 1

(b) the definition "agreement" shall be deleted;

(c) immediately after the definition "applicant" there shall be added the following new definition:

" "backfilling" means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes;"

(d) the definition "best available techniques" shall be substituted by the following new definition:

" "best available techniques" means best available S.L. 595. 76. techniques as defined in regulation 5 of the Industrial Emissions (Framework) Regulations;"

(e) the definition "bio-waste" shall be substituted by the following new definition:

" "bio-waste" means biodegradable garden and park waste, food and kitchen waste from households, offices, restaurants, wholesale, canteens, caterers and retail premises and comparable waste from food processing plants;"

(f) the definition "the Community" shall be deleted;

(g) immediately after the definition "consignor" there shall be added the following new definition:

" "construction and demolition waste" means waste generated by construction and demolition activities;"

(h) the definition "enforcement notice" shall be deleted;

(i) immediately after the definition "disposal" there shall be added the following definition:

" "food waste" means all food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council that has become waste*;"

* OJ L 31, 1.2.2002, p. 1

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(j) the definition "household waste" shall be substituted by the following new definition:

" "household waste" means waste generated by households;"

(k) the definition "inert waste" shall be deleted;

(l) immediately after the definition "industrial waste" there shall be added the following new definition:

" "material recovery" means any recovery operation, other than energy recovery and the reprocessing into materials that are to be used as fuels or other means to generate energy. It includes, *inter alia*, preparing for re-use, recycling and backfilling;"

(m) immediately after the definition "material recovery" there shall be added the following new definition:

" "local council" means a local council established
Cap. 363. under the Local Government Act;"

(n) the definition "municipal solid waste" shall be substituted by the following new definition:

" "municipal waste" means:

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households.

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste.

This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors;"

(o) immediately after the definition "municipal waste" there shall be added the following new definition:

" "non-hazardous waste" means waste which is not covered by the definition "hazardous waste";

(p) immediately after the definition "non-hazardous waste" there shall be added the following new definition:

" "Order" means a stop order or a compliance order issued under the Act;";

(q) paragraph (c) of the definition "prevention" shall be substituted by the following new paragraph:

"(c) the content of hazardous substances in materials and products;";

(r) immediately after the definition "regeneration of waste oils" there shall be added the following new definition:

Cap. 363. " "regional council" means a regional council established under the Local Government Act;"; and

(s) the definition "waste management" shall be substituted by the following new definition:

" "waste management" means the collection, transport, recovery (including sorting), and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker;".

5. Immediately after regulation 4 of the principal regulations there shall be added the following new regulations:

Adds new regulations to the principal regulations.

"The Waste Hierarchy.

4A. (1) In all waste management legislation and policy the following waste hierarchy shall apply as a priority in the following order:

- (a) prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery, e.g. energy recovery; and
- (e) disposal.

(2) When applying the waste hierarchy referred to in sub-regulation (1), the Minister, in consultation with the competent authority and the Agency, shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.

The Minister shall ensure that the development of waste legislation and policy is a fully transparent process, observing existing national rules about the consultation and involvement of citizens and stakeholders.

The Minister shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts, in accordance with regulation 2 and paragraph 3 of Part 1 of Schedule 5.

(3) The Minister shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC as amended by Directive (EU) 2018/851 or other appropriate instruments and measures.

Principles of self-sufficiency and proximity.

4B. (1) The Minister, in consultation with the competent authority and the Agency shall take the necessary measures to establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account best available techniques.

(2) The network shall be designed to enable the European Union as a whole to become self-sufficient in waste disposal as well as in the recovery of mixed municipal waste collected from private households, and to enable Malta to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

(3) The network shall enable waste to be disposed of or waste referred to in sub-regulation (1) to be recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.

(4) The principles of proximity and self-sufficiency do not require that the full range of recovery facilities are located in Malta."

6. Regulation 5 of the principal regulations shall be substituted by the following new regulation:

Substitutes
regulation 5 of
the principal
regulations.

"5. (1) The competent authority shall provide the necessary technical assistance to ensure that a substance or object resulting from a production process, the primary aim of which is not the production of that substance or object, is considered not to be waste, but to be a by-product if the following conditions are met:

(a) further use of the substance or object is certain;

(b) the substance or object can be used directly without any further processing other than normal industrial practice;

(c) the substance or object is produced as an integral part of a production process; and

(d) further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

(2) Where criteria have not been set at European Union level, the competent authority may establish detailed criteria on the application of the conditions laid down in sub-regulation (1) to specific substances or objects and shall notify the European Commission of those detailed criteria in accordance with Directive (EU) 2015/1535*."

* OJ L 241, 17.9.2015, p. 1

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Substitutes
regulation 6 of
the principal
regulations.

7. Regulation 6 of the principal regulations shall be substituted by the following new regulation:

"6. (1) Waste which has undergone a recycling or other recovery operation is considered to have ceased to be waste if it complies with the following conditions:

(a) the substance or object is to be used for specific purposes;

(b) a market or demand exists for such a substance or object;

(c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and

(d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

(2) Where end-of-waste criteria have not been set at European Union level, the competent authority may decide on a case-by-case basis that a certain waste has ceased to be waste on the basis of the conditions laid down in sub-regulation (1) and taking into account limit values for pollutants and any possible adverse environmental and human health impacts. The competent authority may take into account the following requirements:

(a) permissible waste input material for the recovery operation;

(b) allowed treatment processes and techniques;

(c) quality criteria for end-of-waste materials resulting from the recovery operation in line with the applicable product standards, including limit values for pollutants where necessary;

(d) requirements for management systems to demonstrate compliance with the end-of-waste criteria, including for quality control and self-monitoring, and accreditation, where appropriate; and

(e) a requirement for the submission of a statement of conformity, which shall contain the information set out in Part B of Schedule 10.

(3) Any natural or legal person intending to carry out recycling or other recovery operations in which waste ceases to be waste in accordance with sub-regulation (1) is to obtain a permit from the competent authority prior to any transfer of the resulting material:

Provided that an application for a permit to reach end-of-waste submitted by any person to the competent authority for a decision under sub-regulation (2) shall contain at least the information set out in Part A of Schedule 10.

(4) The natural or legal person who -

(a) uses, for the first time, a material that has ceased to be waste and that has not been placed on the market; or

(b) places a material on the market for the first time after it has ceased to be waste,

shall ensure that the material meets relevant requirements under the applicable chemical and product related legislation. The conditions laid down in sub-regulation (1) have to be met before the legislation on chemicals and products applies to the material that has ceased to be waste."

8. Sub-regulation (2) of regulation 7 of the principal regulations shall be substituted by the following new sub-regulation:

Amends
regulation 7 of
the principal
regulations.

"(2) The competent authority may consider waste as hazardous waste where, even though it does not appear as such in Commission Decision 2000/532/EC*, it displays one or more of the properties listed in Schedule 3:

Provided that the competent authority shall notify the European Commission of any such cases without delay and provide it with all relevant information."

9. Regulation 8 of the principal regulations shall be deleted.

Deletes
regulation 8 of
the principal
regulations.

10. Sub-regulation (2) of regulation 9 of the principal regulations shall be deleted and sub-regulation (1) thereof shall be re-numbered as regulation 9.

Amends
regulation 9 of
the principal
regulations.

* OJ L 226, 6.9.2000, p.3

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Substitutes
regulation 10 of
the principal
regulations.

11. Regulation 10 of the principal regulations shall be substituted by the following new regulation:

"Separate
collection.
S.L. 549. 43.
L.N. 151 of
2021.

Cap. 363.

10. (1) Without prejudice to the Waste Management (Packaging and Packaging Waste) Regulations, the Extended Producer Responsibility Framework Regulations, 2021, and the Local Government Act, Local Councils are to set up systems in their locality for the separate collection (which includes co-mingled collection), and the Regional Councils are to ensure that such systems are set-up, for at least the following:

- (a) paper;
- (b) metal;
- (c) plastic;
- (d) glass; and
- (e) bio-waste,

in order to promote high quality recycling.

S.L. 549. 43.

(2) Without prejudice to the Waste Management (Packaging and Packaging Waste) Regulations, Local Councils shall allocate space for the provision of Recycling Points for the separate collection of paper, metal, plastic and glass for every two thousand (2,000) inhabitants in each specific locality, and the Regional Councils are to ensure that such space is allocated:

Provided that Local Councils with less than two thousand (2,000) inhabitants shall provide space for at least one set of Recycling Points in their respective locality:

Provided further that for the purposes of Recycling Points under this sub-regulation separate collection shall not include co-mingled collection.

S.L. 549.72.

(3) Local Councils that fail to comply with the provisions of sub-regulation (2) shall be liable to a penalty in accordance with the Daily Penalties (Environment) Regulations.

S.L. 549. 45.

(4) Without prejudice to regulation 10B, any carrier registered in accordance with the Waste Management (Activity Registration) Regulations to carry waste as defined in regulation 4 who collects any one of the waste streams identified in sub-regulation (1) separately, shall keep all fractions collected separately.

(5) By 1 January 2025 there shall be systems set up for the separate collection of:

(a) hazardous waste fractions produced by households to ensure that they are treated in accordance with regulation 4A and paragraph 3 of Part 1 of Schedule 5 and do not contaminate other municipal waste streams; and

(b) textiles."

12. Immediately after regulation 10 of the principal regulations there shall be added the following new regulations:

Adds new regulations to the principal regulations.

"Prevention.

10A. (1) The Minister, in consultation with the competent authority and the Agency, shall take measures to prevent waste generation. Such measures shall, at least:

(a) promote and support sustainable production and consumption models;

(b) encourage the design, manufacturing and use of products that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable;

(c) target products containing critical raw materials to prevent that those materials become waste;

(d) encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for electrical and electronic equipment, textiles and furniture, as well as packaging and construction materials and products;

(e) encourage, as appropriate and without prejudice to intellectual property rights, the availability of spare parts, instruction manuals, technical information, or other instruments, equipment or software enabling the repair and re-use of products without compromising their quality and safety;

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(f) reduce waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition, taking into account best available techniques;

(g) reduce the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households as a contribution to the United Nations Sustainable Development Goal to reduce by 50% of the per capita global food waste at the retail and consumer levels and to reduce food losses along production and supply chains by 2030;

(h) encourage food donation and other redistribution for human consumption, prioritising human use over animal feed and the reprocessing into non-food products;

(i) promote the reduction of the content of hazardous substances in materials and products, without prejudice to harmonised legal requirements concerning those materials and products laid down at European Union level, and ensure that any supplier of an article as defined in point 33 of Article 3 of Regulation (EC) No 1907/2006* provides the information pursuant to Article 33(1) of that Regulation to the European Chemicals Agency as from 5 January 2021;

(j) reduce the generation of waste, in particular waste that is not suitable for preparing for re-use or recycling;

* OJ L 396, 30.12.2006, p. 1

(k) identify products that are the main sources of littering, notably in natural and marine environments, and take appropriate measures to prevent and reduce litter from such products:

Provided that if the Minister, in consultation with the competent authority and the Agency, decides to implement this obligation through market restrictions, he shall ensure that such restrictions are proportionate and non-discriminatory;

(l) aim to halt the generation of marine litter as a contribution towards the United Nations Sustainable Development Goal to prevent and significantly reduce marine pollution of all kinds;

(m) develop and support information campaigns to raise awareness about waste prevention and littering.

(2) The competent authority and the Agency shall monitor and assess the implementation of the national measures on re-use by measuring re-use on the basis of the common methodology established in Commission Implementing Decision (EU) 2021/19 laying down a common methodology and a format for reporting on reuse in accordance with Directive 2008/98/EC of the European Parliament and of the Council.

(3) The competent authority and the Agency shall monitor and assess the implementation of national food waste prevention measures by measuring the levels of food waste on the basis of the methodology established by Commission Delegated Decision (EU) 2019/1597 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste.

Recovery.

10B. (1) The Minister, in collaboration with the competent authority and the Agency, shall take the necessary measures to ensure that waste undergoes preparing for re-use, recycling or other recovery operations, in accordance with regulation 4A and the principles set out in paragraph 3 of Part 1 of Schedule 5.

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(2) Where necessary to comply with sub-regulation (1), and to facilitate or improve preparing for re-use, recycling and other recovery operations, waste shall be subject to separate collection and shall not be mixed with other waste or other materials with different properties.

(3) The competent authority may grant derogations from sub-regulation (2) provided that at least one of the following conditions is met:

(a) collecting certain types of waste together does not affect their potential to undergo preparing for re-use, recycling or other recovery operations in accordance with regulation 4A and results in output from those operations which is of comparable quality to that achieved through separate collection;

(b) separate collection does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;

(c) separate collection is not technically feasible taking into consideration good practices in waste collection;

(d) separate collection would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility:

Provided that the competent authority shall regularly review derogations under this paragraph taking into account good practices in separate collection of waste and other developments in waste management:

Provided further that a request for a derogation under this regulation shall be made in writing to the competent authority and the competent authority shall decide on a case-by-case basis.

(4) The Minister, in consultation with the competent authority and the Agency, shall take measures to ensure that waste that has been separately collected for preparing for re-use and recycling is not incinerated, with the exception of waste resulting from subsequent treatment operations of the separately collected waste for which incineration delivers the best environmental outcome in accordance with regulation 4A.

(5) Where necessary to comply with sub-regulation (1), and to facilitate and improve recovery, the Minister, in consultation with the competent authority, shall take the necessary measures, before or during recovery, to remove hazardous substances, mixtures and components from hazardous waste with a view to their treatment in accordance with regulation 4A and paragraph 3 of Part 1 of Schedule 5.

Preparing for
re-use and
recycling
targets.

10C. (1) The Minister, in consultation with the competent authority and the Agency, shall take measures to promote preparing for re-use activities, notably by encouraging the establishment of, and support for, preparing for re-use and repair networks, by facilitating, where compatible with proper waste management, their access to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities, and by promoting the use of economic instruments, procurement criteria, quantitative objectives or other measures.

The Minister, in consultation with the competent authority and the Agency, shall take measures to promote high-quality recycling and, to this end, subject to regulation 10B(2) and (3), shall set up separate collection of waste.

B 1122

The Minister, in consultation with the competent authority and the Agency, shall take measures to promote selective demolition in order to enable removal and safe handling of hazardous substances and facilitate re-use and high-quality recycling by selective removal of materials, and to ensure the establishment of sorting systems for construction and demolition waste at least for wood, mineral fractions (concrete, bricks, tiles and ceramics, stones), metal, glass, plastic and plaster.

(2) In order to comply with the objectives of these regulations and move towards a European circular economy with a high level of resource efficiency, the following targets shall be achieved:

(a) by 2025, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 55% by weight;

(b) by 2030, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 60% by weight;

(c) by 2035, the preparing for re-use and the recycling of municipal waste shall be increased to a minimum of 65% by weight:

Provided that the Minister may by notice in the Gazette place the responsibility for the achievement of the targets referred to in paragraphs (a), (b) and (c) on the Local Councils, or on the Regional Councils, or on both.

(3) The Minister may postpone the deadlines for attaining the targets referred to in sub-regulation (2)(a), (b) and (c) by up to five years, provided that the procedure set out in Articles 11(3), 11(4), 11(5) and Annex IVb of Directive 2008/98/EC of the European Parliament and of the Council, as amended, are adhered to.

Rules on the calculation of the attainment of the targets.

10D. (1) For the purpose of calculating whether the targets laid down in regulation 10C(2) have been achieved:

(a) the competent authority shall calculate the weight of the municipal waste generated and prepared for re-use or recycled in a given calendar year;

(b) the weight of the municipal waste prepared for re-use shall be calculated as the weight of products or components of products that have become municipal waste and have undergone all necessary checking, cleaning or repairing operations to enable re-use without further sorting or pre-processing;

(c) the weight of the municipal waste recycled shall be calculated as the weight of waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

(2) For the purposes of sub-regulation (1)(c), the weight of the municipal waste recycled shall be measured when the waste enters the recycling operation:

Provided that, by way of derogation from sub-regulation (1), the weight of the municipal waste recycled may be measured at the output of any sorting operation:

Provided further that:

(a) such output waste is subsequently recycled; and

(b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

(3) The competent authority shall establish an effective system of quality control and traceability of municipal waste to ensure that the conditions laid down in sub-regulations (1)(c) and (2) are met. To ensure the reliability and accuracy of the data gathered on recycled waste, the system may consist of electronic registries set up pursuant to regulation 33(5), technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be obtained otherwise and shall be calculated on the basis of the calculation rules established in line with Article 11a(10) of Directive 2008/98/EC.

(4) For the purpose of calculating whether the targets laid down in regulation 10C(2) have been attained, the amount of municipal biodegradable waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance:

Provided that where the output is used on land, the competent authority may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

(5) As from 1 January 2027, the competent authority may count municipal bio-waste entering aerobic or anaerobic treatment as recycled only if, in accordance with paragraph of sub-regulation of regulation 10(1)(e) and paragraph 9 of Part 2 of Schedule 5, it has been separately collected or separated at source.

(6) For the purposes of calculating whether the targets laid down in regulation 10C(2) have been attained, the amount of waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled, provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes:

Provided that end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

(7) For the purposes of calculating whether the targets laid down in regulation 10C(2) have been attained, the competent authority may take into account the recycling of metals separated after incineration of municipal waste provided that the recycled metals meet the quality criteria laid down in Commission Implementing Decision (EU) 2019/1004 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384.

(8) Waste collected in Malta that is exported outside the Union for preparing for re-use or recycling shall count towards the attainment of the targets laid down in regulation 10C(2) only if the requirements of sub-regulation (3) of this regulation are met and if, in accordance with Regulation (EC) No 1013/2006*, the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant European Union environmental law.

(9) For the application of this regulation, the rules for calculation, verification and reporting of data laid down in Commission Implementing Decision (EU) 2019/1004 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384 shall apply."

* OJ L 190, 12.7.2006, p 1.

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Amends
regulation 12 of
the principal
regulations.

13. Regulation 12 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, the words "paragraphs 2 and 3 of Schedule 5" shall be substituted by the words "regulation 4A and paragraph 3 of Part 1 of Schedule 5"; and

(b) sub-regulation (7) thereof shall be substituted by the following new sub-regulation:

L.N. 151 of 2021. "(7) Without prejudice to regulation 4(3) of the Extended Producer Responsibility Framework Regulations, 2021, in accordance with the polluter-pays principle, the costs of waste management, including for the necessary infrastructure and its operation, shall be borne by the original waste producer or by the current or previous waste holders depending on who has the duty of care for the waste in accordance with the provisions of this regulation."

Amends
regulation 16 of
the principal
regulations.

14. Sub-regulation (3) of regulation 16 of the principal regulations shall be substituted by the following new sub-regulation:

"(3) Where hazardous waste has been unlawfully mixed in breach of this regulation, the competent authority shall ensure, without prejudice to regulations 34 and 35, that separation is carried out where technically feasible and necessary to comply with regulation 4B.

Where separation is not required pursuant to sub-regulation (1), the competent authority shall ensure that the mixed waste is treated in a facility that has obtained a permit in accordance with regulation 19 to treat such a mixture."

Amends
regulation 18 of
the principal
regulations.

15. Sub-regulation (1) of regulation 18 of the principal regulations shall be substituted by the following new sub-regulation:

"(1) Without prejudice to the provisions related to the management of hazardous waste laid down in regulations 14 and 16, waste oils -

(a) shall be collected separately, unless separate collection is not technically feasible taking into account good practices;

(b) shall be treated, giving priority to regeneration or alternatively to other recycling operations

delivering an equivalent or a better overall environmental outcome than regeneration, in accordance with regulation 4A and paragraph 3 of Part 1 of Schedule 5;

(c) of different characteristics shall not be mixed and waste oils are not to be mixed with other kinds of waste or substances, if such mixing impedes their regeneration or another recycling operation delivering an equivalent or a better overall environmental outcome than regeneration."

16. Immediately after regulation 18 of the principal regulations there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Bio-waste. 18A. (1) In order to comply with the objectives of these regulations and European Union legislation, and move to a European circular economy with a high level of resource efficiency, the Minister, in consultation with the competent authority and the Agency, shall take the necessary measures to ensure that by 31 December 2023 and subject to regulation 10B(2) and (3), bio-waste is either separated and recycled at source, or is collected separately and is not mixed with other types of waste.

(2) Waste with similar biodegradability and compostability properties which complies with relevant European standards or any equivalent national standards for packaging recoverable through composting and biodegradation, may be allowed to be collected together with bio-waste."

17. In sub-regulation (1) of regulation 19 of the principal regulations, the words "waste treatment" shall be substituted by the words "waste treatment, including but not limited to, storage of waste pending any recovery or disposal operations (excluding temporary storage of waste which is pending collection on the site where such waste is generated),".

Amends regulation 19 of the principal regulations.

18. Regulation 23 of the principal regulations shall be amended as follows:

Amends regulation 23 of the principal regulations.

(a) in sub-regulation (3) thereof, the words "an enforcement notice" shall be substituted by the words "an Order"; and

(b) in sub-regulation (4) thereof, the words "a remedial or enforcement notice" shall be substituted by the words "a

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remedial notice or an Order".

Amends
regulation 28 of
the principal
regulations.

19. Regulation 28 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) The Minister, in consultation with the competent authority and the Agency, shall establish one or more waste management plans, in line with the objectives and the principles set out in regulation 2(2), regulations 4A and 4B, and paragraph 3 of Part 1 of Schedule 5. Such plans shall, alone or in combination, cover all Malta.";

(b) sub-regulation (2) thereof shall be substituted by the following new sub-regulation:

"(2) The Minister, in consultation with the competent authority and the Agency, shall ensure that the waste management plan or plans:

(a) include a statement of the Ministry's policies for attaining the objectives and principles specified in regulations 4A and 4B and paragraph 3 of Part 1 of Schedule 5; and

(b) include the matters set out in Part 2 of Schedule 5.";

(c) sub-regulation (3) thereof shall be substituted by the following new sub-regulation:

"(3) The Minister, in consultation with the competent authority and the Agency, shall consider, in particular, whether the matters set out in Part 3 of Schedule 5 should be included in the waste management plans."; and

(d) sub-regulation (4) thereof shall be substituted by the

following new sub-regulation:

- (4) The Minister, in consultation with the competent authority and the Agency, shall ensure that the waste management plans conform to the waste planning requirements laid down in regulation 10 of the Waste Management (Packaging and Packaging Waste) Regulations, to the targets laid down in regulation 10C(2) of these regulations and to the requirements laid down in regulation 5 of the Waste Management (Landfill) Regulations, and for the purposes of litter prevention, to the requirements laid down in regulation 10 of the Marine Policy Framework Regulations and regulation 12 of the Water Policy Framework Regulations."
- S.L. 549. 43.
- S.L. 549. 29.
- S.L. 549. 62.
- S.L. 549.100.

20. Regulation 29 of the principal regulations shall be amended as follows:

Amends regulation 29 of the principal regulations.

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) The Minister, in consultation with the competent authority and the Agency, shall establish waste prevention programmes setting out at least the waste prevention measures as laid down in regulation 10A(1) in accordance with regulations 2(2) and 4A.

Such programmes shall be integrated either into the waste management plans required under regulation 28 or into other environmental policy programmes, as appropriate, or shall function as separate programmes. If any such programme is integrated into the waste management plan or into those other programmes, the waste prevention objectives and measures shall be clearly identified.";

(b) sub-regulation (2) thereof shall substituted by the following new sub-regulation:

"(2) When establishing such programmes, the competent authority and the Agency shall, where relevant, describe the contribution of instruments and measures listed in Annex IVa to Directive 2008/98/EC to waste prevention and shall evaluate the usefulness of the examples of measures indicated in Schedule 6 or other

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appropriate measures. The programmes shall also describe existing waste prevention measures and their contribution to waste prevention."; and

(c) sub-regulation (3) thereof shall be substituted by the following new sub-regulation:

"(3) The Minister, in consultation with the competent authority and the Agency, shall adopt specific food waste prevention programmes within their waste prevention programmes.".

Amends
regulation 33 of
the principal
regulations.

21. Regulation 33 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) The establishments and undertakings referred to in regulation 19(1), the producers of hazardous waste, and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a chronological record of:

(a) the quantity, nature and origin of that waste and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations; and

(b) where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste.

They shall make that data available to the competent authority through the electronic registry or registries to be established pursuant to sub-regulation (5)."; and

(b) immediately after sub-regulation (4) thereof there shall be added the following new sub-regulation:

"(5) The competent authority shall set up an electronic registry or coordinated registries to record the data on hazardous waste referred to in sub-regulation (1) covering the entire geographical territory of Malta.

The competent authority may establish such

registries for other waste streams, in particular for those waste streams for which targets are set in national and European Union legislation. The data on waste reported by industrial operators in the European Pollutant Release and Transfer Register set up under Regulation (EC) No 166/2006 of the European Parliament and of the Council* shall be used."

22. Immediately after regulation 33 of the principal regulations there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Reporting. 33A. (1) The establishments and undertakings referred to in regulation 19(1) and the establishments and undertakings which act as dealers and brokers of waste, shall submit annual reports to the competent authority within three (3) calendar months of the closing of the reference year.

The competent authority shall specify the format in which such information is to be made available, which format shall contain guidance concerning the presentation, structure and content of the annual report.

(2) The competent authority may carry out, at the expense of the operator, or may request the operator to carry out, an audit to certify that all of the information reported to the competent authority is in conformity with the obligations of these regulations.

(3) The operators referred to in sub-regulation (1) shall submit the audit report referred to in sub-regulation (2), where relevant, together with the annual report referred to in sub-regulation (1).

(4) It shall be the responsibility of all the operators referred to in sub-regulation (1) to retain for a minimum period of five (5) years the annual report referred to sub-regulation (1) from the date of submission.

(5) The competent authority may request that the Regional Councils or the Local Councils, for the purposes of monitoring the systems set up under regulation 10(1), submit a report to the competent authority.

* OJ L 33, 4.2.2006, p. 1

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The competent authority shall specify the time-frame and the format in which such information is to be made available.

(6) Without prejudice to the confidentiality of commercially sensitive information, a copy of the reports referred to in sub-regulations (1) and (5) shall be made available in accordance with the Freedom of Access to Information on the Environment Regulations."

Amends
regulation 34 of
the principal
regulations.

23. Sub-regulation (1) of regulation 34 of the principal regulations shall be substituted by the following new sub-regulation:

S.L. 549. 40. (1) Without prejudice to the Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations, the Minister, in collaboration with the competent authority, shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste, including littering."

Amends
Schedule 2 to
the principal
regulations.

24. Items R 3, R 4 and R 5 of Schedule 2 to the principal regulations shall be substituted by the following new items:

"R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes) (*)

R 4 Recycling/reclamation of metals and metal compounds (**)

R 5 Recycling/reclamation of other inorganic materials (***)".

Amends
Schedule 3 to
the principal
regulations.

25. In Schedule 3 to the principal regulations, the words "HP 14 "Ecotoxic": waste which presents or may present immediate or delayed risks for one or more sectors of the environment." shall be substituted by the following words:

"HP 14 "Ecotoxic": waste which presents or may present immediate or delayed risks for one or more sectors of the

* This includes preparing for re-use, gasification and pyrolysis using the components as chemicals and recovery of organic materials in the form of backfilling

** This includes preparing for re-use

*** This includes preparing for re-use, recycling of inorganic construction materials, recovery of inorganic materials in the form of backfilling, and soil cleaning resulting in recovery of the soil

environment.

Waste which fulfils any of the following conditions shall be classified as hazardous by HP 14:

- Waste which contains a substance classified as ozone depleting assigned the hazard statement code H420 in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council and the concentration of such a substance equals or exceeds the concentration limit of 0,1%.

- $[c(H420) \geq 0,1\%]$

- Waste which contains one or more substances classified as aquatic acute assigned the hazard statement code H400 in accordance with Regulation (EC) No 1272/2008 and the sum of the concentrations of those substances equals or exceeds the concentration limit of 25%. A cut-off value of 0,1% shall apply to such substances.

- $[\Sigma c (H400) \geq 25\%]$

Waste which contains one or more substances classified as aquatic chronic 1, 2 or 3 assigned to the hazard statement code(s) H410, H411 or H412 in accordance with Regulation (EC) No 1272/2008, and the sum of the concentrations of all substances classified as aquatic chronic 1 (H410) multiplied by 100 added to the sum of the concentrations of all substances classified as aquatic chronic 2 (H411) multiplied by 10 added to the sum of the concentrations of all substances classified as aquatic chronic 3 (H412) equals or exceeds the concentration limit of 25%. A cut-off value of 0,1% applies to substances classified as H410 and a cut-off value of 1% applies to substances classified as H411 or H412.

- $[100 \times \Sigma c (H410) + 10 \times \Sigma c (H411) + \Sigma c (H412) \geq 25\%]$

- Waste which contains one or more substances classified as aquatic chronic 1, 2, 3 or 4 assigned the hazard statement code(s) H410, H411, H412 or H413 in accordance with Regulation (EC) No 1272/2008, and the sum of the concentrations of all substances classified as aquatic chronic equals or exceeds the concentration limit of 25%. A cut-off value of 0,1% applies to substances

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classified as H410 and a cut-off value of 1% applies to substances classified as H411, H412 or H413.

- $[\Sigma c \text{ H410} + \Sigma c \text{ H411} + \Sigma c \text{ H412} + \Sigma c \text{ H413} \geq 25\%]$

- Where: Σ = sum and c = concentrations of the substances.".

Amends
Schedule 5 to
the principal
regulations.

26. Schedule 5 to the principal regulations shall be amended as follows:

(a) paragraph 1 of Part 1 thereof shall be substituted by the following new paragraph:

"1. The objective of the plan is to take into account the principles set out in regulation 2(2) and regulations 4A and 4B, together with the principle set out in paragraph 3.";

(b) paragraphs 2 and 4 of Part 1 thereof shall be deleted;

(c) Part 2 thereof shall be amended as follows:

(i) sub-paragraphs (b) and (c) of paragraph 6 thereof shall be substituted by the following new paragraphs:

"(b) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials, or waste streams addressed by specific national and European Union legislation;

(c) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with regulation 4B of these regulations.

The competent authority shall ensure that an assessment of the investments and other financial means, including for local authorities, required to meet those needs is carried out. This assessment shall be included in the relevant waste management plans or in other strategic documents covering the entire territory of Malta;"

(ii) in sub-paragraph (e) of paragraph 6 thereof, the words "posing specific management problems." shall be substituted by the words "posing specific management problems;" and immediately thereafter there shall be added the following new sub-paragraphs:

S.L. 549. 29. "(f) information on the measures to attain the objective laid down in regulation 6(2) of the Waste Management (Landfill) Regulations or in other strategic documents covering the entire territory of Malta;

(g) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, of any derogations granted in accordance with regulation 10B(3) of these regulations, and of the need for new collection schemes;

(h) measures to combat and prevent all forms of littering and to clean up all types of litter;

(i) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery."

(iii) paragraph 9 thereof shall be substituted the following new paragraph:

"9. Measures in accordance with regulation 4A and paragraph 3 of Part 1 of this Schedule in order to:

(a) encourage the recycling, including composting and digestion, of bio-waste in a way that fulfils a high level of environment protection and results in output which meets relevant high-quality standards;

(b) encourage home composting;

(c) promote the use of materials produced from bio-waste."; and

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(iv) paragraph 12 thereof shall be re-numbered as paragraph 12(1), and immediately after sub-paragraph (1), there shall be added the following new sub-paragraph:

"(2) The necessary measures to achieve the targets established in regulation 10C(2).".

Deletes
Schedule 7 to
the principal
regulations.

27. Schedule 7 to the principal regulations shall be deleted.

Substitutes
Schedule 10 to
the principal
regulations.

28. Schedule 10 to the principal regulations shall be substituted by the following new Schedule:

"SCHEDULE 10

(Regulation 6)

INFORMATION TO BE SUBMITTED ON APPLYING FOR AN END-OF-WASTE PERMIT

Part A: Information to be included in an application for an End-of-Waste permit

An application for an end-of-waste permit shall at least contain the following information:

- a description of the intended use, including the related processes and functions of the material once it ceases to be waste;
- a description of the substituted primary material;
- a description of the existent or potential market for the material once it ceases to be waste;
- evidence that the product has a market demand, which may be in the form of possible sales evidence or a letter of intent to purchase or obtain the said material or any other documentation that substantiates that a market exists;
- information on any relevant technical requirements, legislation and, or standards which the material would need to adhere to in order for it to cease to be waste;
- a description and the EWC Code* of the type of

* This refers to the classification of waste based on the European List of Waste – Commission Decision 2000/532/EC and Schedule 3 of these Regulations.

waste entering the recovery operation;

- the expected quantity, in kilogram, of waste entering the recovery operation and the output, in kilogram, expected to reach end-of-waste status;

a description of the recovery operation applied in order to achieve the end-of-waste status, including the following information:

- ◆ the R code pursuant to Schedule 2;
- ◆ the type of pre-treatment required (if any);
- ◆ information about mixing processes and, or ratios to be applied if more than one waste stream is mixed;
- ◆ information on any primary material and, or non-waste materials to be mixed with the waste(s) to produce the waste-derived product, including details on any ratios applied; and
- ◆ information on any waste materials or substances that are to be removed throughout the recovery operation and are not expected to reach the end-of-waste status.

Part B: Information to be contained in the statement of conformity

The information to be contained in a statement of conformity is:

- a signed declaration stating that the material that has ceased to be waste has met all the criteria and permit conditions set by the Authority.

- details on whether the placement on the market for the first time after the material has ceased to be waste is in conformity with the relevant national, EU or international chemical and product related legislation;

- quantity, in kilogram, of the material that is placed on the market for the first time after it has ceased to be waste;

- the HS Code of the material if it is to be exported for use in another Member State or third country."

