

L.N. 344 of 2005

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

**Abandonment, Dumping and Disposal of Waste in Streets and
Public Places or Areas Regulations, 2005**

IN the exercise of the powers conferred by articles 6, 7, 9 and 10 of the Environment Protection Act, the Minister for Rural Affairs and the Environment, in concurrence with the Deputy Prime Minister and the Minister for Justice and Home Affairs, has made the following regulations:-

Title.

1. The title of these regulations is Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations, 2005.

Interpretation.

2. In these regulations, unless the context otherwise requires:-

“the Act” means the Environment Protection Act;

“Advisory Committee” means the Advisory Committee for the control and monitoring of littering appointed by the Minister in accordance with the provisions of these regulations for the purpose of controlling and monitoring the disposal of waste and littering in streets and public places:

the “Authority” means the Malta Environment and Planning Authority;

“bins” means receptacles approved by the Government for the disposal, separation and collection of waste and refuse, placed or authorised to be placed in a public place by the Government;

Cap. 291.

“Commissioner” means a Commissioner for Justice in terms of the Commissioners for Justice Act;

“Court” includes a Local Tribunal established under the Commissioners for Justice Act;

“food” includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products;

“Government” means both the Government of Malta and Local Councils established under the Local Councils Act;

Cap. 363.

“hawker”, fixed or mobile, includes any person or a substitute, licensed to sell from a stall, and any licensed person or substitute operating from a public market or *monti* established or authorised by the Government;

“immediate vicinity” shall be that area immediately identifiable with any site referred to in subregulation (2) of regulation 12 of these regulations, and where, by way of irregular disposal, litter or waste demeans the social, historical or environmental importance of the site or area referred to in that subregulation;

“litter” includes:-

any solid or liquid, domestic or commercial waste, refuse, debris or rubbish and without limiting the generality of the above includes any glass, metal, plastic, paper, fabric, wood, food, chewing gum, cigarette butts, derelict vehicles, vessel, equipment, or machinery, in whole or in parts, garden remnants and clippings, soil, sand, concrete rocks or any other building material; and

any other object, material or substance deposited in a public place causing or adding a disorderly appearance of such place or detrimentally causing an effect on the proper use of the place, or which may, in general, increase the risk of health or environmental hazard to the public or the surrounding environment, or which may be a nuisance to the public;

“Local Council” has the same meaning given in the Local Councils Act;

“locality” has the same meaning given in the Local Councils Act, and includes, for the purpose of these regulations, arterial and distributor roads and all other areas excluded from the competence of local councils under the same Act;

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

“nuisance” means any act, omission or thing which is visually offensive or causes smells or noise, or occasioning or likely to

occasion injury, annoyance, offence, harm, danger, or damage of whatever nature, or which is or is likely to be injurious or dangerous to health or property;

“officer” means any person authorised by the Minister to issue charges related to these regulations in terms of subarticle (3) of article 6 of the principal Act and shall include:-

a Police officer, a Local Warden or any other authority authorised to issue charges in accordance with the provisions of the Commissioners for Justice Act; and

environmental inspectors, or any other person appointed by the Minister to carry out the duties contained in these regulations as established under the Environment Protection Act;

“private property” includes a garden, yard, field, land, vehicle licensed or not, stall, or other structure, temporary or permanent;

“public place” includes any place, privately owned or otherwise, to which the public has access, and including a street, sea, playing field and playing ground, field, valley, beach, fountain, watercourse, reservoir, well and swimming pool;

“stall” means any kiosk, table, shed, booth, marquee, show-board, vehicle, cart or receptacle or any other means used or intended to be used for the purpose of selling food or goods of any kind and includes any structure affixed thereto by way of roof, support or flooring;

“street” includes any road, alley, square, bridge, shore front, quay, or other place of public passage or access;

“time reasonably approximate” referred to in regulation 5 shall be the time determined by the Local Council of a locality and considered to be the period between the disposal of waste and the collection thereof which time period cannot exceed the lapse of one hour, unless a longer period is otherwise considered and established by the Local Council due to exceptional circumstances.

Power of Minister to appoint an Advisory Committee for the control and monitoring of littering.

3. (1) The Minister may appoint an Advisory Committee for the control and monitoring of littering and which shall include a person nominated by the Minister, a person nominated by the Local Councils Association, a person nominated by the Malta Tourism Authority, a person nominated by the Authority, a person nominated by the Minister

responsible for public infrastructure, a person nominated by the Commissioner of Police, and any other person which the Minister may appoint from time to time under such terms and conditions as he may determine.

(2) It shall be the duty of the Advisory Committee to advise the Minister on any matter relating to public cleansing, in general, and on any other matter which may come within the scope of these regulations.

(3) The Advisory Committee shall coordinate with all competent authorities and other non-governmental organisations engaged in public cleansing and may recommend to such authorities good practices in the field of public cleansing and for controlling the disposal of waste and litter in streets and public places.

4. No person shall throw down, drop, leave, or otherwise spill or deposit any litter in any public place, street, sea, or open space to which the public has access, unless such depositing and leaving is lawfully authorized:

Leaving of litter and other objects.

Provided that for the purpose of this regulation, Schedule 1 of these regulations lists, but not exclusively, acts and omissions which shall be deemed to be an offence of leaving litter or depositing or spilling of objects under this regulation.

5. (1) It shall not be lawful for any person to deposit or leave in any street or public place any litter receptacle, bag, used box, bottle, tin, carton or other container, or any paper, straw or other material used for packing, for the purpose of its collection unless such depositing is made at a time reasonably approximate to the time at which refuse collection ordinarily occurs in such place.

Unlawful deposit of refuse for collection.

(2) It shall not be lawful for any person to deposit or leave in any street or public place any litter receptacle, bag, used box, bottle, tin, carton or other container, or any paper, straw or other material used for packing, for the purpose of its collection, near bins, skips or other receptacles situated in a public place, for public or private use, and provided for or approved by Government.

6. (1) It shall not be lawful for any person to sort or collect any refuse deposited for collection at any place or while being transported after collection, unless such sorting is lawfully authorized.

Sorting of refuse, litter or waste.

(2) It shall not be lawful for any person to collect any disposed refuse, waste or litter unless otherwise authorized to do so by a Local Council in the area of its responsibility and by the Authority:

Provided that sorting of refuse or collection of disposed litter or waste by an officer who has the duty to collect evidence in terms of article 5 of the Commissioners for Justice Act, and solely for the purpose of investigation to charge offenders under these regulations, shall not be deemed to be an offence in terms of the provisions of this regulation.

Illegal removal of bins.

7. No person shall unlawfully remove or otherwise interfere or tamper with or in any other way vandalize any bin provided or authorized by the Government in any street or other public place or any bin deposited for collection at any place.

Stalls in a public place to be kept clean.

8. (1) Every hawker operating from a stall in a public place, shall keep the place and the immediate vicinity thereof in a clean and sanitary condition, during and after operating times and, for such purpose, shall have a bin approved by Government during the operating times.

(2) Without prejudice to these regulations, where in the opinion of the Government, a hawker or the substitute has failed to comply with subregulation (1) of this regulation, the Government may, by notice in writing, require such licensee, within such period as may be specified therein, to take such steps as it may deem fit for the purpose of complying with these regulations.

Owner or occupier of commercial premises to provide bins in public place.

9. Government may require, in writing, the owner or occupier of a commercial premises to provide, at the expense of the owner or occupier and within such period as may be specified in the notice, for bins or other convenient receptacles, which shall conform to such specifications as Government may require, to be placed in appropriate locations within the premises of the owner or occupier, or on the street or in a public place in the vicinity of the premises, for the deposit of refuse and litter:

Provided that the Minister shall, from time to time, and after consultation with representatives of the commercial sector, issue a list of selected categories of commercial establishments which may be required to place such bins or receptacles on the street or in a public place.

Penalties.

10. (1) Any person who contravenes any of the provisions contained in regulations 4, 5, 6, 7 and 8 shall, on conviction, or on

admission, be guilty of an offence, and shall be liable to a fine (*ammenda*) of not less than twenty-five liri and not exceeding fifty liri.

(2) Any person who contravenes any of the provisions contained in regulation 9 shall, on conviction, or on admission, be guilty of an offence, and shall be liable to a fine (*ammenda*) of not less than five hundred liri and not exceeding one thousand liri.

(3) Without prejudice to other provisions of the principal Act, and other regulations which the Minister may issue from time to time, and without prejudice to the provisions of any other law, if in an offence to which subregulation (1) of this regulation applies, an offender dumps or disposes of any refuse, litter, waste, swill or any other object of a size or quantity or accumulation, as taken by itself, causes a nuisance, or which may lead to deterioration or defacement of a public place, he shall be liable, on conviction or admission, to a fine (*multa*) of not less than one thousand liri but not exceeding two thousand five hundred liri: Dumping.

Provided that for the purpose of this subregulation, Schedule 2 of these regulations lists, but not exclusively, objects and materials which shall be deemed to be dumped or deposited refuse, litter, waste, swill or any other objects.

(4) If any vehicle, cart or other equipment has been used in the commission of an offence against the provisions of subregulation 3 of regulation 10, the court shall, at the demand of the prosecution and in addition to the punishment prescribed under sub-regulation (3) of this regulation, order the seizure of such vehicle, cart or other equipment used for the purpose of this regulation, for a term of not less than two months but not exceeding one year and the suspension for an equal term of any driving license held by the offender, during which period the vehicle shall be at the risk of the owner: Seizure of vehicle, cart or other equipment in cases related to dumping.

Provided that where any person who has not participated in the offence, has a claim to such vehicle or equipment, the seizure shall only be ordered if the court is satisfied that no such claim is thereby prejudiced.

(5) If the offender is not the owner of the vehicle mentioned in subregulation (4) of this regulation but has acted under the instructions of such owner or where such owner had the power to prevent the commission of the offence does not do so, the owner shall be liable, on conviction, to the punishment laid down in subregulations (1), (2), (3) and (4) of this regulation.

(6) If the circumstances, in which any unlawfully dumped material is found, indicate the owner or other person responsible for such material immediately prior to its dumping, such owner or person shall be deemed to have deposited that material and shall be liable to the punishment laid down in subregulations (1), (2), (3) and (4) of this regulation, unless he proves that he did not know of the commission of the offence, or although he knew of it did not have the power to prevent it.

Damages awarded to owner of bin damaged by offender.

11. (1) When a person has been found guilty of an offence in accordance with the provisions of regulation 7, the court may, by the same judgment, and on proof of the damage suffered under regulation 7, order the offender to pay to the Government or the owner of the bin in question, as the case may be, by way of damages, a sum not exceeding five hundred liri for each bin and any such order shall be of the same force and effect and be executed in the same manner as if it had been given in a civil action duly instituted between such owner and the offender.

(2) When a person has been found guilty of an offence in accordance with the provisions of regulation 9, the court may, by the same judgment, and on proof of non-observance by an owner or occupier of a commercial premises under regulation 9, order the offender to pay to the Government by way of damages, a sum not exceeding five hundred liri for each bin and any such order shall be of the same force and effect and be executed in the same manner as if it had been given in a civil action duly instituted between such owner and the offender.

Aggravating circumstances.

12. (1) Where an offence referred to in regulations 4, 5, 6, 7, 8 and 10(3) is committed in one or more of the sites listed in the next subregulation, the offender shall, on conviction, or on admission, be liable to a fine (*emmenda*) of not less than twenty-five and not exceeding fifty liri to the established fine (*ammenda*) due to the historical and environment importance of the site.

(2) The aggravating circumstances referred to in the preceding sub-regulation relate to the disposal, spilling or dumping of litter, refuse, waste or swill in:-

(a) the immediate vicinity of a public monument, museum, place of worship or school;

(b) the immediate vicinity of, or inside a World Heritage Site declared by UNESCO or a Historic Centre declared by the Authority;

(c) the immediate vicinity of, or inside, a Natural Reserve, Heritage Park, National Park, public garden, or playing field;

(d) the immediate vicinity of, or on a public beach;

(e) any other site, area, place or open space which the Minister may establish from time to time.

(3) Without prejudice to the preceding paragraphs of this regulation, a person found guilty under regulations 4, 5, 6, 7 and 8 of these regulations, shall, on conviction, be liable to a fine (*multa*) of one hundred Maltese liri, if it is proved that such offender was found guilty of committing any offence under the regulations referred to in this same sub paragraph within twelve months prior to the issuance of the contravention and which has become *res judicata*.

Second and subsequent offences.

(4) Furthermore, and without prejudice to the preceding paragraphs of this regulation, a person found guilty under subregulation (3) of regulation 10 shall, on conviction, be liable to a fine (*multa*) of not less than two thousand liri, but not exceeding five thousand liri, if it is proved that such offender was found guilty of committing an offence in terms of subregulation (3) of Regulation 10 within two years prior to the issuance of the contravention.

(5) Without prejudice to the principal Act, or to any other law, any person who by any means whatsoever, hinders or obstructs any officer from the exercise of his powers and functions under these regulations shall be liable, on conviction, to a fine (*multa*) of fifty liri.

Hindering or obstructing authorised officer.

13. In accordance with the provisions of any other law, and in accordance with the powers conferred by the Minister in accordance with the Act, any officer authorised to act under these provisions and in whose opinion an offence has been committed under these regulations, may proceed against the offender in terms of article 5 of the Commissioners for Justice Act which provisions shall apply *mutatis mutandis* to any proceedings in respect of offences charged under these regulations.

Issuance of charges to offender and proceedings in terms of article 5 of Cap. 291.

14. (1) Where the offence relates to dumping, the Court shall in addition to any penalty which may be imposed in accordance with the Act, also order the offender to remove from the place where the offence has taken place all the material, in respect of which he is found guilty, within a time sufficient for the purpose, to be fixed by the Court, and that in default of compliance with that order such material be removed by the Local Council of the locality in which the offence has

Removal of litter ordered by the Court.

been committed at the expense of the offender, in which case such offender may be made to refund the expense as a civil debt.

(2) Furthermore, and in addition to any penalty, should the Local Council of a locality or any other authority remove the dumped material prior to the proceedings in court, the said Court shall, on proof of the damage suffered, order the offender to pay, by way of damages, the Local Council or other authority any sum incurred in the removal of the material, and any such order shall be of the same force and effect and shall be executed in the same manner as if it had been given in a civil action duly instituted between the Local Council or any other authority and the offender.

Contribution of
Local Councils to
the Environment
Fund and
apportionment of
fines.

15. (1) In accordance with article 19(4)(d) of the Act, and subarticles (3) and (5) of article 10 of the Commissioners for Justice Act, Local Councils shall place into the Environment Fund thirty percent of all the fines received from contraventions under regulations 4, 5, 6, 7, 8 and 9 of these regulations and fifty percent of all the fines received from contraventions under subregulation (3) of regulation 10 and subregulations (3) and (4) of regulation 12 and shall be so placed within one month from receipt of payment of the fines and penalties derived from such contraventions.

(2) Fines awarded under these regulations on proceedings initiated by the Authority, shall be due to the Authority with an apportionment of twenty percent for each fine paid to the Local Council of the locality where the offence was committed.

Transitory Period.

16. Any person found guilty of an offence under these regulations, for a first offence committed up to 31 December 2005 shall, on conviction of this first offence, be liable only to a reprimand and admonition.

SCHEDULE 1

Regulation 4

In accordance with regulation 4 of these regulations, acts or omissions listed hereunder shall be deemed to be an offence under the said regulation:

- (a) deposit, drop, place or throw any dust, dirt, paper, ash, cigarette butt, refuse, box, barrel, or any other article or thing in any public place;
- (b) keep or leave any article or thing in any place where it or particles therefrom have passed or are likely to pass into any public place;
- (c) throw or leave behind any bottle, can, food container, food wrapper, glass, particles of food or any other article or thing in any public place;
- (d) beat, clean, shake, sieve or otherwise agitate any ash, hair, feathers, lime, sand, waste paper or other substance in such manner that it is carried or likely to be carried by the wind to any public place;
- (e) spit any substance or expel mucus from the nose, or leave or deposit human material excretion, including vomit, or leave or deposit any animal material excretion upon or onto any street or any public place;
- (f) place, scatter, spill or throw any blood, brine, noxious liquid, swill or any other offensive or filthy matter of any kind, including oil, fuel and other fluid, in such manner as to run or fall into any public place.

SCHEDULE 2

Regulation 10(3)

In accordance with subregulation (3) of regulation 10, objects and materials listed hereunder shall be deemed to be dumped or deposited refuse, litter, waste, swill or any other objects:-

- (a) White goods and electrical appliances, including fridge, freezer, cooker, oven, dishwasher, geyser, hob, air-conditioner, television, computer, in whole or in part;
- (b) Building material, in whatever quantity, including a sack, bag, box or receptacle with tiles, disused pipes, slabs and any other material;
- (c) Bathroom suite in whole or in part;
- (d) Bedroom suite or other domestic furniture in whole or in part;
- (e) Commercial equipment, old stock office furniture and machinery, in whole or in part;
- (f) Cloths, rags and other material related to clothing;
- (g) All catering waste and swill in whatever quantity, disposed by a catering licensee;
- (h) Unlicensed and disused vehicle or vessel in whole or in part;
- (i) Non-domestic waste;
- (j) Dead animal;
- (k) Uncollected litter remaining after the lapse of twenty-four hours from the termination of an event organised by a person, or a body of persons, in a public place, including a rally, protest, concert, festival, public meeting or similar activity, unless the organiser shows that sufficient arrangements had been made for cleaning after the event;
- (l) Agricultural and garden waste, including pruning remains.

