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L.N. 311 of 2023

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

Construction and Demolition Waste Framework Regulations, 2023

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

Citation, scope
and
commencement.

1. (1) The title of these regulations is the Construction and Demolition Waste Framework Regulations, 2023.

(2) The scope of these regulations is to establish a framework regulating the management of waste resulting from demolition, excavation and construction activities.

(3) The Environment and Resources Authority may issue guidelines or criteria to provide information, guidance or impose restrictions in order to better implement these regulations.

(4) To implement these regulations, the Environment and Resources Authority may request information from any public entity and from any actor depending on his role as outlined in regulation 3.

(5) These regulations shall come into force within two (2) months from their publication in the Gazette.

(6) Regulation 5(4) shall come into force on 1st January 2026.

Interpretation.

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

Cap. 549.

"Act" means the Environment Protection Act;

Cap. 552.

"application" means any form of application made to the Planning Authority in terms of the Development and Planning Act;

"Authority" or "competent authority" means the Environment and Resources Authority as established by article 6 of the Act;

Cap. 552.

"client" or "developer" means the person in whose name the application had been submitted for a development permit in accordance with the provisions of the Development Planning Act

or in accordance with the provisions of the regulations made thereunder;

"commencement notice" shall have the same meaning as assigned to it in article 2 of the Development Planning Act; Cap. 552.

"construction" shall have the same meaning as assigned to it in article 2 of the Building and Construction Authority Act; Cap. 623.

"demolition" shall have the same meaning as assigned to it in article 2 of the Building and Construction Authority Act; Cap. 623.

"development" shall have the same meaning as assigned to it in article 2 of the Development Planning Act; Cap. 552.

"excavation" shall have the same meaning as assigned to it in article 2 of the Building and Construction Authority Act; Cap. 623.

"major application" means any application listed in Schedule 1 to the Development Planning (Procedure for Applications and their Determination) Regulations; S.L. 552.13.

"Planning Authority" means the Planning Authority established under article 5 of the Development Planning Act; Cap. 552.

"site" shall have the same meaning as assigned to it in article 2 of the Building and Construction Authority Act; Cap. 623.

"site manager" shall have the same meaning as assigned to it in regulation 3 of the Construction Management Site Regulations; and S.L. 623.08.

the words "backfilling", "carrier", "collection", "construction and demolition waste", "hazardous waste", "material recovery", "non-hazardous waste", "preparing for re-use", "recovery", "recycling", "re-use", "separate collection", "treatment" and "waste" shall have the same meaning as assigned to them in regulation 4 of the Waste Regulations. S.L. 549.63.

3. These regulations outline the roles of the different actors involved in the construction and demolition industry with respect to waste management: Responsibilities.

(a) the developer or anyone acting on his behalf involved in the design stage of a development shall ensure that measures to prevent and minimise the generation of waste are integrated in any development and that any such measures are implemented throughout the lifetime of the development;

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S.L. 623.08. (b) the client, developer or anyone acting on his behalf shall ensure that demolition and excavation are also carried out in line with paragraph 3(a) of the Fourth Schedule to the Construction Management Site Regulations;

(c) the contractors engaged by the client or developer shall ensure the prevention and minimisation of waste throughout all on site activities. The contractors shall make efforts to segregate waste at source and ensure that any collection and transport of waste generated on site is carried out by duly authorised waste carriers;

S.L. 549.45. (d) the waste carrier shall ensure that any waste collected is transported in accordance with the Waste Management (Activity Registration) Regulations, to authorised facilities permitted under the Waste Regulations. To this end, the waste carrier shall provide documentary proof when requested;

S.L. 549. 63. (e) the site manager shall ascertain that any development is carried out in accordance with these regulations and that the actors involved fulfil their roles.

Product requirements. 4. (1) These regulations shall be read in conjunction with the requirements set out under Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, as implemented at national level through the Construction Products (Implementation) Regulations.

S.L. 427.83. (2) Waste which has undergone a recycling or other recovery operation, is considered to have ceased to be waste if it has achieved an end-of-waste status in accordance with regulation 6 of the Waste Regulations.

Environ- mentally sound management of construction and demolition materials and waste generated on site. S.L. 549.63. 5. (1) Without prejudice to regulations 12 and 12A of the Waste Regulations, the actors identified in regulation 3 shall take the necessary measures to ensure that all waste generated during demolition, excavation and construction activities is managed in an environmentally sound manner and in accordance with the waste hierarchy as laid down in regulation 4A of the Waste Regulations.

(2) In order to fulfil the requirements laid down in sub-regulation (1), the actors identified in regulations 3 shall in accordance with their role, as a minimum:

(a) take the necessary measures to prevent the generation of waste across all stages of construction, as far as possible. Such stages include but are not limited to design, demolition,

excavation, construction and finishing;

(b) prioritise the re-use of uncontaminated excavated material, both on-site and off-site;

(c) separate the waste at source in line with regulation 6, where site specific characteristics allow;

(d) ensure that any collection and transport of waste resulting from demolition, excavation and construction activities is carried out by means of an authorised waste carrier;

(e) obtain documentary proof that the waste is transferred to a facility that is authorised to accept such waste. To this end, the waste carrier shall provide such documentary proof to the developer;

(f) make use of facilities or undertakings duly permitted by the Authority to carry out the treatment of construction and demolition waste in accordance with the Waste Regulations.

(3) In order to ensure compliance with the requirements laid down in sub-regulations (1) and (2), the Authority may require the developer or anyone acting on his behalf to submit any information and documentation on the re-use of suitable materials and on the management of the waste generated during the activities referred to in sub-regulation (1).

(4) From 1st January 2026, any major application or application for high-density residential developments serving sixteen (16) or more units, shall include the submission of a pre-demolition audit prior to the issuance of the commencement notice of works. The Building and Construction Authority shall only issue clearance to commence works following clearance of the pre-demolition audit by the competent authority. The pre-demolition audit shall contain the information included in Schedule 1 and shall be carried out by a warranted perit, surveyor or a duly qualified environmental consultant, approved by the competent authority and in the format established by the competent authority.

6. (1) Without prejudice to the Construction Management Site Regulations and where site specific characteristics allow, the contractor shall endeavour to separate demolition, excavation and construction materials or waste at source in order to facilitate the re-use of material and to prepare for re-use, recycling and recovery of waste, including but not limited to mineral fractions, metal, glass, wood and plastic waste.

Separation and storage of construction and demolition material or waste at source. S.L. 623.08.

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(2) Where site specific characteristics do not allow, demolition, excavation and construction materials or waste may be separated at any establishment or undertaking duly authorised by the Authority.

S.L. 549.63.

(3) Any hazardous waste generated on site shall be managed in accordance with regulation 14(2) of the Waste Regulations.

(4) In order to facilitate preparation for re-use, recycling and other recovery operations, waste separated in accordance with this regulation shall not be mixed with other waste or other materials with different properties, including during its collection stage.

Environ-
mentally sound
treatment of
construction and
demolition
materials and
waste.

7. (1) Demolition, excavation and construction waste shall only be recycled or otherwise recovered at an establishment or undertaking duly permitted by the Authority.

(2) For the purpose of environmental protection and to promote high-quality recycling, the Authority may set out additional quality guidelines for the collection and treatment of construction and demolition waste.

(3) Subject to obtaining a permit issued by the competent Authority, any person may establish and operate storage depots intended for, sorting or storage of construction and demolition materials or waste prior to eventual reuse, preparing for re-use, recycling, other recovery operations, or disposal.

S.L. 549.65.

(4) Any shipment of construction and demolition waste shall be carried out in conformity with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and the Waste Management (Shipments of Waste) Regulations, and with any other applicable legislation.

(5) The Authority may take measures to encourage establishments or undertakings which carry out waste treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC.

Rehabilitation
of excavation
voids.

8. (1) Rehabilitation of an excavation void shall only be carried out if duly permitted and by waste which is considered suitable by the Authority.

(2) In order to demonstrate compliance with the requirements established in sub-regulation (1), the holder of a permit granted by the Authority for the backfilling of an excavation void shall submit to the Authority an annual declaration prepared by an independent body together with the annual environmental report prepared and submitted in accordance with regulation 33A of the Waste Regulations.

S.L. 549. 63.

9. (1) By not later than 1st January 2028, any developer submitting an application with the Planning Authority for a major development or high-density residential development serving sixteen (16) or more units shall take the necessary measures to ensure that the following targets are achieved for each development:

Waste management targets.

(a) a minimum of forty percent (40%) of excavated material shall be re-used or recycled:

Provided that developers may also achieve such target through set-off from any other developments as long as an adequate audit trail is provided to the satisfaction of the Authority;

(b) a minimum of forty percent (40%) by weight of non-hazardous waste generated during demolition activities shall be prepared for re-use, recycled and, or other forms of material recovery excluding backfilling operations;

(c) a minimum of fifteen percent (15%) of construction material including that used in finishes shall be made up of re-used or recycled material; and

(d) a minimum of twenty-five percent (25%) of the granular material used for construction shall be made up of recycled aggregates. The percentage share of recycled aggregates used shall contribute towards attaining the fifteen percent (15%) target for re-use and recycled materials as listed in paragraph (c).

(2) Within three (3) months from the issuance of a compliance certificate by the Planning Authority, all developers of any development falling within the scope of this regulation, shall submit to the competent Authority a declaration indicating the percentage rate achieved for each of the targets listed in sub-regulation (1) according to the format established by the competent authority:

Provided that the Authority may require the auditing of declarations submitted.

10. Documentation specified in regulations 5(2)(e) and 9(2) Record keeping.

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shall be kept by the developer for a minimum period of five (5) years following the issuance of the compliance certificate and shall be made available to the competent authority upon request.

Inspections by
the competent
authority.

11. (1) The competent authority may carry out inspections to ensure that the obligations set out in these regulations are adhered to.

(2) Any relevant actors shall keep up-to-date records of their operations in accordance with these regulations and make them available for any inspection by the competent authority.

Register of
operational and
closed waste
facilities.

12. The competent authority shall establish a register of authorised establishments and undertakings dealing with material and, or waste resulting from the construction and demolition industry. Such register shall be periodically updated and made publicly available.

Administrative
penalties.

13. (1) Any developer who fails to reach the targets specified in regulation 9(1) shall be subject to an administrative penalty as specified in Schedule 2.

(2) Any developer who fails to abide with any provision of these regulations shall be subject to an administrative penalty depending on the nature and severity of the breach, not exceeding forty thousand euro (€40,000).

SCHEDULE 1 PRE-DEMOLITION AUDIT (regulation 5(4))

The pre-demolition audit shall include:

1. identification of all waste streams foreseen to be generated;
2. estimated quantities of the identified waste streams;
3. which materials can be separated at source;
4. which materials are not suitable for re-use or recycling;
5. information on the management of the hazardous and non-hazardous waste fractions;
6. information on the recycling possibilities of demolition, excavation and construction;
7. an estimate of the percentage (%) re-use and recycling potential of material or waste to be generated; and

8. a reason for the need to demolish the existing structure.

SCHEDULE 2
ADMINISTRATIVE PENALTIES FOR NON-ATTAINMENT OF
WASTE MANAGEMENT TARGETS
(regulations 9(1) and 13)

In cases where the developer fails to meet the targets, the applicable administrative penalty shall be calculated as follows:

- (a) for targets specified in paragraphs (a) and (b) of regulation 9(1):

A = total material or waste generated, in tonnes

B = % target

C = actual material re-used or waste prepared for re-use or recycled, in tonnes

D = five euro (€5) in case of high-density residential developments serving sixteen (16) or more units, three euro (€3) for major developments

$((A \times B) - C) \times D$ = applicable penalty in euro

- (b) for targets specified in paragraphs (c) and (d) of regulation 9(1):

A = construction material used, in tonnes

B = % target

C = actual construction material used in the development that has been re-used or recycled, in tonnes

D = five euro (€5) in case of high-density residential developments serving sixteen (16) or more units, three euro (€3) for major developments

$((A \times B) - C) \times D$ = applicable penalty in euro
