

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 and Scope.

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

S.L. 623.08.

(2) These regulations aim to establish a framework regulating the management of waste arising from demolition, excavation and construction activities. These regulations shall be read and construed in conjunction with the Construction Management Site Regulations.

(3) The 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 Authority may request information from any public entity and from any actor depending on his role as outlined in regulation 3.

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;

Cap. 549.

“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;

Cap. 552.

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

Cap. 623.

“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. 552.

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

Cap. 623.

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

S.L. 552.13.

“Major application” means any application listed under Schedule 1 of the Development Planning (Procedure for Applications and their Determination) Regulations;

Cap. 552.

“Planning Authority” means the Planning Authority established under article 5 of the Development Planning Act;

Cap. 623.

“site” shall have the same meaning as assigned to it in article 2 of the Building and Construction Authority Act.

S.L. 623.08.

“site manager” shall have the same meaning as assigned to it in regulation 3 of the Construction Management Site Regulations.

S.L. 549.63.

The words “backfilling”, “carrier”, “collection”, “construction and demolition waste”, “hazardous waste”, “non-hazardous waste”, “material recovery”, “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.

Responsibilities

3. These Regulations outline the roles of the different actors involved in the Construction and Demolition industry with respect to waste management:

- (i) 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.

S.L. 623.08.

- (ii) 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 of the Construction Management Site Regulations;
- (iii) 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;
- (iv) The waste carrier shall ensure that any waste collected is transported according to waste regulations, to authorised facilities permitted under the waste regulations. To this end, the waste carrier shall provide documentary proof when requested;
 - (v) The site manager shall ascertain that any development is carried out according to these regulations and that the actors involved fulfil their roles.

Product requirements.

S.L. 427.83.

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. 549.63.

(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 line with regulation 6 of the Waste Regulations.

Environmentally 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 according to 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 waste at source in line with regulation 6, where site specific characteristics allow;
- (d) ensure that any collection and transport of waste arising 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 carrying out the treatment of construction and demolition waste duly permitted by the Authority under 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) By no later than 1st January 2026, any major application or application for high-density residential developments serving sixteen (16) or more units, shall be accompanied by the submission of a pre-demolition audit, prior to the issuance of an executable permit. The pre-demolition audit shall contain the information included in Schedule 1 and shall be carried out by a warranted Perit or a duly qualified environmental consultant, approved by the competent authority, and in the format established by the competent authority.

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

S.L. 623.08.

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 the preparing for re-use, recycling and recovery of waste, including but not limited to mineral fractions, metal, glass, wood and plastic waste.

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

S.L. 549.63.

(3) Any hazardous waste generated on site shall be managed in accordance with sub-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.

Environmentally 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.

S.L. 549.63.

(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 compliance 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).

Rehabilitation of excavation voids

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

S.L. 549.63.

(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.

Waste Management Targets

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:

- (i) A minimum of 40% of excavated material shall be re-used or recycled;
- (ii) A minimum of 40% by weight of non-hazardous waste generated during demolition activities shall be prepared for re-use, recycling and / or other forms of material recovery excluding backfilling operations;
- (iii) A minimum of 15% of construction material used for construction, shall be made up of re-used material or materials recycled locally; and
- (iv) A minimum of 25% of the granular material used for construction shall be made up of aggregates recycled locally. The percentage share of recycled aggregates used shall contribute towards attaining the 15% target for re-use and recycled materials as listed in paragraph (iii).

(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.

Record keeping.

10. Documentation specified in sub-regulations 5 (2) (e) and 9 (2) 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 make sure that the obligations set out under these Regulations are adhered to.

(2) Any relevant actors shall keep up-to-date records of their operations according to 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 permitted establishments and undertakings dealing with material and/or waste arising 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 of a maximum of €40,000 (forty thousand euro) depending on the nature and severity of the offence.

SCHEDULE 1
PRE-DEMOLITION AUDIT
(Regulation 4 (4))

The Pre-demolition Audit shall contain:

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

(Regulation 9(1))

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

(a) For targets specified in paragraph (i) and (ii) 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 = € 5 in case of high-density residential developments serving sixteen (16) or more units; €3 for Major developments

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

(b) For targets specified in paragraph (iii) and (iv) 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 locally, in tonnes

D = € 5 in case of high-density residential developments serving sixteen (16) or more units; €3 for Major developments

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