

THE CROATIAN PARLIAMENT

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Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE WASTE ACT

I hereby promulgate the Act on Amendments to the Waste Act, passed by the Croatian Parliament at its session on 10 July 2009.

Class: 011-01/09-01/136

Reg. No: 71-05-03/1-09-2

Zagreb, 17 July 2009

The President
of the Republic of Croatia
Stjepan Mesić, m.p.

ACT

ON AMENDMENTS TO THE WASTE ACT

Article 1

In the Waste Act (Official Gazette 178/04, 111/06 and 60/08), in Article 17.a, paragraph 2, after the words: "Energy Efficiency Fund", the words: "(hereinafter referred to as: the Fund)" are added.

Paragraph 3 is amended to read:

"(3) The payment of the fees referred to in paragraph 1 of this Article shall be based on a decision issued by the Fund."

After paragraph 3, paragraphs 4, 5 and 6 are added and read:

"(4) An appeal against the Fund's decision may be filed with the ministry competent for environmental protection activities within eight days from the day of delivery of the decision.

(5) The amounts of fees calculated and due shall be paid to the Fund's account.

(6) The payment of outstanding amounts of fees due, along with interest, shall be carried out pursuant to Articles 27 and 28 of the Act on the Environmental Protection and Energy Efficiency Fund."

Article 2

After Article 17.a, Article 17.b is added and reads:

“Article 17.b

(1) From the amount of fees referred to in Article 17.a of this Act, the Fund shall pay the service charge for the collection, recovery and disposal of special categories of waste.

(2) The method of paying the service charge and delivering data on the quantities of collected or treated or recovered waste shall be prescribed by implementing regulations governing the management of special categories of waste referred to in Article 104 of this Act.”

Article 3

After Article 18, Article 18.a is added and reads:

“Article 18.a

(1) The state may ensure environmental remediation at locations highly burdened with hazardous waste even when the polluter or producer is known but did not perform the remediation or refuses to perform it. The decision on the remediation and the provision of funds required for the remediation shall be adopted by the Fund at the proposal of the ministry competent for environmental protection. An appeal shall not be permitted against the decision, but an administrative dispute may be instituted. An administrative dispute shall not postpone the execution of the decision.

(2) The state shall be entitled to remuneration of all costs for performing the remediation referred to in paragraph 1 of this Article. For the purpose of securing the payment of the costs for the performed remediation, the state shall, pursuant to this Act, obtain the right of mortgage on the real property on which the remediation was performed in the amount of the remediation costs.

(3) Prior to the remediation procedure, at the state’s proposal the land register court shall enter a recordation in the land register of the intent of remediation and the effects of remediation referred to in paragraph 2 of this Article. The entry of the recordation shall be carried out pursuant to the decision referred to in paragraph 1 of this Article.

(4) The competent land register court shall carry out a registration of the mortgage right on behalf of the state and a conditional registration of the acquisition of the state’s right of ownership based on an invoice for the remediation performed issued by the person who performed the remediation works for the state.

(5) Any activities in relation to remediation shall be carried out by the Fund in the name and for the account of the state.

(6) The provisions of this Article shall also apply to legal persons subject to a bankruptcy procedure as well as on the real property owned by those legal persons. Remediation costs shall be deemed as the costs of the bankruptcy procedure.”

Article 4

Article 47 is amended to read:

“(1) Import of waste for the purpose of disposal and use for energy purposes shall be prohibited.

(2) Import of hazardous waste shall be prohibited, except in cases of recovery when material recovery is used to create a new product or raw material which ceases to be waste after recovery.

(3) Import of waste which is materially recovered in the Republic of Croatia in accordance with this Act and special regulations adopted on the basis thereof shall be permitted.

(4) Supervision of the transboundary transport of waste, the method and procedure of border control at the borders and border crossings as well as the authorities of environmental protection inspectors shall be prescribed by a special regulation passed by the Croatian Government”

Article 5

Article 48 is amended to read:

“(1) For the import of waste referred to in Article 47 paragraph 2 of this Act, the person importing the waste must obtain the decision prescribed by this Act.

(2) Import as referred to in paragraph 1 of this Article shall be permitted to the person registered for import activities (hereinafter referred to as: the importer) at the person’s request, if the following requirements are met:

1. a contract is concluded between the waste importer and the person exporting waste (hereinafter referred to as: the exporter),

2. a contract is concluded between the waste importer and the person who is performing recovery of waste (hereinafter referred to as: the recoverer), unless the importer is also the recoverer,

3. evidence is submitted that the waste recoverer has an available technological plant for the recovery of the imported waste without any hazard to the environment (possesses a licence in accordance with Article 41 paragraph 1 of this Act),

4. a statement of the waste recoverer is enclosed concerning the type and estimated quantity of waste that is to be produced by means of recovery of the imported waste and on the planned method of its recovery and/or disposal,

5. data is provided on the waste quantity, the waste key number, the waste identification mark, the waste tariff number, the recovery process (R code), the mode of transport and the border crossing for import,

6. the exporter via the competent authority of the State of dispatch encloses a document notifying the intended transport of waste – Notification and Movement Document of the State

of dispatch, in accordance with the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, in cases related to hazardous waste,

7. an appropriate insurance policy or bank guarantee is enclosed for the amount necessary to cover the costs of recovery and/or disposal of waste without posing a risk to the environment, in cases related to hazardous waste,

8. an appropriate insurance policy or bank guarantee is enclosed for the amount necessary to cover the environmental remediation costs in the event of an accident, in cases related to hazardous waste.”

Article 6

In Article 49 paragraph 1, the words: “paragraph 3” are replaced by the words: “paragraph 2”.

Article 7

Article 50 is amended to read:

“(1) For the export of hazardous and non-hazardous waste for the purpose of disposal, the person doing the exporting must obtain the decision prescribed by this Act.

(2) Export referred to in paragraph 1 of this Article shall be permitted to a person registered for carrying out waste management activities or a mediator (hereinafter referred to as: the exporter), at the person’s request, if the following requirements are met:

1. authorisation for import is granted by the state importing the waste,
2. a contract is concluded between the exporter and importer of waste,
3. authorisation is issued by the states through which the waste will transit on its way to the final destination,
4. a document notifying the intended transboundary transport of waste is enclosed – Notification and Movement Document in accordance with the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal,
5. the exporter has an appropriate insurance policy or bank guarantee for the amount necessary to cover the costs of waste recovery and/or disposal without posing a risk to the environment,
6. the exporter has an appropriate insurance policy or bank guarantee for the amount necessary to cover the environmental remediation costs in case of an accident.”

Article 8

In Article 51, paragraphs 1 and 2, after the words: “hazardous waste” the words: “and non-hazardous waste for the purpose of disposal” are added.

Article 9

In Article 52, paragraphs 1, 2 and 3, after the words: “hazardous waste” the words: “and non-hazardous waste for the purpose of disposal” are added.”

Article 10

In Article 54, after the words: “the Republic of Croatia” the words: “for the purpose of recovery” are added.

Article 11

Article 55 is amended to read:

“(1) A concession shall be granted for waste management activities of interest for the Republic of Croatia.

(2) A concession for a waste management activity shall be granted in accordance with the provisions of this Act and special regulations adopted on the basis thereof and the law governing concessions.

(3) A concession for performing waste management activities as a municipal activity shall be granted in accordance with the provisions of the law governing municipal economy.

(4) The provisions of the law governing concessions shall apply to any matters related to the procedure for granting a concession, termination of a concession, legal protection in the procedures for granting and terminating concessions and all other issues pertaining to concessions which are not regulated by this Act.”

Article 12

Article 56 is amended to read:

“(1) A concession for performing management activities for special categories of waste, construction and medical waste may be granted for:

- collection, temporary storage and transport to the place of recovery or disposal,
- recovery, when recovery is used to create a new product, energy or raw material which ceases to be waste after recovery,
- disposal, if recovery is not possible or economically feasible in the sense of creating new raw materials, products or energy.

(2) The grantor of the concession for performing management activities for special categories of waste and medical waste referred to in paragraph 1 of this Article shall be the Ministry.

(3) The Ministry may authorise a county to grant the concessions referred to in paragraph 2 of this Article.

(4) The grantor of a concession for performing management activities for construction waste referred to in paragraph 1 of this Article is a county, City of Zagreb, town or municipality.

(5) The concession referred to in paragraph 1 of this Article shall be granted on the basis of a completed public tender procedure.”

Article 13

After Article 56, t Articles 56.a, 56.b and 56.c are added and read:

“Article 56.a

(1) A notice on the intention of granting the concession referred to in Article 56, paragraphs 3 and 4 of this Act shall be issued by the executive body of a county or the City of Zagreb, town or municipality.

(2) The decision on the selection of the preferred tenderer shall be made by the representative body of a county or the City of Zagreb, town or municipality.

(3) The concession contract with the selected preferred tenderer shall be concluded by the executive body of a local and regional self-government unit based on the decision referred to in paragraph 2 of this Article.

Article 56.b

(1) The concession referred to in Article 56 of this Act shall be granted for a period of 30 years.

(2) The duration of the concession shall be determined by the concession grantor on the basis of an investment analysis, scope of activities and the complexity of recovery or disposal processes.

Article 56.c

(1) Prior to the procedure for granting a concession, the concession grantor shall perform preparatory actions in accordance with the law governing concessions, taking account of waste management objectives and measures stipulated in this Act and special regulations adopted on the basis thereof.

(2) The Fund shall participate in the performance of preparatory actions referred to in paragraph 1 of this Article insofar as it is, under this Act or special regulations adopted on the basis thereof, obliged to follow the activities of the concessionaire with economic and other measures.”

Article 14

In Article 57, the opening sentence is amended to read: “Special conditions and evidence from the tender documentation which the tenderers are obliged to submit with their tender offer are:”.

After subparagraph 4, a new subparagraph 5 is added and reads:

“– the environmental protection study prescribing the measures required to ensure that waste management is carried out in a manner which does not endanger human health or harm the environment, and in particular: without risk to water, air, soil and plants and animals, without causing a nuisance through noise or odours and without adversely affecting the landscape or places of special interest,”.

The former subparagraph 5 becomes subparagraph 6.

Article 15

After Article 57, Article 57.a is added and reads:

“Article 57.a

(1) The concession grantor shall make a decision on publishing the notice on the intention of granting the concession referred to in Article 56 of this Act.

(2) The notice on the intention of granting the concession shall be published in the Official Gazette.

(3) The procedure for granting the concession shall be initiated by publishing the notice on the intention of granting the concession.”

Article 16

Article 58 is amended to read:

“The notice on the intention of granting the concession shall specifically contain:

1. – the subject of the concession – the waste management activity referred to in Article 56 of this Act for which the concession is granted,

– the area where the concession shall be carried out,

–the duration of the concession period,

– the rights and obligations of the concessionaire pursuant to this Act and special regulations adopted on the basis thereof,

– the deadline for submitting tender offers;

2. personal, professional, technical and financial requirements which the tenderers must satisfy and the documents which establish their compliance pursuant to Article 57 of this Act,

3. the criteria applied for the selection of the preferred tender offer pursuant to Article 59 of this Act.”

Article 17

Article 59 is amended to read:

“The criterion for the selection of the preferred tender offer shall be the most economically advantageous tender in the view of the concession grantor which meets the waste management objectives and measures prescribed by this Act and special regulations adopted on the basis thereof, and contains:

– the tenderer’s capacity for long-term sustainability of environmental protection for the duration of the concession period and quality realisation of the concession,

–elements depending on the particularity of the waste management activity according to the assessment of the concession grantor, which are in conformity with the principles of the procedure for granting concessions under the law governing concessions.”

Article 18

Article 60 is amended to read:

“The decision on the selection of the preferred tenderer shall contain in particular: the waste management activity for which the concession is granted, the area in which the concession is carried out, the manner and conditions of performing the activity, the duration period of the concession, authority of the concession provider, rights and obligations of the concessionaire, the period in which the preferred tenderer is obliged to sign the concession agreement, the concession fee and/or the service charge and other relevant issues for performing the activity for which the concession is granted in accordance with this Act and special regulations adopted on the basis thereof and the law governing concessions.”

Article 19

After Article 60, Articles 60.a and 60.b are added and read:

“Article 60.a

(1) Based on the decision referred to in Article 60 of this Act, the concession grantor shall conclude a concession contract with the selected preferred tenderer within a period of 30 days from the day when the decision on the selection of the preferred tenderer became final pursuant to the law governing concessions.

(2) The concession contract shall regulate in detail the rights and obligations of the concession grantor and concessionaire determined by the decision referred to in paragraph 1 of this Article, guarantees and/or insurance instruments of the concessionaire and the method of dissolving the relation in case of termination of the contract prior to the expiry of the period for which the concession is granted and other relevant issues for performing the activity for which the concession is granted.

(3) The decision referred to in Article 60 of this Act and the concession contract referred to in paragraph 1 of this Article shall be submitted to the Fund.

(4) The concessionaire may not transfer the concession to another person.

Article 60.b

(1) The concessionaire and the Fund shall conclude, pursuant to special regulations adopted on the basis thereof, a contract setting out the method of payment of the service charge, delivery of reports and the deadline for their delivery.

(2) The contract referred to in paragraph 1 of this Article shall be concluded for the period for which the concession is granted.

(3) The contract referred to in paragraph 1 of this Article shall be concluded within 30 days from concluding the concession contract.”

Article 20

Article 61 is amended to read:

“(1) The concession grantor may unilaterally terminate the concession contract if the concessionaire fails to conclude the contract referred to in Article 60.b of this Act within the prescribed deadline.

(2) The concessionaire may request a consensual termination of the contract, accompanied by the reasons for terminating the contract. The concession grantor shall determine whether and under what conditions and deadlines the contract may be terminated in such a manner so as to ensure minimum damage to the waste management system in accordance with the provisions of the concession contract and general provisions on civil obligations.

(3) A concession contract may also be terminated in other cases pursuant to the law governing concessions.”

Article 21

In Article 88, paragraph 1, item 17 is amended to read:

“17. the legal person imports waste for the purpose of disposal (Article 47 paragraph 1),”.

Item 18 is deleted.

The former items 19, 20, 21 and 22, which become items 18, 19, 20 and 21, are amended to read:

“18. the legal person imports waste which is not materially recovered in the Republic of Croatia in accordance with this Act and special regulations adopted on the basis thereof (Article 47 paragraphs 2 and 3),

19. the legal person imports waste without having obtained the decision prescribed by this Act (Article 48 paragraph 1),

20. the legal person exports hazardous and non-hazardous waste for the purpose of disposal without having obtained the decision prescribed by this Act (Article 50 paragraph 1 and Article 51 paragraph 1),

21. the legal person transits hazardous and non-hazardous waste through the territory of the Republic of Croatia without having obtained the decision prescribed by this Act (Article 52 paragraph 1).”

The former item 23 becomes item 22.

The former items 24 and 25, which become items 23 and 24, are amended to read:

23. the legal person performs management of special categories of waste, medical and construction waste referred to in Article 56 of this Act without the concession contract (Article 60.a),”

24. the legal person transfers the concession to another person (Article 60.a paragraph 4),”.

The former item 26 becomes item 25.

Article 22

In the entire text of the Waste Act (Official Gazette 178/04, 111/06 and 60/08), the Croatian word translated as “the concessionaire” in the appropriate grammatical case is replaced by another Croatian word, with no relevance to the English translation.

Article 23

The provisions of Article 18.a of this Act shall also apply to all remediation procedures in progress.

Article 24

In Article 59, paragraph 3 of the Act on Amendments to the Waste Act (Official Gazette 60/08), the words: “Article 65” are replaced by the words: “Article 62”.

Article 25

Procedures for granting concessions initiated pursuant to the provisions of the Waste Act (Official Gazette 178/04, 111/06 and 60/08) prior to the entry into force of this Act shall be completed in accordance with the provisions of the former Act.

Article 26

The concession contracts concluded pursuant to the provisions of the Waste Act (Official Gazette 178/04, 111/06 and 60/08) shall remain in force until the expiry of the contracted period.

Article 27

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

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Zagreb, 10 July 2009

THE CROATIAN PARLIAMENT

The President of the
Croatian Parliament
Luka Bebić, m. p.

PROVISIONAL TRANSLATION