



## SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY IN EUROPE

### MALTA

Malta is a Member of the European Union and has transposed the Revised Waste Framework Directive into national law. The Act on Environment and Development Planning [LN 184 of 2011](#) indicates specific provisions of waste producer obligations. Article 12 (entitled “Duty of Care”) provides:

*“(1) It shall be the duty of every original producer of waste or other holder to perform the treatment of waste himself or that his treatment done by a dealer or establishment or undertaking which carries out treatment operations of waste or organized by an entity of the private collection of waste or public intended to ensure that waste is handled, in accordance with Part 1 of Schedule 4 and the conditions attached to each allowed.*

*“(2) It shall be the duty of every producer of waste original holder or other waste:*

- (A) prevent any breach of these regulations;*
- (B) prevent the escape of that waste from his control or that of another person under his control; and*
- (C) ensure that the waste is managed by a person who is in possession of a permit....*

*“(6) When the waste is transferred from the original producer or holder to one of the natural or legal persons ... for preliminary treatment, the responsibility for carrying out recovery complete or disposal operation shall not be discharged as a general rule. Without prejudice to Regulation (EC) No 1013/2006, the Competent Authority may specify the conditions of responsibility and decide those cases where the original producer shall retain responsibility to all the treatment or in cases where this responsibility of the producer and the holder can be shared or delegated among the actors of the chain treatment.*

*“(7) The costs of waste management must paid by the original producer of the waste or the current or previous holders, depending on who has the obligation care waste any provision of this regulation.”*

These confusing provisions seem to create some duty of care for waste producers to assure that proper treatment occurs under their control and that of their agents and contractors. Absent other regulations or authorizations, the law apparently presumes that the original producers remain responsible if subsequent holders do properly handle the waste. This language has not been interpreted by a reported decision of the courts and remains a bit unclear.

**Note:** Nothing in the waste law transposed into national law supersedes, replaces or negates potential liability under the Environmental Liability Directive or the Industrial Emissions Directive (IPPC). Both of which have been applied to waste producers.

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