

L.N. 227 of 2001

**ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2001)**

**Limit Values and Quality Objectives for Discharges of Certain Dangerous
Substances into the Aquatic Environment Regulations, 2001**

BY virtue of the powers conferred by articles 3, 9, 11 and 28 of the Environment Protection Act, 2001, the Minister for the Environment has made the following regulations:-

1. (1) The title of these regulations is the Limit Values and Quality Objectives for Discharges of Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001.

(2) These regulations shall come into force on such date as the Minister responsible for the environment may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

(3) A notice under sub-regulation (2) of this regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

2. (1) For the purpose of these regulations and unless the context otherwise requires:-

“competent authority” means the Department for Environment Protection under the guidance of the Director for Environment Protection and such other body or person as the Minister responsible for the environment may by order in the Gazette prescribe and different bodies or persons may be designated as a competent authority for different provisions and different purposes of these regulations;

“existing plant” means an industrial plant which is operational on the date of entry into force of these regulations;

“handling of substances” means any industrial process involving the production, the processing or use of substances, or any other industrial process in which the presence of such substances is inherent;

“industrial plant” means a plant at which substances, or any other substances containing them, are handled;

“limit values” means the values specified in Annex II, under heading A, in respect of substances;

“new plant” means:

(a) an industrial plant which becomes operational after the entry into force of these regulations;

(b) an existing industrial plant whose capacity for handling the substances is substantially increased after the entry into force of these regulations;

“quality objectives” means the requirements specified in Annex II, under heading B, in respect of substances;

“substances” means those dangerous substances, belonging to the families and groups of substances appearing in List I in the Annex to the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, which are specified in Annex II to these regulations;

(2) These regulations apply to the waters referred to in sub-regulation (2) of regulation (2) of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, with the exception of ground water.

3. (1) The limit values, the time limits for compliance therewith and the procedures for monitoring discharges are laid down in the Annexes, under heading A.

(2) (a) The competent authority shall apply the limit values at the point where waste waters containing substances leave the industrial plant:

Provided that if the competent authority considers, in the case of certain substances, to lay down other points where the limit values shall apply, it shall list these points in Annex II.

(b) The competent authority may permit the limit values to be applied at the point where the waste waters leave the treatment plant, when waste waters containing these substances are treated outside the industrial plant at a treatment plant intended for their removal.

(3) The competent authority shall ensure that any permits or licence referred to in regulation 4 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, shall contain provisions at least as stringent as those set out under heading A in the Annexes to these regulations, except where the competent authority is complying with sub-regulation (3) of regulation 3 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, on the basis of heading B in the Annexes to these regulations. The competent authority shall review any permit or licence at least every four years.

(4) Without prejudice to their obligations arising from sub-regulations (1), (2) and (3) of this regulation and to the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, the competent authority may grant permits or licences for new plants, only if those plants apply the standards corresponding to the best technical means available when that is necessary for the elimination of pollution in accordance with regulation 3 of the said regulations or for the prevention of distortions of competition.

(5) The competent authority shall use the reference method of analysis listed under heading C in Annex II:

Provided that the competent authority may use other limits of detection, precision and accuracy which are at least as good as those laid down under heading C in Annex II.

(6) The competent authority shall seek to ensure that the measures taken pursuant to these regulations do not result in an increase in the pollution of other media, notably soil and air, by these substances.

4. (1) The competent authority shall be responsible for monitoring the aquatic environment affected by discharges from industrial establishments and by other sources of significant discharges.

(2) In the case of discharges affecting the territorial waters of Malta and of other States the competent authority concerned shall cooperate with the competent authorities of Malta and other States, with a view to harmonizing monitoring procedures.

5. (1) The competent authority shall, with respect to substances to which specific reference is made in Annex II, draw up specific programmes to avoid or eliminate pollution from significant sources of these substances, including multiple and diffuse sources, other than sources of discharges subject to such other regulations in force establishing limit value rules or emission standards.

(2) The programmes shall include the most appropriate measures and techniques for the replacement, retention or recycling of the substances referred to in sub-regulation (1).

(3) The specific programmes shall be implemented not later than five years after the date of entry into force of these regulations which relates specifically to the substance concerned.

6. Any person shall be guilty of an offence under these regulations if :

(a) he fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

7. Any person who commits an offence against these regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than five hundred liri but not exceeding one thousand liri;

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than one thousand liri but not exceeding two thousand liri, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree;

Provided further that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the public entities and/or other persons acting on their behalf involved in the implementation of these regulations and restitution of the environment as a result of the said offence, the revocation of the permit issued by the Police and the confiscation of the *corpus delicti*.

8. (1) The provisions of article 23 and subarticle (1) of section 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings, in respect of offences against these regulations, so however that the disqualification from holding or obtain a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General

shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

ANNEX I
ANNEX II