CHAPTER 435

ENVIRONMENT PROTECTION ACT

To protect the environment.

18th September, 2001;
28th June, 2002;
30th December, 2005

ACT XX of 2001, as amended by Act II of 2006 and Legal Notice 426 of 2007.

PART I

Preliminary

Short title.

1. The short title of this Act is the Environment Protection Act.

Interpretation.

2. In this Act unless the context otherwise requires:

"Authority" means the competent authority nominated by the Minister under article 6;

"biological diversity" or "biodiversity" means the variability among living organisms from all sources, including *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species, between species and of ecosystems;

"conservation" means a series of measures required to maintain or restore the natural habitats and the population of species of wild fauna and flora at a favourable status;

"derivatives" means parts of any specimen, whether processed by man or not;

"discharge" includes emission, deposit, dumping, disposal, addition or introduction into the environment of a substance or energy, directly or indirectly from any point source or diffuse source, whether stationary or mobile, and whether caused or permitted intentionally or otherwise and whether continuous or intermittent or once only;

"energy" includes all types of radiation forming part of the electromagnetic energy spectrum, or resulting from a nuclear source, as well as all vibrations and noise;

"environment" means the whole of the elements and conditions, natural or man made, existing on earth, whether together or in isolation, and in particular:

(*a*) the air, water and land;

(*b*) all the layers of the atmosphere;

(*c*) all organic and inorganic matter and all living organisms;

(*d*) all ecosystems; and

(*e*) the landscape;

"flora" means all types of plants and other *biota* including *akaryotes, prokaryotes* and *eukaryotes*, dead or alive, in whole or in part and their derivatives;

"fauna" means all types of animals and other *biota* including *akaryotes, prokaryotes* and *eukaryotes*, dead or alive, in whole or in part and their derivatives;

"genetically modified organism" means any of the following:

(*a*) an organism derived from the formation of a combination of genetic material by any means other than natural means;

(*b*) an organism inheriting such combination of genetic material;

(*c*) an organism that results from the replication of an organism as derived in paragraph (*a*); or

(*d*) such other organism as may be prescribed by the Minister under this Act;

"Minister" means the Minister responsible for the environment;

"natural resources" means any component of nature and includes air, water, land, soils, minerals, energy, living organisms and genetic resources;

"pollution" means the direct or indirect introduction by man into the environment of substances, organism, genetic material or energy that cause or are likely to cause hazard to human health, harm to living resources or to ecosystems, or damage to amenities, or interfere with other legitimate uses of the environment;

"prescribed" means prescribed by the Minister under this Act;

"precautionary principle" means the principle whereby appropriate measures are taken to protect the environment and to ensure sustainable management of natural resources in the absence of absolute or conclusive scientific proof of the need for such measures;

"specimen" means any species, whether alive or dead, any part or derivative thereof, and includes any goods which from an accompanying document, the packaging, mark or label or from other circumstances appear to be parts or derivatives of animals or plants;

"substances" means any matter, chemical, mixture, compound or product and including fuels, combinations of elements, mixtures or compounds of a chemical reaction, as well as the mixture of substances of different molecular identities;

"waste" means any thing, substance or object which the holder discards or intends to discard, or is required to keep in order to discard, and includes such other thing, substance or object as the Minister may prescribe.

PART II

Duty to Protect the Environment

3. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Duty of every person to protect the environment.

4. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Duty of Government to protect the environment.

5. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Application of articles 3 and 4.

PART III

The Authority

6. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Appointment of Authority.

7. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Functions of the Authority.

PART IV

National Commission for Sustainable Development

8. (1) There is hereby established a commission to be known as the National Commission for Sustainable Development which shall have the composition and which shall carry out the functions set out in this article. National Commission for Sustainable Development.

(2) The Commission shall be chaired by the Prime Minister or in his absence the Minister and shall be composed as follows:

(*a*) all Ministers *ex officio* or their representatives;

(b) two members of the House of Representatives, one appointed by the Prime Minister and the other by the Leader of the Opposition;

(*c*) a representative of the Authority;

(*d*) the Chairman of the Malta Council for Economic and Social Development *ex officio*;

(*e*) representatives of such public entities as in the opinion of the Prime Minister are relevant to the functions of the Commission;

(*f*) a representative of the association of local councils;

(*g*) representatives of organizations which represent or have an interest in business, industry and/or industrial relations, scientific and academic bodies, the media, and other non-governmental organizations, which in the opinion of the Prime Minister are relevant to the functions of the Commission.

(3) The members of the Commission referred to in sub-article (2)(*e*) to (*g*) shall be appointed by the Prime Minister after considering the recommendations that are made by the relative body or bodies and shall hold office for such term as may be stated in their letter of appointment and shall be re-eligible for

appointment.

(4) The quorum for meetings of the Commission shall be the chairman and half the members who at the time are members thereof; the Commission shall otherwise regulate its own procedure.

(5) The Prime Minister shall assign a public officer to be the secretary of the Commission, and shall from time to time assign to it such other affairs or resources which in his opinion are adequate for it to carry out its functions.

(6) The Commission shall hold its meetings in public and the public shall have access to all the reports of the same Commission.

(7) The Commission shall have the following functions:

(*a*) to advocate sustainable development across all sectors of Malta, review progress in the achievement of such sustainable development and to build consensus on action needed to achieve further progress;

(*b*) to identify any relevant process or policy which may be undermining sustainable development and propose alternative processes or policies to the Government for adoption;

(*c*) to identify trends which may significantly give rise to unsustainable development and which will not be reversed on the basis of current or planned action, and recommend action to reverse such trends;

(*d*) to increase awareness of the need that development must be sustainable;

(*e*) to encourage and stimulate good practice in the use and management of natural resources, in particular their minimal use and maximum reuse by recycling in an environmentally sustainable manner;

(*f*) to prepare a National Strategy for Sustainable Development; and

(*g*) to carry out such other functions in relation to sustainable development as may be assigned to it by the Prime Minister:

Provided that in carrying out the above-mentioned functions, the Commission may appoint advisory committees to make recommendations on specific subjects or actions which it may deem fit to examine:

Provided further that in carrying out its functions, the Commission shall be answerable to the Prime Minister. Recommendations and decisions of the Commission shall have no executive force but shall be considered as authoritative recommendations of best practice in achieving sustainable development.

PART V

Duties and Powers of the Minister

9. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Power to make regulations. *Amended by: II. 2006.19; L.N. 426 of 2007.*

10. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Procedure for making regulations.

PART VI

Licences

11. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Licences. *Amended by: L.N. 426 of 2007.*

PART VII

Environment Impact Assessment

12. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Environment Impact Assessment.

13. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Duty of Planning Authority with regard to Environment Impact Assessment.

14.(*Repealed by Act X of 2010 - see L.N. 513 of 2010*) Power to make regulations with regard to Environment Impact Assessment.

15. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Review of Environment Impact Assessment by Authority.

16. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Right of appeal to the Authority.

17. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Strategic Environment Assessment.

PART VIII

The Environment Fund

18. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Setting up of the Fund.

19. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Administration of the Fund.

20. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Accounts of the Fund.

21. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Exemption from certain taxes.

22. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*). Power to make regulations with respect to the Fund.

PART IX

Right to Information

Right to information.

23. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).

PART X

Enforcement

Action for damages.

24. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).

Environment inspectors.

25. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).

Compromise penalty.

26. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).

PART XI

Miscellaneous

Saving.

27. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).

Transitory provisions.

28. (*Repealed by Act X of 2010 - see L.N. 513 of 2010*).