

L.N. 230 of 2004

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

**Integrated Pollution Prevention and Control (Amendment)
Regulations, 2004**

BY VIRTUE of the powers conferred by articles 9 and 10(2) of the Environment Protection Act, the Minister for Rural Affairs and the Environment has made the following regulations:—

Citation. **1. (1)** The title of these regulations is the Integrated Pollution Prevention and Control (Amendment) Regulations, 2004, and shall be read and construed as one with the Integrated Pollution Prevention and Control Regulations, 2002, hereinafter referred to as “the principal regulations”.

L.N. 234 of 2002.

Scope. **(2)** The scope of these regulations is to achieve a phased schedule for the implementation of Legal Notice 234 of 2002 regarding the integrated prevention and control of pollution arising from the activities listed in Schedule 1 thereof, and to make corrections to the text of the principal regulations as well as to transpose the provisions of directive 2003/35/EC of the European Parliament and of the Council.

Directive 2003/35/EC.

(3) These regulations shall also be read in conjunction with, and taken as a whole, with the Environmental Impact Assessment Regulations, 2001.

L.N. 204 of 2001.

Amends regulation 2 of the principal regulations. **2. (1)** The definition “substantial change” in regulation 2 of the principal regulations shall be substituted by the following new definition:

“ “substantial change” means a change in operation which, in the opinion of the competent authority, may have significant negative effects on human beings or the environment and for the purpose of this definition, any change to or extension of an operation shall be deemed to be substantial if the change or extension in itself meets the thresholds, if any, set out in Schedule 1 of these regulations;”.

(2) The following definitions shall be added in regulation 2 of the principal regulations:

“the public” means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups;

“the public concerned” means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the issuing or the updating of a permit or of permit conditions; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest;”.

3. Subregulation (1) of regulation 5 of the principal regulations shall be substituted by the following: Amends regulation 5 of the principal regulations.

“(1) All operators of existing installations shall apply to the competent authority for a permit within the following time-frames:

- (i) Power plants, Shipyards by April 2004
- (ii) Industry by June 2004
- (iii) Waste installations by December 2004
- (iv) Farms by January 2005.”.

4. (1) In the English text of paragraph (f) of regulation 6 of the principal regulations, for the words “where this not possible” there shall be substituted the words “where this is not possible”. Amends regulation 6 of the principal regulations.

(2) In regulation 6 of the principal regulations, immediately after subregulation (i) thereto, there shall be added the following new subregulation (j):

“(j) the main alternatives, if any, studied by the applicant in outline.”.

5. In regulation 7 of the principal regulations the words “by not later than 31st March 2003” shall be deleted. Amends regulation 7 of the principal regulations.

6. (1) Subregulation (1) of regulation 8 of the principal regulations shall be substituted by the following: Amends regulation 8 of the principal regulations.

“(1) Where the Competent Authority is aware that the operation of an installation is likely to have significant negative

effects on the environment of another state, or where a state likely to be significantly affected so requests, the Competent Authority of the state in whose territory the application for a permit pursuant to these regulations was submitted shall forward to the other state any information required to be given or made available in accordance with the provisions of regulation 9(1) thereof and Schedule 8 of these regulations.”.

(2) Immediately after subregulation (2) of regulation 8 of the principal regulations there shall be added the following:

“(3) The results of any consultations pursuant to subregulations (1) and (2) hereof must be taken into consideration when the competent authority reaches a decision on the application.

(4) The competent authority shall inform the state which has been considered in accordance with subregulation (1) hereof, of the decision reached on the application and shall forward to it the information referred to in subregulations 9(2) and 9(4) hereof. The Competent authority shall take measures necessary to ensure that the information is made available to the public concerned in Malta.”.

Amends regulation 9 of the principal regulations.

7. (1) Subregulations (1) and (2) of regulation 9 of the principal regulations shall be substituted by the following:

“(1) applications for permits for:

(a) new installations;

(b) any substantial change in the operation of an installation; or

(c) for the updating of a permit or permit conditions for an installation in accordance with regulation 19 hereof,

for a period of thirty days before the competent authority reaches its decision, to enable the public to comment on them. The procedure set out in Schedule 8 hereof shall apply for the purposes of this regulation.

(2) The content of the decisions of the Competent Authority, including a copy of the permit and of any conditions and any subsequent updates.”.

(2) Immediately after subregulation (3) of regulation 9 of the principal regulations there shall be added the following:

“(4) Having examined the concerns and opinions expressed by the public concerned, the reasons and considerations on which the decision is based, including information on the public participation process.”.

8. In the marginal note of the English text of regulation 29 of the principal regulations, instead of the words “Action by Computer Authority” there shall be substituted the words “Action by Competent Authority.”.

Amends regulation 29 of the principal regulations.

9. In subregulation (3) of regulation 32 of the principal regulations instead of the word “Commission” there shall be substituted the word “Committee”.

Amends regulation 32 of the principal regulations.

10. In subparagraph (b) of item 2.3 of the English text of Schedule 1 of the principal regulations, instead of the word “with” there shall be substituted the word “which”.

Amends Schedule 1 of the principal regulations.

11. (1) In paragraph 1 of the English text of Schedule 3 of the principal regulations, the sign “X” next to the field “Total – nitrogen” shall be deleted from under the heading “Air” and instead moved under the heading “Water”.

Amends Schedule 3 of the principal regulations.

(2) In paragraph 1 of the English text of Schedule 3 of the principal regulations, the sign “X” next to the field “Total – phosphorus” shall be deleted from under the heading “Air” and instead moved under the heading “Water”.

12. Schedule 6 of the principal regulations shall be substituted by the following new Schedule 6:

Substitution of Schedule 6 of the principal regulations.

“SCHEDULE 6

Composition of the IPPC Committee

The IPPC Committee shall consist of:

(a) the Director of the Environment Protection Directorate of the Malta Environment and Planning Authority or his authorized representative as Chairman;

(b) an officer being responsible for pollution prevention and control, designated by the Chairman of the Malta Environment and Planning Authority;

(c) an officer being responsible for waste management, designated by the Chairman of the Malta Environment and Planning Authority;

(d) an officer being responsible for land use planning, designated by the Chairman of the Malta Environment and Planning Authority;

(e) a senior environmental health officer having experience of these issues, designated by the Minister responsible for public health;

(f) a senior officer having experience of the management of resources, designated by the Chairman of the Malta Resources Authority;

(g) an officer being responsible for the control of discharges into the marine environment, designated by the Chairman of the Malta Environment and Planning Authority;

(h) a senior public officer having experience of economic services, designated by the Minister responsible for finance;

(i) a senior officer having experience of maritime affairs, designated by the Chairman of the Malta Maritime Authority;

(j) a senior officer having experience of occupational health and safety, designated by the Chairman of the Occupational Health and Safety Authority;

(k) a senior public officer having experience of civil protection, designated by the Minister responsible for the civil protection;

(l) a senior public officer having experience of agriculture and fisheries, designated by the Minister responsible for agriculture and fisheries; and

(m) a senior police officer, designated by the Minister responsible for the police.”.

13. Immediately after Schedule 7 in the principal regulations, there shall be added the following new Schedule 8:

Addition of
Schedule 8 to the
principal
regulations.

“SCHEDULE 8

Public participation in decision-making

1. The public shall be informed (by public notices or other appropriate means such as electronic media where available) of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:

(a) the application for a permit or, as the case may be, the proposal for the updating of a permit or of permit conditions in accordance with regulation 9(1), including the description of the elements listed in regulation 6(1);

(b) where applicable, the fact that a decision is subject to a national or transboundary environmental impact assessment or to consultations between States in accordance with regulation 8;

(c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;

(d) the nature of possible decisions or, where there is one, the draft decision;

(e) where applicable, the details relating to a proposal for the updating of a permit or of permit conditions;

(f) an indication of the times and places where, or means by which, the relevant information will be made available;

(g) details of the arrangements for public participation and consultation made pursuant to article 5 hereof.

2. The Competent Authority shall ensure that, within appropriate time-frames, the following is made available to the public concerned:

(a) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned were informed in accordance with article 1 hereof;

(b) in accordance with the provisions of the Freedom of Access to Information on the Environment Regulations, 2001, information other than that referred to in article 1 hereof which is relevant for the decision in accordance with regulation 14 and which only becomes available after the time the public concerned was informed in accordance with article 1 hereof.

3. The public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken.

4. The results of the consultations held pursuant to this Schedule must be taken into due account in the taking of a decision.

5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Competent Authority. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Schedule.”.