

L.N. 525 of 2004

**MALTA RESOURCES AUTHORITY ACT
(ACT NO. XXV OF 2000)**

Water Supply and Sewerage Services Regulations, 2004

IN exercise of the powers conferred by article 28 of the Malta Resources Authority Act, the Minister for Resources and Infrastructure, after consultation with the Malta Resources Authority, has made the following regulations:

Citation and
commencement.

1. (1) The title of these regulations is the Water Supply and Sewerage Services Regulations, 2004.

(2) These regulations shall come into force on such date as the Minister responsible for Resources may determine by notice in the Gazette, and different dates may be so established for different regulations or provisions thereof.

Interpretation.

2. In these Regulations, unless the context otherwise requires:

“the Act” means the Malta Resources Authority Act;

“the Authority” means the Malta Resources Authority as defined in the Act;

“customer” means any natural or legal person purchasing water for resale, or receiving sewerage services, or any final customer;

“domestic sewage” means sewage and, or wastewater from residential settlements and services which originates predominantly from the human metabolism and from household activities;

“final customer” means any natural or legal person purchasing water or receiving sewerage services, for his own use;

“industrial sewage” means any sewage and, or wastewater which is discharged from premises used for the carrying out of any trade, practice, activity or industry, other than domestic sewage and run-off rain water;

“internal sewage collection system of any premises” means the pipework, fittings and appliances which are installed within any premises and up to the sewage collection system but only if they are not the responsibility of the sewerage services operator in its capacity as a sewerage services operator;

“internal water distribution system of any premises” means the pipework, fittings and appliances which are installed within any premises and up to the distribution network but only if they are not the responsibility of the water supplier in its capacity as a water supplier;

“licensee” means the holder of the licence issued by the Authority under these Regulations;

“the Minister” means the Minister responsible for Resources;

“non-potable water supplier” means a water supplier whose scope of operations is limited to water that is not potable water;

“potable water” means all water:

(a) either in its original state or after treatment is intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a distribution network, pipeline or a tanker;

(b) used in food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption;

“private sewage collection system” means a sewage collection system which is not a public sewage collection system;

“private water distribution network” means a water distribution network which is not a public water distribution network;

“production of water” means the process of abstraction of water and, or its treatment at a water treatment plant;

“public sewage collection system” means a sewage collection system which is vested in or belongs to the Government or any Government owned company or parastatal corporation by whatever title and is operated by the Government, a Government owned company or a parastatal corporation;

“public water distribution network” means a water distribution network which is vested in or belongs to the Government or any Government owned company or parastatal corporation by whatever title and is operated by the Government, a Government owned company or a parastatal corporation;

“sewage” means domestic sewage and, or wastewater or the mixture of domestic sewage and, or wastewater with industrial sewage and, or wastewater and, or run-off rain water;

“sewage collection system” means a system of sewers, conduits, pipes, manholes, pumps and any other facility used for the collection, transfer, treatment and disposal of sewage from any premises or establishment, but excludes the internal sewage collection system of any premises;

“sewage treatment plant” means any structure, facility, device, process or combination thereof used for the purpose of treating or stabilizing sewage and, or wastewater or industrial sewage and, or wastewater and disposing and, or reuse of the effluent;

“sewerage services operator” means any person licensed or authorised by these Regulations to provide sewerage services to any customer;

“sewerage services” means the execution of any or a combination of the following activities of collection of sewage from any customer, treatment of sewage, the transfer and, or disposal of sewage and the transfer and, or disposal and, or retail of effluent;

“supply of water” means the process and, or combination of the activities of treatment, transfer, distribution and retail of water other than bottled water, but excludes water abstraction;

“water distribution network” means a system or network of conduits, pipes, pumps, wells, storage tanks, reservoirs, or other facilities used for the collection, storage, transfer and distribution of water but excludes the internal water distribution system of any premises;

“water treatment plant” means a facility or that portion of the water supply system that alters either the physical, chemical, or bacteriological quality of the water and that is used to render the water potable;

“water supplier” means any person licensed or authorised by these Regulations to supply water other than bottled water.

3. (1) There shall be the following categories with regards to water suppliers and sewerage services operators: Application of these regulations.

(a) water suppliers who:

(i) supply water through the public water distribution network;

(ii) supply water to a customer through a single pipeline or a private water distribution network;

(iii) supply water to a customer by water tankers;

(iv) supply water to a customer by any other means.

(b) sewerage services operators who:

(i) provide sewerage services using the public sewage collection system;

(ii) provide sewerage services to a customer through a single pipeline or a private sewage collection system;

(iii) provide sewerage services to a customer by tankers;

(iv) provide sewerage services to a customer by any other means.

(2) These Regulations do not apply to the:

(a) supply of water for own use;

(b) provision of sewerage services for own use.

(3) These Regulations shall apply to any person providing or offering any services or operating any system mentioned in these Regulations for a fee, charge or other form of remuneration for these services.

4. (1) With respect to water suppliers, the Authority may identify any one or more of the following functions as necessary Functions of the water suppliers and sewerage services operators.

requirements for the supplier to support him in executing the regulated activities:

- (a) conservation, augmentation and operation of water resources and sources of water supply;
- (b) development, maintenance and promotion of safe and efficient production and distribution systems in order to satisfy, as economically as possible, all reasonable demands for potable water;
- (c) management and operation of undertakings, installations and property for the sole purposes of potable water production, supply and/or distribution;
- (d) promotion of reasonable use of potable water and encouragement of conservation and appropriate re-use of water resources;

Provided that such support functions shall be carried out only with the prior approval of the Authority and in accordance with the directions specified by the Authority.

(2) With respect to sewerage services operators, the Authority may identify any of the following functions as a necessary requirement for the operator to support him in executing the regulated activities:

- (a) improvement, extension, cleansing and maintenance of sewage collection systems;
- (b) operation of sewage collection systems and such further provisions as are necessary from time to time for effectively dealing with the contents of these systems by means of sewage treatment and disposal works or otherwise;
- (c) management and operation of undertakings, installations and property for the sole purposes of sewage collection, treatment, storage, disposal and reuse;
- (d) promotion of reasonable appropriate reuse of water resources and any other by-products including sludge;
- (e) administering and issuing consents to connect to the sewage collection system;

Provided that such support functions shall be carried out only with the prior approval of the Authority and in accordance with the directions specified by the Authority.

(3) Nothing contained in this regulation or in a licence issued under these Regulations shall be interpreted as exempting a water supplier or a sewerage services operator from requiring any other licence as required in any other Regulations or legislation.

5. Any water supplier or sewerage services operator who is providing or offering any service or operating any system mentioned in these Regulations, and requiring a licence under these Regulations, shall apply in writing to the Authority within three months of the coming into force of these Regulations.

Application for a licence by service providers.

6. (1) No person shall provide any of the services referred to in Regulation 3 of these Regulations without being authorised to do so under a general authorisation or by an individual licence issued in terms of the Act.

Licensing of regulated services and application for granting of licences.

(2) Any person who wishes to provide any service requiring a licence under these Regulations shall submit an application in writing to the Authority in such form and manner as the Authority may prescribe.

(3) The Authority shall establish its procedure for determining an application for a water supply or sewerage service licence.

(4) Licences shall be issued by the Authority in respect of the provision of the services referred to in these Regulations and shall include the terms and conditions for the provision of such services.

(5) A licence issued by the Authority shall be in writing and, unless revoked, cancelled or suspended in accordance with any condition therein contained, it shall continue to be in force for such period as may be specified in or determined by or under the licence.

(6) Nothing in these Regulations shall prohibit the Authority from issuing a single licence incorporating more than one of the licences.

(7) The validity period of the licence shall be determined by the Authority.

(8) The Minister may, if he deems it to be so necessary, direct the Authority to limit the number of licences that may be issued for any specified service to reach objectives of national interest such as

consumer protection, fair competition and the securing of public service obligations.

Application for the
issuing of a
licence.

7. (1) A non-refundable application fee of Lm 25 shall be paid to the Authority with the licence application:

Provided that the non-refundable application fee shall be Lm 100 for the following services:

(a) water suppliers intending to supply a volume of water greater than 10m³/day and supplying water through a distribution network;

(b) sewerage services operators who intend to collect a volume of sewage greater than 10m³/day and either collect sewage through a collection system or operate a sewage treatment plant.

Powers to impose
conditions of
licence.

8. (1) The Authority has the power, through the licence, to establish such conditions as the Authority considers requisite or expedient having regard to the functions established by the Act.

(2) Water suppliers or sewerage services operators falling under any one category specified in sub-Regulation 3 (1) shall be subject to similar conditions, while different conditions may be established for different categories specified in sub-Regulation 3 (1).

(3) The Authority may, however, distinguish in its licence conditions between:

(a) water suppliers and non-potable water suppliers;

(b) water suppliers based on the volume of water supplied;

(c) sewerage services operators based on the volume of sewage collected and, or treated and, or disposed of.

(4) The Authority may include conditions in the licence, consistent with any direction of a policy nature that the Minister may give, and regarding, but not necessarily be limited to:

(a) the grant and term of the licence including the identification of support functions to be provided by the water supplier or sewerage services operator, in accordance with Regulation 4;

(b) suspension, variation and transfer conditions of the licence;

(c) licence fees to be paid by the water supplier or sewerage services operator, to the Authority;

(d) compliance requirements to conditions, directions, management letters, standards, guidelines, codes or rules given by the Authority and other laws;

(e) charges and tariffs for the provision of the regulated services;

(f) the water suppliers' or sewerage services operators' service obligations including but not limited to obligations to customers, development of emergency response plans, asset management plans and security plans;

(g) the monitoring, recording, submission, reporting and auditing of information to the Authority;

(h) the inspection, making copies and taking extracts from books and records held by a water supplier or sewerage services operator and the carrying out of measurements and tests in relation to any premises, assets or plant;

(i) the assessment and auditing of operations and compliance with licence conditions;

(j) the regulation of subsidiary companies and, or companies and, or co-operatives providing part of the regulated services.

(5) Any person granted a licence under these Regulations shall:

(a) comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified;

(b) provide the services in accordance with such licence conditions;

(c) do or not do such things as are specified in the licence or are of a description so specified;

(d) comply with the decisions or directions issued by the Authority for the purposes of complying with any of Malta's international obligations.

Suspension,
revocation or
cancellation of
licences.

9. (1) The Authority may, at any time in the course of the period for which the licence is valid, order its suspension, revocation or cancellation where the Authority is satisfied that:

(a) the licensee has failed or is failing to abide by any conditions of the licence, or by these Regulations, or

(b) the licensee does not possess all other relevant permits or licences that are issued by any other authority or regulatory body, or

(c) the licensee is contravening any statutory or other requirement imposed by any law, or

(d) the licensee fails to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified, or

(e) any information submitted in the application for a licence or the application for renewal of a licence and on which the licence has been issued or renewed, as the case may be, is determined to be false, or

(f) the licensee fails to pay the licence fee as established in Regulation 13:

Provided that in exercising the powers for suspension, revocation or cancellation of licences the Authority may take account of the nature of the failure, or the fact that the licensee is taking the appropriate steps, as it appears to the Authority, to comply with the conditions of the licence or any other fact that the Authority may deem relevant.

(2) No person may provide any of the services referred to in Regulation 3 of these Regulations where the Authority has suspended the licence and until such time that the suspension of the licence is lifted by the Authority.

(3) No person may provide any of the services referred to in Regulation 3 of these Regulations where the Authority has revoked or cancelled the licence and until such time that a new licence is issued by the Authority.

(4) Any person whose licence has been cancelled or revoked may re-apply for a licence and such a new application shall be subject to all the provisions established by these Regulations.

10. (1) Subject to the following provisions of this Regulation, the Authority may modify, amend, replace, add or delete any licence condition as it considers requisite or expedient having regard to the functions established by the Act. Modifications to licences.

(2) Before making modifications, the Authority shall give notice to the licensees:

(a) stating that it proposes to make modifications to the licence and setting out their effect;

(b) stating the reasons why the modifications are being proposed;

(c) specifying the period (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and the Authority shall be bound to consider any representations and objections which are duly made and not withdrawn.

(3) The notice referred to in sub-Regulation (2) hereof shall be:

(a) brought to the attention of the Minister and the water supplier or sewerage services operator;

(b) brought to public attention by the publication of a notice in the Government Gazette.

11. (1) Where the Authority is satisfied that: Enforcement orders.

(a) a water supplier or sewerage services operator is contravening any condition of the licence, or,

(b) a water supplier or sewerage services operator is contravening any requirement imposed by law, or,

(c) there is persistent failure by a water supplier or sewerage services operator to meet the targets set by the Authority, or,

(d) any person is carrying out any activities or providing any of the services referred to in these Regulations without being authorised or licensed to do so by the Authority,

the Authority may take such measures in respect of such water supplier, or sewerage services operator, or person, in accordance with the manner the Authority may deem most fit.

(2) The Authority may issue enforcement orders making such provisions as are requisite for the purpose of securing compliance with conditions or requirements referred to in sub-regulation (1) hereof.

(3) An enforcement order mentioned in sub-Regulation 2:

(a) shall require the water supplier, or sewerage services operator, or the person to which the order relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order;

(c) shall be published in such manner as the Authority considers appropriate for the purpose of bringing the matters to which it refers to the attention of persons likely to be affected by the order;

(d) may be revoked at any time by the Authority:

Provided that in exercising the powers for the issue of an enforcement order, the Authority may take account the nature of the failure, or the fact that the licensee is taking the appropriate steps, as it appears to the Authority, to comply with the licence conditions or any other fact that the Authority may deem relevant.

Public service obligations.

12. (1) The Minister may direct the Authority, in the general interest, to impose as a licence condition on any water supplier or any sewerage services operator granted a licence to provide any services under these Regulations, a public service obligation to supply any service, in any specified form, to any final customer or specific groups of final customers, at specified prices.

(2) Any additional costs incurred as a result of these obligations may be identified by the water supplier, or by the sewerage services operator, and shall be verified by the Authority.

(3) Additional costs referred to in sub-Regulation (2) may be recovered as specified by the Authority, including through an additional charge imposed on other water suppliers or other sewerage services operators, as the case may be.

13. (1) The water supplier or sewerage services operator shall pay licence fees to the Authority, including fees to be paid on the grant of the licence and licence renewal fees on an annual basis. Licence fees.

(2) The amount of the licence fee shall be in accordance with mechanisms established by the Authority and approved by the Minister.

(3) The Authority shall publish the mechanisms for determining licence fees in the Gazette prior to their introduction.

Notwithstanding the above and for the first year from the coming into force of these Regulations, the Authority may establish such licence fees and such licences fees shall be subject to the approval of the Minister.

14. (1) In the case of water supplied through a public water distribution network or in the case of provision of sewerage services using the public sewage collection system, any water supplier or sewerage services operator shall provide the services in accordance with tariffs and subsidies as approved by the Authority, or if not so established or approved, the water supplier or sewerage services operator shall provide the services in accordance with the tariffs and subsidies in force prior to the Act and saved under article 36 of the Act. Tariffs.

Provided that the water supplier or sewerage services operator shall keep accounts for services where, in the opinion of the Authority, no effective market competition exists separately from accounts for other activities, in any form or consolidation as directed by the Authority, with the objective of avoiding cross-subsidisation or distortion of competition:

Provided further that the water supplier or sewerage services operator shall identify all activities carried out by him and his subsidiaries and propose a classification of activities for approval by the Authority within three months of these Regulations coming into force.

(2) The Authority may impose tariff structures or mechanisms if necessary to reach objectives of national interest such as consumer protection, fair competition and securing public service

obligations taking into account any directions that the Minister may give.

Offences.

15. Save the provisions of article 26 of the Act, any water supplier or sewerage services operator or any person providing any services or operating any systems mentioned in these Regulations, who contravenes or fails to comply with any of these Regulations shall be guilty of an offence against the provisions of these Regulations, and shall, on conviction, be liable to a fine (multa) not exceeding ten thousand liri or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.