L.N. 211 of 2001

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

Combating of Air Pollution from Industrial Plants 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, with the concurrence of the Minister of Finance, has made the following regulations:-

Citation and entry into force.

1. (1) The title of these regulations is the Combating of Air Pollution from Industrial Plants 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 responsible for the environment to be necessary or expedient in connection with the provisions thereby brought into force.

Definitions.

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

"air pollution" means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment;

"air quality limit values" means the concentration of polluting substances in the air during a specified period which is not to be exceeded;

"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;

"emission limit values" means the concentration or mass of polluting substances in emissions from plants during a specified period which is not to be exceeded;

"existing plant" means a plant in operation before 1st January, 1987 or built or authorized before such date;

"plant" means any establishment or other stationary plant used for industrial or public utility purposes which is likely to cause air pollution.

Licencing for the operation of Annex I industrial plants.

3. (1) The competent Authority shall ensure that the operation of plants belonging to the categories listed in Annex I requires prior authorization by the said competent authority.

(2) Any operator of a plant which belong to the categories listed in Annex I or which, as a result of the alteration, will fall within those categories shall require authorisation from the competent authority.

(3) The competent authority may require other categories of plants to operate with a licence.

Criteria to be followed in issuing a licence.

4. A licence may be issued only when the competent authority is satisfied that:

(a) all appropriate preventive measures against air pollution have been taken, including the application of the best available technology, provided that the application of such measures does not entail excessive costs;

(b) the use of the plant shall not cause significant air pollution particularly from the emission of substances referred to in Annex II;

(c) none of the emission limit values applicable shall be exceeded;

(d) all the air quality limit values applicable shall be taken into account.

Particular Polluted Proteced Areas.

5. The Competent authority may:

(a) define particularly polluted areas for which emission limit values more stringent than those referred to in Article 4 may be fixed,

(b) define areas to be specially protected for which air quality limit values and emission limit values more stringent than those referred to in Article 4 may be fixed.

(c) decide that, within the above mentioned areas, specified categories of plants set out in Annex I may not be built or operated unless special conditions are complied with.

Application for Authority.

6. Applications for authorization shall include a description of the plant containing the necessary information for the purposes of the the decision whether to grant authorization in accordance with Articles 3 and 4.

Access to information by members of the public.

7. (1) The competent authority shall take the necessary measures to ensure that applications for a licence and its decisions are made available to the public concerned at such reasonable time as it may determine.

(2) Sub-regulation (1) of this regulation shall apply without prejudice to specific provisions concerning the assessment of the environmental effects of public and private projects and subject to observance of the provisions regarding commercial secrecy.

Emissions from plants to be in accordance with these regulations.

8. The competent authority shall ensure that plant emissions shall be determined for the purpose of monitoring compliance with the obligations referred to in regulation 4 of these regulations. The determination methods shall be approved by the competent authority.

Implementation of policies and strategies by industrial plants.

9. The competent authority shall ensure that existing plants belonging to the categories given in Annex I, adopt the best available technology, taking into account in particular:

(a) the plant's technical characteristics,

(b) its rate of utilization and length of its remaining life,

(c) the nature and volume of polluting emissions from it,

(d) the desirability of not entailing excessive costs for the plant concerned, having regard in particular to the economic situation of undertakings belonging to the category in question.

10. These regulations shall not apply to industrial plants serving national defence purposes. Non-applicability of these regulations.

11. A fee of five hundred liri shall be paid to the competent authority together with an application for a licence to operate a plant. Fees.

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

(a) he fails to apply for a licence under regulation 3 of these regulations, to operate a plant and such plant is operational, or 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.

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

(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*.

Applicability of the Criminal Code.

Cap. 9.

14. (1) The provisions of article 23 and subarticle (1) of article 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.

Language of Annexes

15. Annexes I and II to these regulations are being published in the English language with the English text of these regulations.

ANNEX I

CATEGORIES OF PLANTS (1) (covered by Regulation 3)

1. Energy industry

1.1. Coke ovens

1.2. Oil refineries (excluding undertakings manufacturing only lubricants from crude oil)

1.3. Coal gasification and liquefaction plants

1.4. Thermal power stations (excluding nuclear power stations) and other combustion installations with a nominal heat output of more than 50 MW.

2. Production and processing of metals

2.1. Roasting and sintering plants with a capacity of more than 1 000 tonnes of metal ore per year

2.2. Integrated plants for the production of pig iron and crude steel

2.3. Ferrous metal foundries having melting installations with a total capacity of over 5 tonnes

2.4. Plants for the production and melting of non-ferrous metals having installations with a total capacity of over 1 tonne for heavy metals or 0,5 tonne for light metals.

3. Manufacture of non-metallic mineral products

3.1. Plants for the production of cement and rotary kiln lime production

3.2. Plants for the production and processing of asbestos and manufacture of asbestos-based products

3.3. Plants for the manufacture of glass fibre or mineral fibre

3.4. Plants for the production of glass (ordinary and special) with a capacity of more than 5 000 tonnes per year

3.5. Plants for the manufacture of coarse ceramics notably refractory bricks, stoneware pipes, facing and floor bricks and roof tiles.

4. Chemical industry

4.1. Chemical plants for the production of olefins, derivatives of olefins, monomers and polymers

4.2. Chemical plants for the manufacture of other organic intermediate products

4.3. Plants for the manufacture of basic inorganic chemicals.

5. Waste disposal

5.1. Plants for the disposal of toxic and dangerous waste by incineration

5.2. Plants for the treatment by incineration of other solid and liquid waste.

6. Other industries

Plants for the manufacture of paper pulp by chemical methods with a production capacity of 25 000 tonnes or more per year.

(1) The thresholds given in this Annex refer to production capacities.

ANNEX II
LIST OF MOST IMPORTANT POLLUTING SUBSTANCES
(within the meaning of Regulation 4 (b))

1. Sulphur dioxide and other sulphur compounds
2. Oxides of nitrogen and other nitrogen compounds
3. Carbon monoxide
4. Organic compounds, in particular hydrocarbons (except methane)
5. Heavy metals and their compounds
6. Dust ; asbestos (suspended particulates and fibres), glass and mineral fibres
7. Chlorine and its compounds
8. Fluorine and its compounds