

L.N. 218 of 2001

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

**Limit Values and Quality Objectives for Hexachlorocyclohexane
Discharges 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:-

Citation and entry
into force.

1. (1) The title of these regulations is the Limit Values and Quality Objectives for Hexachlorocyclohexane 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. (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 these regulations;

“extraction of lindane” means the separation of lindane from a mixture of hexachlorocyclohexane isomers;

“HCH” means the isomers of 1, 2, 3, 4, 5, 6-hexachlorocyclohexane;

“industrial plant” means any plant at which HCH or any other substance containing HCH is treated;

“limit values” means the limit values specified in Annex I;

“lindane” means a product containing at least 99 % of the g-isomer of 1, 2, 3, 4, 5, 6-hexachlorocyclohexane;

“new plant” means:

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

(b) an existing industrial plant whose capacity for the production or treatment of HCH has been substantially increased after the date of entry into force of these regulations;

“quality objectives” means the requirements specified in Annex II hereof;

“treatment of HCH” means any industrial process involving the production or use of HCH, or any other industrial process in which the presence of HCH is inherent.

(2) These regulations apply to the waters referred to in regulation 2(2) of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001, with the exception of groundwater.

3. (1) The limit values, the time limits for compliance complied with and the monitoring procedure for discharges are laid down in Annex I. Limit values for HCH discharges.

(2) The operator shall conduct effluent analysis on a regular basis, as determined by the competent authority and shall submit the results of the analysis to the competent authority.

(3) The competent authority shall require that the limit values shall apply at the point where waste waters containing HCH leave the industrial plant:

Provided that if waste waters containing HCH are treated outside the industrial plant at a treatment plant, intended for the removal of HCH, the competent authority may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

(4) The licences or permits issued by the competent authority as provided for 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 in Annex I to these regulations, except where the competent authority is complying with regulation 7(3) of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001 on the basis of Annexes II and IV to these regulations:

Provided that the competent authority shall review licences or permits at least every four years.

(5) Without prejudice to their obligations arising from sub-regulations (1), (2) and (3) of this regulation and to the provisions of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001 the competent authority may grant licences or permits for new plants only if those plants apply the standards corresponding to the best technical means available when this is necessary for the elimination of pollution in accordance with regulation 3 of the said regulations or for the prevention of distortions of competition.

(6) The competent authority shall use or order the use of the reference method of analysis to be used in determining the presence of HCH as given in Annex III (1):

Provided that the competent authority may use or allow the use, where appropriate of, other methods provided that the limits of detection, precision and accuracy of such methods are at least as good as those laid down in Annex III (1). The accuracy required in the measurement of effluent flow is given in Annex III (2).

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

Monitoring of the
aquatic
environment.

4. The competent authority shall be responsible for the monitoring of the aquatic environment affected by industrial discharges:

Provided that for the competent authority to ensure that the monitoring of the aquatic environment affected by industrial discharges is carried out, it shall have the right to collect and analyse samples from the effluent and order analysis to be conducted as it deems appropriate.

Offences under
these regulations.

5. 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.

6. 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*.

7. (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. Applicability of the Criminal Code.
Cap. 9.

(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 Magistrate.

Language of
Annexes.

8. Annexes I to IV to these regulations are being published in the English Language with the English text of these regulations.

ANNEX I

**LIMIT VALUES, TIME LIMITS FOR COMPLIANCE WITH THESE VALUES AND
PROCEDURE FOR MONITORING DISCHARGES**

1. Limit values and time limits

Industrial sector ¹	Unit of measurement	Limit values ² to be complied with	
		on the date of entry into force of these regulations	three years after the entry into force of these regulations
1. Plant for the production of HCH	grams of HCH per tonne of HCH produced ³	3	2
	milligrams of HCH per litre discharged ⁴	3	2
2. Plant for the extraction of lindane	grams of HCH per tonne of HCH treated ⁵	15	4
	milligrams of HCH per litre discharged ⁶	8	2
Plant where the production of HCH and extraction of lindane is carried out	grams of HCH per tonne of HCH treated ⁷	16	5
	milligrams of HCH per litre discharged	6	2

2. Limit values expressed as concentrations which in principle shall not be exceeded are given in the above table. In no instance may limit values expressed as maximum concentrations be greater than limit values expressed by weight divided by water requirements per tonne of HCH produced or treated.

The limit values by weight given in the above table, expressed in terms of the quantity of HCH

¹ The limit values in the table also include any discharges resulting from lindane formulation on the same site. The European Union Council shall, as necessary, determine limit values and appropriate measures later for industrial sectors treating HCH which are not mentioned in this table, and in particular for industrial plants for lindane formulation producing protective agents for plants, wood and cables. Meanwhile, the competent authority shall independently fix emission standards for the discharges from such plants, taking into account the best technical means available.

² Limit values applicable to the total quantity of HCH present in all discharges of water containing HCH coming from the site of the industrial plant.

³ Limit values by weight (monthly average).

⁴ Limit values by concentration (monthly flow-weighted average concentration of HCH).

⁵ Limit values by weight (monthly average).

⁶ Limit values by concentration (monthly flow-weighted average concentration of HCH).

⁷ Limit values by weight (monthly average).

discharged in relation to the quantity of HCH produced or treated, shall be complied with in all cases

3. The daily average limit values are, when monitored in accordance with the provisions in points 4 and 5 below, twice the corresponding monthly average limit values given in the above table.

4. A monitoring procedure shall be instituted to check whether the discharges comply with the emission standards which have been fixed in accordance with these regulations. This procedure must provide for the taking and analysis of samples and for measurement of the flow of the discharge and the quantity of HCH produced or treated. Should the quantity of HCH produced or treated be impossible to determine, the monitoring procedure may, at most, be based on the quantity of HCH likely to be produced or treated during the period in question, taking into account the production plants in operation, and within the limits on which the authorization was based.

5. A sample representative of the discharge over a period of 24 hours shall be taken. The quantity of HCH discharged over a month shall be calculated on the basis of the daily quantities of HCH discharged. However, a simplified monitoring procedure may be instituted in the case of industrial plants which do not discharge more than 3 kg of HCH per annum.

ANNEX II

QUALITY OBJECTIVES

If the competent authority applies the exception provided for in sub-regulation (3) of regulation 7 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001, the emission standards which the competent authority shall establish and ensure are applied, pursuant to regulation 6 of those regulations, shall be fixed so that the appropriate quality objective or objectives from among those listed below is (are) complied with in the area affected by discharges of HCH. The competent authority shall determine the area affected in each case and shall select from among the quality objectives listed in paragraph 1 the objective or objectives that it deems appropriate having regard to the intended use of the area affected, while taking account of the fact that the purpose of these regulations is to eliminate all pollution.

1. The following quality objectives,⁸ which shall be measured at a point sufficiently close to the point of discharge, are hereby laid down pursuant to regulation 3 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001 with the object of eliminating pollution within the meaning of those regulations.⁹

1.1. The total HCH concentration in inland surface waters affected by discharges shall not exceed 100 nanograms per litre.

1.2. The total concentration of HCH in estuary waters and territorial sea waters shall not exceed 20 nanograms per litre.

1.3. In the case of water used for the abstraction of drinking water, the HCH content shall conform to the requirements set by Ministry of Health.¹⁰

2. In addition to the above requirements, HCH concentrations in inland surface waters shall be determined by the national network referred to in regulation 5 of these regulations and the results compared with a total HCH concentration of 50 nanograms per litre. If this concentration is not complied with at any one of the points on the national network, the reasons shall be reported by the competent authority to the Commission.

3. The total concentration of HCH in sediments or molluscs or shellfish or fish shall not increase significantly with time.

4. Where several quality objectives are applied to waters in an area, the quality of the waters shall be sufficient to comply with each of those objectives.

⁸ The concentrations indicated in 1.1 and 1.2 are the minimum requirements necessary to protect aquatic life from pollution within the meaning of the definition of the expression "pollution" in sub-regulation (1) of regulation 2 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001.

⁹ With the exception of quality objective 1.3, all concentrations relate to the arithmetic mean of the results obtained over one year.

¹⁰ concern the quality required of surface water intended for the abstraction of drinking water. They provide for a mandatory 'total pesticides' value (including HCH) (Council Directive 75/440/EEC still to be transposed)

ANNEX III

METHODS OF MEASUREMENT

1 The reference method of analysis for determining the concentration of the substances in question in discharges and in waters shall be gas chromatography with electron capture detection after extraction by means of an appropriate solvent and purification.

The accuracy¹¹ and precision¹² of the method shall be $\pm 50\%$ at a concentration which represents twice the value of the limit of detection.

The limit of detection¹³ shall be:

(a) in the case of discharges, one-tenth of the concentration required at the point of sampling;

(b) in the case of waters subject to a quality objective:

(i) for inland surface waters, one-tenth of the concentration indicated in the quality objective;

(ii) for estuary waters and territorial sea waters, one-fifth of the concentration indicated in the quality objective;

(c) in the case of sediments, $1\text{ }\mu\text{g/kg}$, dry weight,

(d) in the case of living organisms, $1\text{ }\mu\text{g/kg}$, wet weight.

2. Effluent flow measurements shall be carried out to an accuracy of $\pm 20\%$.

¹¹ The definition of this term is given in the Methods of Measurement and Frequencies of Sampling and Analysis of Surface Water intended for the Abstraction of Drinking Water Regulations (Directive 79/869/EEC of 9 October 1979 OJ No L 271, 29. 10. 1979, p. 44).

¹² *Ibid.*

¹³ *Ibid.*

ANNEX IV

PROCEDURE FOR MONITORING QUALITY OBJECTIVES

1. For each authorization granted pursuant to these regulations, the competent authority shall specify the detailed rules monitoring procedure and time limits for ensuring compliance with the quality objective(s) concerned.
2. In accordance with sub-regulation (3) of regulation 7 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001, the competent authority shall, for each quality objective chosen and applied, report to the Commission on:
 - (a) the points of discharge and the means of dispersal;
 - (b) the area in which the quality objective is applied;
 - (c) the location of sampling points;
 - (d) the frequency of sampling;
 - (e) the methods of sampling and measurement;
 - (f) the results obtained.
3. Samples shall be sufficiently representative of the quality of the aquatic environment in the area affected by the discharges, and the frequency of sampling shall be sufficient to show any changes in the aquatic environment, having regard in particular to natural variations in the water regime.