L.N. 1 of 1994

ENVIRONMENT PROTECTION ACT, 1991
(ACT NO. V OF 1991)

Environment Protection (Preventive and Remedial Measures) Regulations, 1994

IN exercise of the powers conferred by sections 2, 3(a) and (c), 6, 48 and 50 of the Environment Protection Act, 1991, the Minister for the Environment has made the following regulations:—

Citation.

1. These regulations may be cited as the Environment Protection (Preventive and Remedial Measures) Regulations, 1994.

Interpretation.

2. In these regulations, unless the context otherwise requires —

"Act" means the Environment Protection Act, 1991;

"Director" means the Director for the Protection of the Environment being the official as delegated in terms of paragraph (b) of section 3 of the Act to be responsible for the protection of the environment, and delegated for the control, direction and management of the Department for the Protection of the Environment, and includes any officer in his Department who acts on his behalf, and for the purposes of any regulations made under the Act, the term "Director responsible for the environment" or any other similar term, and the term "Official responsible for the protection of the environment" in the Act, shall be deemed to have the same meaning as Director in these regulations;

"Department" means the Department for the Protection of the Environment under the guidance of the Director as defined in this regulation;

"Minister" means the Minister responsible for the environment.

Coming into force of sections of the Act.

3. Paragraph (b) of section 3 and section 49 of the Act are hereby being brought into force and the provisions of these regulations shall apply thereto.

Powers of Director.

4. (1) The Director shall have the power, personally or through his officers, carrying identification attestations signed by the Minister, to inspect any place in Malta, or any vehicle, ship, platform, airplane or other craft existing therein, or any such vehicle, vessel or aircraft belonging to Malta outside the territorial waters of Malta, in order to ascertain the levels of protection of the environment as well as to investigate suspected violations of the provisions of the Act or of regulations made thereunder, or codes of practice issued under the Act, and to secure proof of any such violation:

Provided that the Director personally or any of his officers may not accede into a private dwelling unless accompanied by a police officer not below the rank of Inspector:

Provided further that the Director and his officers may not divulge any information or evidence so ascertained in pursuance of this regulation except to the Minister, the Director or the Commissioner of Police in case of an intended prosecution or further investigation, or to any court of justice.

(2) Without prejudice to the generality of paragraph (1) above, the power to inspect can also be limited to any separate object found in the places therein mentioned, and in ascertaining the levels of protection and investigating violations, the Director or his officials shall have the power to measure, take samples and copy records or electronic data, as well as conduct tests, on any object of any nature:

Provided that care is to be taken during these inspections, measurements, taking of copies or tests to minimise any damage that might be so caused:

Provided further that the person suffering unnecessary damage caused through the gross negligence or wilful non-observance of this regulation, shall have the right to be reimbursed for such damage by the Director or his official.

(3) (a) The Director, personally, may issue under his hand, execution orders to prevent or to minimise threatened damage to the environment, to prevent treatened violations to laws or regulations concerning the protection of the environment, or to secure evidence of such violations.

(b) Departmental officers duly attested may issue such orders. Such orders shall be issued in writing, however they may be verbal when the threatened damage is imminent or when the damage is actually happening, or the violation is actually being committed or has just been committed (*in flagrante*):

Provided that when such officers issue such verbal orders, there shall be a confirmation in writing by the Director personally, as soon as practicable:

Provided further that if no confirmation of a verbal order is given in writing by the Director when called upon to do so either by the issuing officer or by any interested person within twenty-four hours from the issuing of such order, such order shall be deemed to have lapsed.

(4) The Director may in writing request any information concerning any matter which might affect the level of environmental protection.

5. Any person who — **Offences against regulations.**

(a) obstracts or hinders the entry of the Director into any place, vehicle, ship, platform, airplane or other craft for the purposes of inspection as empowered in paragraph (1) of regulation 4; or

(b) obstructs or hinders the measurement, taking of samples, copies, or conduct of tests under paragraph (2) of regulation 4; or

(c) disobeys any order by the Director or any of his officers within the limits established in paragraph (3) of regulation 4; or

(d) refrains from giving the information required in terms of paragraph (4) of regulation 4 or gives false or misleading information on any request made by the Director or his officers; or

(e) divulges any information obtained through these powers, except as provided in the proviso to paragraph (2) of regulation 4,

shall be guilty of an offence against these regulations and on conviction, shall be liable to a fine (*multa*) not exceeding Lm5,000, and in addition the Court shall, where the offence is in relation to any activity carried out under a licence, order the revocation of the licence or the suspension of the licence for any period not exceeding one year as it may deem fit, as well as the confiscation of any object used in, or in relation with, the offence.

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