

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:-

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.

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.

(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.

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.

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:

(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.

(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.