

L.N. 221 of 2001

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

Limit Values and Quality Objectives for Cadmium 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 Cadmium Discharges 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:-

“cadmium” means:-

- (a) the chemical element cadmium;
- (b) the cadmium contained in any of its compounds:

“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 of these regulations:

“handling of cadmium” means any industrial process involving the use or production of cadmium, or any other process in which the presence of cadmium is inherent;

“industrial plant” means any plant at which cadmium or any substance containing cadmium is handled;

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

“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 cadmium-processing capacity has been substantially increased after the date of entry into force of these regulations;

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

(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 by which they shall be complied with and the monitoring procedure for discharges are laid down in Annex I hereof.

(2) The limit values shall normally apply at the point where waste waters containing cadmium leave the industrial plant. When waste waters containing cadmium are treated outside the industrial plant at a treatment plant intended for the removal of cadmium, the competent authority may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

(3) The authorizations referred to in regulation 4 of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001 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. Authorizations shall be reviewed at least every four years.

(4) Without prejudice to their obligations arising from sub-regulations (1), (2) and (3) hereof and to the provisions of the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations, 2001, the competent authority may grant authorizations 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 distortion of competition.

(5) The reference method of analysis to be used in determining the presence of cadmium is given in Annex III (1). Other methods may be used 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).

4. The competent authority shall be responsible for monitoring the aquatic environment affected by industrial discharges. In the case of discharges affecting the waters of other states, the competent authority shall cooperate with other competent authorities in Malta and abroad with a view to harmonizing monitoring procedures.

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

(a) he fails to comply 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.

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 Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

ANNEX I
ANNEX II
ANNEX III
ANNEX IV