

L.N. 203 of 2002

**MALTA RESOURCES AUTHORITY ACT, 2000
(ACT NO. XXV OF 2000)**

**Regulations for the Protection of Groundwater against Pollution
caused by Certain Dangerous Substances, 2002**

BY virtue of the powers conferred by article 28(1) of the, Malta Resources Authority Act, 2002, hereinafter referred to as "the Act", the Minister for Resources and Infrastructure, in consultation with the Malta Resources Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is Regulations for the Protection of Groundwater against Pollution caused by Certain Dangerous Substances, 2002.

(2) (a) These regulations shall come into force on such date as the Minister may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of these regulations.

(b) A notice under paragraph (a) of this sub-regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

(3) These regulations are aimed at the prevention of the pollution of groundwater by substances belonging to the families and groups of substances in lists I or II in the Schedule, hereinafter referred to as "substances in lists I or II", and as far as possible to check or eliminate the consequences of pollution which has already occurred.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

"competent authority" means the Malta Resources Authority;

"direct discharge" means the introduction into groundwater of substances in lists I or II without percolation through the ground or subsoil;

"groundwater" means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“indirect discharge” means the introduction into groundwater of substances in lists I or II after percolation through the ground or subsoil;

“Minister” means the Minister responsible for resources;

“pollution” means the discharge by man, directly or indirectly, of substances or energy into groundwater, the results of which are such as to endanger human health or water supplies, harm living resources and the aquatic ecosystem or interfere with other legitimate uses of water.

3. These regulations shall not apply to:

Applicability.

(a) discharges of domestic effluents from isolated dwellings not connected to a sewerage system and situated outside areas protected for the abstraction of water for human consumption;

(b) discharges which are found by the competent authority concerned to contain substances in lists I or II in a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater;

(c) discharges of matter containing radioactive substances.

4. (1) In virtue of these regulations all direct discharge of substances in list I shall be prohibited.

Discharges and disposal of substances.

(2) Furthermore the competent authority shall:

(a) subject to prior investigation any disposal or tipping for the purpose of disposal of these substances which might lead to indirect discharge. In the light of that investigation, the competent authority shall prohibit such activity or shall grant authorisation provided that all the technical precautions necessary to prevent such discharge are observed,

(b) take all appropriate measures it deems necessary to prevent any indirect discharge of substances in list I due to activities on or in the ground other than those mentioned in paragraph (a):

Provided that should prior investigation reveal that the groundwater into which the discharge of substances in list I is envisaged is permanently unsuitable for other uses, especially domestic or agricultural, the competent authority may authorise the discharge of these substances provided that their presence does not impede exploitation of ground resources. These authorisations may be granted

only if all technical precautions have been taken to ensure that these substances cannot reach other aquatic systems or harm other ecosystems.

(3) The competent authority may, after prior investigation, authorise discharges due to re-injection into the same aquifer of water used for geothermal purposes, water pumped out of mines and quarries or water pumped out for civil engineering works.

Disposals and discharges subject to prior investigation.

5. (1) The competent authority shall make the following subject to prior investigation:

(a) the direct discharge of substances in list II,

(b) the disposal or tipping for the purpose of disposal of said substances, which disposal might lead to indirect discharge.

In view of such prior investigation, the competent authority may grant an authorisation, provided that all the technical precautions for preventing groundwater pollution by these substances are observed.

(2) The competent authority shall take the appropriate measures it deems necessary to limit all indirect discharge of substances in list II, due to activities on or in the ground other than those mentioned in the sub-regulation (1) of this article.

Artificial recharges for the purpose of groundwater management.

6. Notwithstanding articles 4 and 5 of these regulations, artificial recharges for the purpose of groundwater management shall be subject to a special authorisation issued by the competent authority on a case-by case basis. Such authorisation shall be granted only if there is no risk of polluting the groundwater.

Additional examinations.

7. The prior investigations referred to in articles 4 and 5 of these regulations, shall include examination of the hydrogeological conditions of the area concerned, the possible purifying powers of the soil and subsoil and the risk of pollution and alteration of the quality of the groundwater from the discharge and shall establish whether the discharge of substances into groundwater is a satisfactory solution from the point of view of the environment.

Requisite of surveillance.

8. The authorisations referred to in articles 4, 5 and 6 of these regulations, may not be issued by the competent authority until it has been checked that the groundwater, and in particular its quality, will undergo the requisite surveillance.

9. When direct discharge is authorised in accordance with regulation 4(2) and (3) or regulation 5 of these regulations, or when waste water disposal which inevitably causes indirect discharge is authorised in accordance with regulation 5, the authorisation shall specify in particular:

Details to be specified for particular discharges.

(a) the place of discharge,

(b) the method of discharge,

(c) essential precautions, particular attention being paid to the nature and concentration of the substances present in the effluents, the characteristics of the receiving environment and the proximity of water catchment areas, in particular those for drinking, thermal and mineral water,

(d) the maximum quantity of a substance permissible in an effluent during one or more specified periods of time and the appropriate requirements as to the concentration of these substances,

(e) the arrangements enabling effluents discharged into groundwater to be monitored,

(f) where necessary, the measures for monitoring groundwater, and in particular its quality.

10. When disposal or tipping for the purpose of disposal which might lead to indirect discharge is authorised in accordance with regulations 4 or 5 of these regulations, authorisation shall specify in particular:

Details to be specified in the case of disposal that might lead to indirect discharge.

(a) the place where such disposal or tipping is done,

(b) the methods of disposal or tipping used,

(c) essential precautions, particular attention being paid to the nature and concentration of the substances present in the matter to be tipped or disposed of, the characteristics of the receiving environment and the proximity of water catchment areas, in particular those for drinking, thermal and mineral water,

(d) the maximum quantity permissible, during one or more specified periods of time, of the matter containing substances in lists I or II and, where possible, of those substances themselves, to be tipped or disposed of and the appropriate requirements as to the concentration of those substances,

(e) in the cases referred to in article 4 (1) and article 5 (1) of these regulations, the technical precautions to be implemented to prevent any discharge into groundwater of substances in list I and any pollution of such water by substances in list II,

(f) if necessary, the measures for monitoring the groundwater, and in particular its quality.

Duration of authorisations.

11. The authorisations referred to in regulations 4 and 5 of these regulations, may be granted for a limited period only, and shall be reviewed at least every four years. They may be renewed, amended or withdrawn.

Refusal and withdrawal of authorisation.

12. (1) If the person requesting an authorisation as referred to in regulations 4 or 5 of these regulations, states that he is unable to comply with the conditions laid down, or if this situation is evident to the competent authority, authorisation shall be refused.

(2) Should the conditions laid down in an authorisation not be complied with, the Authority shall take appropriate steps to ensure that these conditions are fulfilled and if necessary, it shall withdraw the authorisation.

Monitoring of compliance.

13. The competent authority shall monitor compliance with the conditions laid down in the authorisations and the effects of discharges on groundwater.

Transitory provision.

14. As regards discharges of the substances in lists I or II already occurring at the time of the entry into force of these regulations, the competent authority may stipulate a period on the expiry of which the discharges in question must comply with these regulations.

Inventory.

15. The competent authority shall keep an inventory of the authorisations, referred to in regulation 4 of these regulations, of discharges of substances in list I, of the authorisations, referred to in regulation 5, of direct discharges of substances in list II, and of the authorisations referred to in regulation 6 of these regulations.

No pollution of groundwater.

16. The application of the measures taken pursuant to these regulations may on no account lead, either directly or indirectly, to pollution of groundwater.

Offences under these regulations.

17. 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.

18. 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 competent authority as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*, including the vehicle, where applicable.

19. (1) The provisions of article 23 and sub-article (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.
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(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.

Schedule

LIST I OF FAMILIES AND GROUPS OF SUBSTANCES

List I contains the individual substances which belong to the families and groups of substances enumerated below, with the exception of those which are considered inappropriate to list I on the basis of a low risk of toxicity, persistence and bioaccumulation.

Such substances which with regard to toxicity, persistence and bioaccumulation are appropriate to list II are to be classed in list II.

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment
2. Organophosphorus compounds
3. Organotin compounds
4. Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment ¹
5. Mercury and its compounds
6. Cadmium and its compounds
7. Mineral oils and hydrocarbons
8. Cyanides.

LIST II OF FAMILIES AND GROUPS OF SUBSTANCES

List II contains the individual substances and the categories of substances belonging to the families and groups of substances listed below which could have a harmful effect on groundwater.

1. The following metalloids and metals and their compounds:
 - a) Zinc
 - b) Copper
 - c) Nickel
 - d) Chrome
 - e) Lead
 - f) Selenium

¹ Where certain substances in list II are carcinogenic, mutagenic or teratogenic, they are included in category 4 of this list.

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- g) Arsenic
- h) Antimony
- i) Molybdenum
- j) Titanium
- k) Tin
- l) Barium
- m) Beryllium
- n) Boron
- o) Uranium
- p) Vanadium
- q) Cobalt
- r) Thallium
- s) Tellurium
- t) Silver.

2. Biocides and their derivatives not appearing in list I.

3. Substances which have a deleterious effect on the taste and/or odour of groundwater, and compounds liable to cause the formation of such substances in such water and to render it unfit for human consumption.

4. Toxic or persistent organic compounds of silicon, and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.

5. Inorganic compounds of phosphorus and elemental phosphorus.

6. Fluorides.

7. Ammonia and nitrites.