

L.N. 152 of 2007

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

**European Pollutant Release and Transfer Register Reporting
Obligations Regulations, 2007**

BY VIRTUE of the powers conferred by articles 9 and 10(2) of the Environment Protection Act, the Minister for Rural Affairs and the Environment has made the following regulations:–

Citation.

1. (1) The title of these regulations is the European Pollutant Release and Transfer Register Reporting Obligations Regulations, 2007.

(2) These regulations shall be read in conjunction with Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC, hereinafter referred to as “the EC Regulations”.

Scope.

(3) The scope of these regulations is to establish reporting templates, to fulfil the obligations of Article 7(1) of the EC Regulations regarding the establishment of timeframes for reporting of releases and offsite transfers by industry to the Competent Authority, and to fulfil the obligations of Article 20 of the EC Regulations, regarding penalties applicable to infringements of the provisions of the EC Regulations.

Definition of operator.

(4) An “operator” has the same definition as in the EC Regulations.

Reporting by operators.

2. (1) The operator of each facility listed in Annex I of the EC Regulations shall provide all the data referred to in Article 5 of EC Regulation 166/2006 within 6 months after the end of the reporting year for the first reporting year, and within 3 months after the end of the reporting year for all subsequent reporting years. Data shall be submitted to the Competent Authority in electronic form as may be established from time to time by the Competent Authority.

(2) The first reporting year shall be the year 2007.

(3) An operator can apply for an extension up to 3 months to the period allowed for reporting pursuant to sub-regulation (1) with the Competent Authority, provided appropriate justification is presented.

The competent authority may grant an extension where it considers that this would be justified.

3. When reporting, operators shall follow the guidelines Guidelines. established in the latest version of the “Guidance document for the implementation of the European PRTR”, published by the European Commission, and any template that may be published from time to time by notice in the Gazette by the Competent Authority.

4. Any operator shall be guilty of an offence under these regulations if the operator:— Offences under these regulations.

(1) does not meet the reporting obligations within the established timeframes; or

(2) does not prepare a complete report in the correct format determined by these regulations; or

(3) reports incorrect values or data that are not quality assured, as prescribed in Article 9(1) of the EC Regulations.

5. Any operator who commits an offence against these regulations shall, on conviction, be liable:— Penalties.

(1) on a first conviction to a fine (*multa*) of not less than five hundred liri (Lm500) but not exceeding one thousand liri (Lm1,000);

(2) on a second or subsequent convictions, to a fine (*multa*) of not less than one thousand liri (Lm1,000), but not exceeding two thousand liri (Lm2,000) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that the court shall order any operator who has been found guilty of committing an offence against these regulations to meet his reporting obligations and to pay for the expenses incurred by the Competent Authority mentioned in these regulations or other persons acting on its behalf involved in the implementation of these regulations as a result of the said offence, the revocation of the permit issued by the Competent Authority and the confiscation of the *corpus delicti*.

6. Where there is a continuing offence against these regulations, Continuing offence. the court shall, in addition to the fine (*multa*) prescribed in regulation 5 hereof, award an additional fine of not less than fifty liri (Lm50) but not exceeding five hundred liri (Lm500) for every day, or part thereof,

during which the continuance shall have subsisted, so however that the fine (*multa*) for the continuance of the offence and the fine (*multa*) awarded under regulation 5 shall not exceed, in the aggregate, ten thousand liri (Lm10,000):

Provided that the court may also order the operator to bear all or part of the costs incurred due to any infringement action brought by the European Commission against Malta under these regulations.

Applicability of the Criminal Code.

7. (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 obtaining a licence, permit or authority shall in no case be for less than one year.

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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.