

**L.N. 342 of 2001**

**ENVIRONMENT PROTECTION ACT, 2001**

**(ACT NO. XX OF 2001)**

**Quality of Fresh Waters Supporting Fish Life (Protection and Improvement) Regulations,  
2001**

BY virtue of the powers conferred by articles 9 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 Quality of Fresh Waters Supporting Fish Life (Protection and Improvement) 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 the 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 to be necessary or expedient in connection with the provisions thereby brought into force.

2. (1) These regulations concern the quality of fresh waters and apply to those waters designated by the competent authority as needing protection or improvement in order to support fish life.

(2) These regulations shall not apply to waters in natural or artificial fish ponds used for intensive fish farming.

(3) The aim of these regulations is to protect or improve the quality of those running or standing fresh waters which support or which, if pollution were reduced or eliminated, would become capable of supporting fish belonging to indigenous species offering a natural diversity or species the presence of which is judged desirable for water management purposes by the relevant competent authorities of any State.

(4) For the purposes of these regulations:-

“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 the competent authority for different provisions and different purposes of these regulations;

“Cyprinid waters” means waters which support or become capable of supporting fish

belonging to the cyprinids (*Cyprinidae*), or other species such as pike (*Esox lucius*), perch (*Perca fluviatilis*) and eel (*Anguilla anguilla*);

“Natural enrichment” means the process whereby, without human intervention, a given body of water receives from the soil certain substances contained therein;

“Salmonid waters” means waters which support or become capable of supporting fish belonging to species such as salmon (*Salmo salar*), trout (*Salmo trutta*), grayling (*Thymallus thymallus*) and whitefish (*Coregonus*).

**3.** (1) The physical and chemical parameters applicable to the waters designated by the competent authorities are listed in Annex I.

(2) For the purposes of applying these parameters, waters are divided into salmonid waters and cyprinid waters.

**4.** (1) The competent authority shall, for the designated waters, set values for the parameters listed in Annex I, in so far as values are listed in column G or in column I. They shall comply with the parameters listed in each of these columns.

(2) The competent authority shall not set values less stringent than those listed in column I of Annex I and shall endeavour to respect the values in column G taking into account the principle set out in regulation 9.

**5.** (1) The competent authority shall designate salmonid waters and cyprinid waters.

(2) The competent authority may revise the designation of certain waters owing to factors unforeseen at the time of designation, taking into account the principle set out in regulation 9.

**6.** The competent authority shall establish programmes in order to reduce pollution and to ensure that designated waters conform within five years following designation with both the values set by regulation 4 of these regulations and by the parameters contained in columns G and I of Annex I.

**7.** (1) For the purposes of implementing regulation 6, the competent authority shall deem that the designated waters conform to the provisions of these regulations if samples of such waters, taken at the minimum frequency specified in Annex I at the same sampling point and over a period of 12 months, show that they conform to both the values set by the competent authority in accordance with regulation 4 and to the comments contained in columns G and I of Annex I, in the case of: - 95% of the samples for the parameters: pH, BOD5, non-ionized ammonia, total ammonium, nitrites, total residual chlorine, total zinc, and dissolved copper:

Provided that when the sampling frequency is lower than one sample per month, both the above mentioned values and comments shall be respected for all the samples, with respect to the percentages listed in Annex I for the parameters: temperature and dissolved oxygen, and with

respect to the average concentration set for the parameter: suspended solids.

(2) Instances in which the values set by the competent authority in accordance with Regulation 4 or the comments contained in columns G and I of Annex I are not respected shall not be taken into consideration in the calculation of the percentages provided for in sub-regulation (1) when they are the result of floods or other natural disasters.

**8.** (1) The competent authorities shall carry out sampling operations, the minimum frequency of which is laid down in Annex I.

(2) Where the competent authority records that the quality of designated waters is appreciably higher than that which would result from the application of the values set in accordance with Regulation 3 and the comments contained in columns G and I of Annex I, the frequency of the sampling may be reduced:

Provided that where there is no pollution or no risk of deterioration in the quality of the waters, the competent authority concerned may decide that no sampling is necessary.

(3) If sampling shows that a value set by the competent authority in accordance with regulation 3 or a comment contained in either of columns G or I of Annex I is not respected, the competent authority shall establish whether this is the result of chance, a natural phenomenon or pollution and shall adopt appropriate measures.

(4) The exact sampling point, the distance from this point to the nearest point where pollutants are discharged and the depth at which the samples are to be taken, shall be fixed by the competent authority on the basis of local environmental conditions in particular.

**9.** (1) Certain reference methods of analysis for the parameters concerned are set out in Annex I. Laboratories which employ other methods shall ensure that the results obtained are equivalent or comparable to those specified in Annex I.

(2) Any implementation of the measures taken pursuant to these regulations may on no account lead, either directly or indirectly, to increased pollution of fresh water.

**10.** The competent authority may at any time set more stringent values for designated waters than those laid down in these regulations and may also lay down provisions relating to other parameters, other than those provided for in these regulations.

**11.** The competent authority may derogate from these regulations:

(a) in the case of certain parameters marked (0) in Annex I, because of exceptional weather or special geographical conditions;

(b) when designated waters undergo natural enrichment in certain substances, so that the values set out in Annex I are not respected.

**12.** The competent authority shall adopt such amendments as are necessary for adapting to technical and scientific progress, the G values for the parameters, and the methods of analysis, contained in Annex I in accordance with the procedure laid down in regulation 15.

**13.** 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 provisions of these regulations; or

(b) he conspires or attempt, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene any order lawfully given in terms of any of the provisions of these regulations.

**14.** 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 conviction, 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 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*.

**15.** (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.

(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.

**16.** The Annexes to these regulations are being published in the English language with the English text of these regulations.

ANNEX I – LIST OF PARAMETERS

ANNEX II – PARTICULARS REGARDING TOTAL ZINC AND DISSOLVED COPPER