

CHAPTER 435**ENVIRONMENT PROTECTION ACT**

To protect the environment.

18th September, 2001;

28th June, 2002;

30th December, 2005

ACT XX of 2001, as amended by Act II of 2006 and Legal Notice 426 of 2007.

PART I**Preliminary**

1. The short title of this Act is the Environment Protection Act. Short title.

2. In this Act unless the context otherwise requires: Interpretation.

"Authority" means the competent authority nominated by the Minister under article 6;

"biological diversity" or "biodiversity" means the variability among living organisms from all sources, including *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species, between species and of ecosystems;

"conservation" means a series of measures required to maintain or restore the natural habitats and the population of species of wild fauna and flora at a favourable status;

"derivatives" means parts of any specimen, whether processed by man or not;

"discharge" includes emission, deposit, dumping, disposal, addition or introduction into the environment of a substance or energy, directly or indirectly from any point source or diffuse source, whether stationary or mobile, and whether caused or permitted intentionally or otherwise and whether continuous or intermittent or once only;

"energy" includes all types of radiation forming part of the electromagnetic energy spectrum, or resulting from a nuclear source, as well as all vibrations and noise;

"environment" means the whole of the elements and conditions, natural or man made, existing on earth, whether together or in isolation, and in particular:

- (a) the air, water and land;
- (b) all the layers of the atmosphere;
- (c) all organic and inorganic matter and all living organisms;
- (d) all ecosystems; and
- (e) the landscape;

"flora" means all types of plants and other *biota* including *akaryotes*, *prokaryotes* and *eukaryotes*, dead or alive, in whole or in part and their derivatives;

"fauna" means all types of animals and other *biota* including *akaryotes*, *prokaryotes* and *eukaryotes*, dead or alive, in whole or in part and their derivatives;

"genetically modified organism" means any of the following:

- (a) an organism derived from the formation of a combination of genetic material by any means other than natural means;
- (b) an organism inheriting such combination of genetic material;
- (c) an organism that results from the replication of an organism as derived in paragraph (a); or
- (d) such other organism as may be prescribed by the Minister under this Act;

"Minister" means the Minister responsible for the environment;

"natural resources" means any component of nature and includes air, water, land, soils, minerals, energy, living organisms and genetic resources;

"pollution" means the direct or indirect introduction by man into the environment of substances, organism, genetic material or energy that cause or are likely to cause hazard to human health, harm to living resources or to ecosystems, or damage to amenities, or interfere with other legitimate uses of the environment;

"prescribed" means prescribed by the Minister under this Act;

"precautionary principle" means the principle whereby appropriate measures are taken to protect the environment and to ensure sustainable management of natural resources in the absence of absolute or conclusive scientific proof of the need for such measures;

"specimen" means any species, whether alive or dead, any part or derivative thereof, and includes any goods which from an accompanying document, the packaging, mark or label or from other circumstances appear to be parts or derivatives of animals or plants;

"substances" means any matter, chemical, mixture, compound or product and including fuels, combinations of elements, mixtures or compounds of a chemical reaction, as well as the mixture of substances of different molecular identities;

"waste" means any thing, substance or object which the holder discards or intends to discard, or is required to keep in order to discard, and includes such other thing, substance or object as the Minister may prescribe.

PART II

Duty to Protect the Environment

3. It shall be the duty of everyone together with the government to protect the environment and to assist in the taking of preventive and remedial measures to protect the environment and manage natural resources in a sustainable manner.

Duty of every person to protect the environment.

4. It shall be the duty of the Government to protect the environment for the benefit of the present and future generations and to that effect:

Duty of Government to protect the environment.

- (a) to manage the environment in a sustainable manner by integrating and giving due consideration to environmental concerns in decisions on socio-economic and other policies;
- (b) to take such preventive and remedial measures as may be necessary to address and abate the problem of pollution and any other form of environmental degradation in Malta and beyond, in accordance with the polluter pays principle and the precautionary principle;
- (c) to collaborate with other governments and entities in the protection of the global environment;
- (d) to disseminate information on the environment and to facilitate the participation of the public in decisions that affect the environment;
- (e) to apply scientific and technical knowledge and resources in determining matters that affect the environment;
- (f) to ensure the sustainable management of wastes and to promote its reduction and the proper use, reuse and recovery of matter and energy;
- (g) to safeguard biological diversity;
- (h) to combat all forms of pollution;
- (i) to consider the environment as the common heritage and common concern of humankind; and
- (j) to provide incentives leading to a higher level of environmental protection.

5. The provisions of articles 3 and 4 shall not be directly enforceable in any court, but the principles therein contained are this notwithstanding fundamental to the Government of the State and those principles shall be employed in the interpretation of the other provisions of this Act or of any other law relating to matters governed by this Act.

Application of articles 3 and 4.

PART III

The Authority

6. (1) The Minister shall by order in the Gazette nominate a person or body to be the competent authority for the purposes of

Appointment of Authority.

this Act, to carry out the functions of the competent authority under this Act, and to perform such other functions as the Minister may consider appropriate in relation to the operation of this Act. Such person or body shall be nominated for such period as the Minister may determine and the Minister shall have the power at any time to prolong, renew or terminate such nomination by order in the Gazette.

(2) The powers of the Minister to prolong, renew or terminate a nomination made in pursuance of sub-article (1) shall cease as may be specified by the Minister in an order in the Gazette whereby a body is nominated to act as the competent authority under this Act on a permanent basis.

(3) The Minister may, in any regulation under this Act, establish that the Authority or another person or another body shall be responsible for the performance of the regulations.

Functions of the
Authority.

7. (1) (a) The Authority shall be the principal means whereby the Government shall implement its duties under this Act. The Authority shall advise the Minister in the formulation and implementation of policies relating to the promotion of sustainable development, protection and management of the environment and the sustainable management of natural resources, and on such other matters as may be necessary for the better carrying out of the provisions of this Act.

(b) In carrying out its functions under paragraph (a) of this sub-article the Authority shall -

- (i) seek to co-operate or to make arrangements with other entities or persons to enable it to better monitor the implementation of and compliance with the provisions of this Act;
- (ii) establish long and short term objectives and strategies taking into consideration the advice and recommendations, where appropriate, of the National Commission for Sustainable Development established by this Act;
- (iii) advise the Minister on the making of environmental standards, guidelines and the making of regulations under this Act as well as on the formulation and implementation of contingency and emergency plans to safeguard the environment;
- (iv) be the authority that may issue any licence or permit that may be required by or under this Act under such conditions as it may, subject to any other provision of this or any other law, deem necessary to control and manage activities having an impact on the environment;
- (v) establish threshold levels of discharge from production, management, use, possession or any other activity involving products, substances and the production of or use of energy;

- (vi) monitor the quality of the environment and for such purpose establish methodologies, maintain and disseminate information related to the environment; and
 - (vii) publish at intervals not exceeding three years a report on the state of the environment.
- (c) It shall also be the duty of the Authority -
- (i) to ensure that Environmental Audits and Environmental Impact Assessments as may be prescribed are properly carried out;
 - (ii) to liaise with public entities, non-governmental organizations and international organizations on matters relating to environmental protection and the sustainable management of the environment and natural resources, and to undertake and promote research on such matters;
 - (iii) to provide support and advisory services relating to environment protection, to government and local authorities in relation to the performance of their functions;
 - (iv) to promote, either alone or in collaboration with others, education, training and public awareness programmes relating to environmental protection, and the sustainable management of the environment and natural resources;
 - (v) to perform such other functions as may from time to time be assigned to it by the Minister, including the functions required to give effect to any international obligation entered into by Malta relative to matters regulated by this Act.

(2) Until such time as the provisions of sub-article (1) are brought into force, the Minister may exercise any of the functions therein assigned to the Authority.

PART IV

National Commission for Sustainable Development

8. (1) There is hereby established a commission to be known as the National Commission for Sustainable Development which shall have the composition and which shall carry out the functions set out in this article.

National
Commission for
Sustainable
Development.

(2) The Commission shall be chaired by the Prime Minister or in his absence the Minister and shall be composed as follows:

- (a) all Ministers *ex officio* or their representatives;
- (b) two members of the House of Representatives, one appointed by the Prime Minister and the other by the Leader of the Opposition;
- (c) a representative of the Authority;
- (d) the Chairman of the Malta Council for Economic and

Social Development *ex officio*;

- (e) representatives of such public entities as in the opinion of the Prime Minister are relevant to the functions of the Commission;
- (f) a representative of the association of local councils;
- (g) representatives of organizations which represent or have an interest in business, industry and/or industrial relations, scientific and academic bodies, the media, and other non-governmental organizations, which in the opinion of the Prime Minister are relevant to the functions of the Commission.

(3) The members of the Commission referred to in sub-article (2)(e) to (g) shall be appointed by the Prime Minister after considering the recommendations that are made by the relative body or bodies and shall hold office for such term as may be stated in their letter of appointment and shall be re-eligible for appointment.

(4) The quorum for meetings of the Commission shall be the chairman and half the members who at the time are members thereof; the Commission shall otherwise regulate its own procedure.

(5) The Prime Minister shall assign a public officer to be the secretary of the Commission, and shall from time to time assign to it such other affairs or resources which in his opinion are adequate for it to carry out its functions.

(6) The Commission shall hold its meetings in public and the public shall have access to all the reports of the same Commission.

(7) The Commission shall have the following functions:

- (a) to advocate sustainable development across all sectors of Malta, review progress in the achievement of such sustainable development and to build consensus on action needed to achieve further progress;
- (b) to identify any relevant process or policy which may be undermining sustainable development and propose alternative processes or policies to the Government for adoption;
- (c) to identify trends which may significantly give rise to unsustainable development and which will not be reversed on the basis of current or planned action, and recommend action to reverse such trends;
- (d) to increase awareness of the need that development must be sustainable;
- (e) to encourage and stimulate good practice in the use and management of natural resources, in particular their minimal use and maximum reuse by recycling in an environmentally sustainable manner;
- (f) to prepare a National Strategy for Sustainable Development; and

- (g) to carry out such other functions in relation to sustainable development as may be assigned to it by the Prime Minister:

Provided that in carrying out the above-mentioned functions, the Commission may appoint advisory committees to make recommendations on specific subjects or actions which it may deem fit to examine:

Provided further that in carrying out its functions, the Commission shall be answerable to the Prime Minister. Recommendations and decisions of the Commission shall have no executive force but shall be considered as authoritative recommendations of best practice in achieving sustainable development.

PART V

Duties and Powers of the Minister

9. (1) The Minister may, acting in accordance with the provisions of article 10, make regulations for the better carrying out of the provisions of this Act and may in particular by such regulations appoint the Authority or any person or body to be the designated authority for the purposes of any international obligation to which Malta may be a party.

Power to make regulations.
Amended by:
II. 2006.19;
L.N. 426 of 2007.

(2) Without prejudice to the generality of the provisions of sub-article (1) such regulations may, in particular:

- (a) prescribe the charges and fees that may be levied by the Authority for services rendered by it under this Act;
- (b) provide for the procedure to be applied in the application for licences under this Act, as well as fees chargeable therefor and the general conditions under which the Authority may require the giving of financial guarantees or the provision of assurance to make good for any damage that may be caused to the environment by any activity which may require a licence under this Act;
- (c) give effect to any international treaty or instrument relating to any matter governed by this Act to which Malta may from time to time be a party and to set up structures and make other provisions for the implementation thereof;
- (d) establish, co-ordinate and enforce environment quality control systems and make provisions for the carrying out of assessments of environmental risks of both new and existing establishments;
- (e) provide for the collection, processing, comparison and interpretation of data related to the environment and to provide that such persons carrying out such activities that may affect the environment as may be prescribed give such information and data to the Authority in a regular or other basis as may be prescribed in order to

- enable the Authority to monitor and safeguard the quality of the environment;
- (f) prescribe the techniques to be used in the monitoring of the environment;
 - (g) prescribe, in collaboration with the Civil Protection Department, the circumstances in which an environmental emergency may be declared, and the effect of such a declaration may have on any activity requiring a licence under this Act;
 - (h) set objectives, issue directives and establish codes of practice, all in relation to the environment, to the reduction, reuse, recovery, treatment, storage and disposal of materials as may be prescribed, to all human activity which effects the environment and to ensure sustainable development, and such regulations may in particular:
 - (i) formulate objectives laying down quantitative and qualitative terms, the goals to be achieved in the effort to control the environment;
 - (ii) give directives with regard to such uses of the environment as may be prescribed;
 - (iii) establish the maximum quantities or concentrations of discharge or emission, or use of such substances as may be prescribed during works, undertakings or activities of any nature and ensure the enforcement and monitoring of these standards;
 - (iv) establish codes of practice determining procedures, methods, limits of discharge and emission of substances applicable to works and activities as may be prescribed both with regard to the time when such works and activities are taking place as well as with regard to the time when the works and activities have been completed; and
 - (v) establish for the purposes of this Act, the best available technique not entailing excessive cost with regard to any work, activity or process;
 - (i) with regards to integrated pollution prevention and control:
 - (i) establish systems which ensure such prevention and control;
 - (ii) prescribe measures to control, prevent, manage or reduce pollution and degradation of the environment;
 - (iii) control the keeping, management, trading in or use of substances and other activities which may cause or facilitate pollution;
 - (iv) set standards including maximum of permitted levels in quantitative or qualitative terms, of

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- discharge and emissions into the environment of materials, substances or energy and with regard to the use of any technology, equipment, matter, substance, method or procedure in relation thereto;
- (v) establish methodologies to be used in the monitoring of discharge and emission of substances and, or energy into the environment and to regulate the use of information gathered during such monitoring;
 - (vi) prevent, control, reduce, remedy or otherwise manage situations which may lead to environmental emergencies and to prevent, control, reduce, remedy or otherwise manage any adverse effects on the environment resulting therefrom;
- (j) in relation to waste management:
- (i) classify waste and prescribing rules in relation thereto in accordance with the type and category thereof;
 - (ii) regulate the management and disposal thereof;
 - (iii) establish quotas, in quantitative and qualitative terms, of permitted generation of waste, as well as otherwise provide for the prevention and reduction of waste;
 - (iv) provide for the registration and, or, licensing of waste management operations;
- (k) in relation to the protection of biodiversity:
- (i) provide for the monitoring and management thereof;
 - (ii) declare any species to be a protected species and establish rules for its protection;
 - (iii) declare any species to be an invasive species and establish rules for its control;
 - (iv) regulate the use of and otherwise protect specimens of fauna or flora; and in particular prohibit and, or, control possession, exhibition, artificial propagation or captive breeding of such specimens of flora and fauna as may be prescribed;
 - (v) provide for the conservation, protection and management of particular habitats or categories thereof in order to safeguard biological diversity;
 - (vi) declare any areas or sites on land or in the internal or territorial waters, or beyond such waters where Malta may have jurisdiction for the purpose of the protection and control of the environment, to be protected areas and to provide for their protection and to regulate their

- management;
- (vii) control and regulate any activity that may interfere with the conservation status of biological diversity;
- (viii) regulate trade in and the transit, import or export of specimens of flora and fauna as may be prescribed;
- (l) control, manage and regulate the transport, introduction of, use (including contained use), release or placing on the market or in the environment of genetically modified organisms;
- (m) in relation to environmental audits:
 - (i) require any person conducting such activities as may be prescribed or running or operating such facilities as may be prescribed to carry out environmental audits and to submit to the Authority environmental audit reports; which shall include:
 - 1. a detailed description of the activity or facility;
 - 2. a detailed description of the environmental impact of the activity or facility;
 - 3. plans to prevent and reduce risks of adverse effects and to remedy any adverse effects caused; and
 - 4. a contingency plan to deal with any emergency;
 - (ii) require any person to comply with any plan provided for in •3 and •4 of subparagraph (i) hereof; and
- (n) provide that any person who acts in contravention of any regulation under this Act shall be guilty of an offence against this article, and establishing such penalty, being a penalty not greater than a fine (*multa*) of two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34) or to imprisonment for a term not exceeding two years, or both such fine and imprisonment, to which any person so guilty may be liable:

Provided that such regulations may provide that a person, who having been sentenced for an offence against the same regulation by a judgement which has become absolute, commits a further offence in contravention of the same regulation within such time as may be prescribed, shall be liable to pay a higher fine (*multa*), not exceeding double the fine (*multa*) which would otherwise have been inflicted, and for the purpose of this proviso the maximum fine that may be established by such regulations shall be four hundred and sixty-five thousand and eight hundred

and seventy-four euro and sixty-eight cents (465,874.68):

Provided further that such fine shall in all cases be due to the Government as a civil debt, and that where the person guilty of the offence is a director, secretary or manager of a body corporate for the economic benefit of whom the offence was committed, such body corporate shall be liable *in solidum* with the offender for the payment of the said civil debt; and

- (o) prescribe any other matter that is to be or may be prescribed.

(3) Notwithstanding the other provisions of this Act or of any other law, Schedules annexed to regulations made under this Act may be made or published in the English language only.

10. (1) Regulations under article 9 shall be made by the Minister after consultation with the Authority and except for regulations under article 9(2)(a) (b) and (n) in the cases referred to in sub-article (2) shall not be made unless the Minister shall have first published a draft thereof in the Gazette allowing any person a period of at least four weeks to make representations to the Minister or to the Authority or to both stating how in his opinion the proposed regulations do not sufficiently protect the environment or how they are too unnecessarily restrictive or cause him hardship or economic loss and asking for a revision of such draft.

Procedure for making regulations.

(2) The provisions of sub-article (1) with regard to consultation with the Authority and with regard to the publication of a draft of the regulations in the Gazette shall not apply in respect to any regulations, which the Minister declares to be urgent.

(3) Any person may, in the circumstances referred to in sub-article (1) in respect of draft regulations, not later than six weeks after the promulgation of any regulations made in accordance with sub-article (2) make submissions to the Minister and, or to the Authority stating why and how the regulations should be revoked or amended.

(4) The Authority shall consider any representations made to it under sub-articles (1) and (3) and shall report thereon, after hearing such persons or taking such expert advice as it considers expedient, to the Minister together with any other views it may have on the draft published under sub-article (1) or the regulations made under sub-article (2), and the Minister may, upon receipt of the report by the Authority and any representations received by him, proceed to revise the draft regulations and to promulgate such regulations in accordance with such revision, or to amend any regulations already promulgated; provided that where the Authority has not after the lapse of four weeks after the end of the period for representation referred to in sub-article (1) has elapsed, not made the report or has not given its views to the Minister, the Minister may proceed to promulgate the regulations contained in the draft with or without changes as he may deem expedient, without prejudice to the possibility of making any changes upon the receipt of such report

and views when made.

PART VI

Licences

Licences.
Amended by:
L.N. 426 of 2007.

11. (1) No person shall carry out any of the following activities unless he is in possession of a licence from the Authority:

- (a) in relation to biodiversity:
 - (i) for whatever purpose, trade in, transport, import or export such specimens of flora or fauna, as may be prescribed whether dead or alive in whole or in part, including any derivatives thereof;
 - (ii) have such specimens of flora or fauna as may be prescribed in transit;
 - (iii) have in his possession such specimens of flora or fauna as may be prescribed;
 - (iv) handle such specimens of flora and fauna as may be prescribed, in any manner including the ringing and tagging thereof;
 - (v) trap, shoot or capture such specimens of fauna as may be prescribed;
 - (vi) collect such specimens of flora or fauna as may be prescribed;
- (b) in relation to waste management:
 - (i) store, treat, collect, transfer, recover or otherwise manage or handle such waste as may be prescribed;
 - (ii) act as broker for the carrying out of the functions mentioned in paragraph (i);
 - (iii) trade in, import or export waste;
 - (iv) have such waste as may be prescribed in transit;
 - (v) manage waste management facilities;
- (c) in relation to pollution control, discharge or cause or permit to be discharged such substance or energy as may be prescribed into the environment;
- (d) in relation to genetically modified organisms:
 - (i) trade in genetically modified organisms;
 - (ii) manage or otherwise have in his possession genetically modified organisms;
- (e) any other activity as may be prescribed.

(2) The Authority shall have the power to grant or refuse licences issued in terms of this article, and in granting such licences the Authority shall be entitled to impose such conditions which it may deem appropriate:

Provided that upon the refusal or the imposition of particular conditions, the Authority shall give reasons for such refusal and for any particular conditions which may have been

imposed.

(3) Any person who carries out any such activity for which a licence is required under subarticle (1) without a licence, or acts in breach of any condition attached to any such licence, shall be guilty of an offence against this article and shall on conviction be liable to a fine (*multa*) of not more than fifty-eight thousand and two hundred and thirty-four euro and thirty-three cents (58,234.33) or to imprisonment not exceeding six months or to both such fine and imprisonment.

PART VII

Environment Impact Assessment

12.* The Minister may by regulations prescribe a list of categories of developments which because of their nature, extent and locality and, or, other environmental considerations shall be subject to an Environment Impact Assessment before a development permission may be granted by the Planning Authority under the Development Planning Act:

Environment
Impact
Assessment.

Cap. 356.

Provided that nothing in this sub-article shall preclude the Planning Authority from requiring an applicant for a development permission to submit the project to an Environment Impact Assessment, even if the development does not fall within any of the categories in the lists prescribed by the Minister.

13.* (1) Within two months of the receipt of an application for planning permission requiring an Environment Impact Assessment under article 12, the Planning Authority shall provide the Authority with such information as may be prescribed or as may otherwise be required by it to establish the terms of reference for the Environment Impact Assessment to be carried out.

Duty of Planning
Authority with
regard to
Environment
Impact
Assessment.

(2) Within two months of the submission of the information referred to in sub-article (1) hereof the Authority shall establish the terms of reference for the Environment Impact Assessment, and transmit the same to the person making the application.

14.* (1) The Minister may after consulting the Authority make regulations, generally to regulate the conduct of Environment Impact Assessments, and without prejudice to the generality of the foregoing, may by such regulations:

Power to make
regulations with
regard to
Environment
Impact
Assessment.

- (a) specify the criteria that are to be satisfied in the conduct of Environment Impact Assessments including the accreditation and, or, the approval of consultants or other persons engaged to carry out such assessments;
- (b) identify the issues that are to be addressed in such assessments and the information that must be provided therewith;
- (c) establish the procedures to be followed and the manner and time frames that are to be observed in the conduct

*This article is not yet in force.

of such assessments;

- (d) establish procedures whereby parties that may be affected by the project and organizations that may have specific responsibilities or interests affected by the project, may be given an opportunity to express their views and concerns thereon.

(2) Without prejudice to any regulations made under sub-article (1)(b) an Environment Impact Assessment must in all cases separately address and give information as to how the project will impact on:

- (a) human beings and social structures;
- (b) biodiversity;
- (c) all natural resources including land, water, air, climate and the landscape; and
- (d) on any other matter ancillary to the items under paragraphs (a), (b) or (c) hereof.

(3) An Environment Impact Assessment shall also identify and assess the transboundary effects of a project.

Review of
Environment
Impact Assessment
by Authority.

15.* (1) Upon completion of an Environment Impact Assessment the applicant shall submit the same to the Authority which shall within eight weeks review the same and issue a report thereon in accordance with the foregoing sub-article of this article.

(2) Where in the opinion of the Authority the conclusions of the Environment Impact Assessment are valid and acceptable to it, it shall issue a positive report.

(3) The Authority may issue a positive report subject to such conditions as it may consider necessary in order to meet particular concerns which in its opinion are not sufficiently addressed in the assessment. Such a report is hereafter referred to as a conditionally positive report.

(4) Where the Environment Impact Assessment concludes that the development is environmentally unsustainable or where the Authority is not satisfied with the conclusions of the Environment Impact Assessment it shall issue a negative report.

Right of appeal to
the Authority.

16.* Where notwithstanding a negative report by the Authority, a development permission is granted under the Development Planning Act, or where any condition attached to a conditionally positive report is not attached to a development permission as aforesaid, the Authority shall have a right to appeal before the Planning Appeals Board set up under article 14 of the said Development Planning Act, against the grant of such planning permission or against the omission of any condition attached by the Authority in a conditional positive report.

Strategic
Environment
Assessment.

17. Without prejudice to his powers under article 12, the Minister may direct that a department of Government or a corporation or authority established by law or any other Government Agency to subject any policy or strategy adopted or

*This article is not yet in force.

planned to be adopted by it to a Strategic Environment Assessment, and may by regulations prescribe and regulate the procedures and methods to be adopted in such assessments.

PART VIII

The Environment Fund

18. The Authority shall set up a fund, hereinafter referred to as the Fund, to be styled the Environment Protection Fund for the purposes set out in this Part of this Act.

Setting up of the Fund.

19. (1) The Fund shall be administered by a board composed of a chairperson appointed by the Minister and two other members, one appointed by the Minister responsible for finance and the other appointed by the Authority from amongst persons versed in environmental matters. The Fund shall have a legal personality independent and distinct from that of the Government or the Authority and shall be capable of entering into contracts of acquiring and transferring property and doing all such things as are necessary for or ancillary to its functions.

Administration of the Fund.

(2) On the expiration of their term of appointment all members of the Board shall be eligible for reappointment.

(3) The Fund shall be used to finance studies to safeguard the environment, as well as works which may be needed for that purpose or to remedy any harm caused to the environment in connection with any contingency or emergency plan, or to finance such other activities, including activities organised by non-governmental organizations, as the Minister in consultation with the Authority may prescribe:

Provided that the Fund shall not be used to finance the operating costs of the Authority:

Provided further that the Authority may charge the Fund for any services rendered by it to the Fund.

(4) There shall be paid into the Fund:

- (a) any sums appropriated by Parliament for the purpose;
- (b) any donations or grants made to the Fund by individuals or institutions;
- (c) sums received by the Authority for the purpose of being placed in the Fund;
- (d) such other sums or monies as may from time to time be provided by or under this or any other law.

20. (1) The Fund shall keep a proper account of its revenue and expenditure and the Authority shall, without prejudice to the powers of the Auditor General and of the Minister responsible for finance under any law, each year cause the accounts of the Fund to be audited by suitably qualified Public Auditors and Accountants appointed by it with the concurrence of the Minister.

Accounts of the Fund.

(2) The Fund shall every financial year deliver to the Minister, through the Authority, a copy of its duly audited balance sheet together with a report of its activities during the previous financial

year. The Minister shall lay a copy of the balance sheet and of the report on the Table of the House within a month of the receipt of the same from the Fund.

Exemption from certain taxes. Cap. 123. Cap. 364.

21. The revenue of the Fund shall not be subject to tax under the Income Tax Act and the Fund shall not be liable to tax under the Duty on Documents and Transfers Act.

Power to make regulations with respect to the Fund.

22. The Minister may with the concurrence of the Minister responsible for finance and after consulting the Authority make regulations prescribing the procedure to be followed by the board of the Fund and otherwise regulating the Fund. The Minister may by such regulations in particular prescribe such functions, activities and initiatives that may or are to be financed by the Fund.

PART IX

Right to Information

Right to information.

23. The Minister shall by regulations under this article provide that members of the public or such categories of persons as may be prescribed shall be entitled to request from such Government departments, authorities, public corporations or other persons as may be prescribed such information that they may have in their possession and relating to the environment. Without prejudice to the generality of the foregoing, such regulations may prescribe:

- (a) the nature of the information that may be requested;
- (b) the circumstances in which such information may be requested;
- (c) the circumstances in which such information may be withheld by the requested entity and the publication of the reasons for which such information is withheld;
- (d) the fees that may be charged in respect of any such information; and
- (e) the time within which such information is to be supplied.

PART X

Enforcement

Action for damages.

24. (1) Any person who causes damage to the environment, shall without prejudice to any other civil liability to make good any damages to any person or authority, be liable to pay to the Fund established under Part VIII of this Act, such sum, as may in the absence of agreement be fixed by the court *arbitrio boni viri*, to make good for the damage caused to environment and suffered by the community in general by the non-observance of any law or regulation by such person or by his negligence or wilful act or inability in his art or profession.

(2) An action on behalf of the Government in accordance with sub-article (1) hereof shall be instituted by the Chairman of the Fund, or by his delegate, as established under Part VIII of this Act, and shall be prescribed by the lapse of eight years.

25. (1) The Minister may authorise officers of the Authority to be environmental inspectors for the purposes of this Act, and such environmental inspectors may upon production of proof of their identity in order to ensure compliance with this Act or any regulations made thereunder:

Environment inspectors.

- (a) enter any premises (other than a dwelling) or board any vehicle or vessel licensed under this Act, or as may otherwise be prescribed;
- (b) examine any article to which any regulations under this Act may apply and take such samples as it may deem fit for examination;
- (c) make plans of any premises, vehicle or vessel and take photographs of the same after entry or boarding in accordance with paragraph (a) hereof;
- (d) enquire from any person information in connection with any activity or other matter regulated by this Act;
- (e) issue stop orders to any person not in compliance with this Act or with any regulation made thereunder.

(2) The provisions of sub-article (1) shall be without prejudice to the powers of the Police, Local Wardens, the Comptroller of Customs or of any other authority under the Criminal Code, the Customs Ordinance or any other law.

Cap. 9.
Cap. 37.

(3) Environmental inspectors appointed under this article shall notwithstanding any other law have the right to assist the police in the conduct of prosecution for offences under this Act and to plead the case on behalf of the prosecution.

26. Where before criminal proceedings have been instituted in connection with any offence under this Act, the offender pays to the Fund established under Part VIII of this Act, such sum as may be agreed with the Authority, not being a sum higher than the fine to which the offence is liable, all such person's criminal liability with respect to that offence shall be extinguished:

Compromise penalty.

Provided that the agreement to pay to the Fund a compromise penalty shall not extinguish any civil liability to make good any damages to any person or authority and any liability arising under article 24.

PART XI

Miscellaneous

27. (1) Any licence issued under the Environment Protection Act (Chapter 348 of the Laws of Malta)*, hereinafter referred to as "the repealed Act" shall until its expiration or revocation under this Act be deemed to have been issued under this Act.

Saving.

(2) Regulations made under the repealed Act shall be deemed to have been made under the provisions of this Act and shall continue in force and may be amended, substituted or revoked accordingly.

*Repealed by this Act.

Transitory
provisions.

28. The provisions of article 10(2) shall apply to regulations made by the Minister under article 9 in the period up to three months following the coming into force of this Act, and the provisions of article 10(3) and (4) shall apply to regulations made in that period in the same manner as they apply to any regulations to which article 10(2) applies.
