Proposed draft framework for Environmental Permitting of Industrial Activities legislation

Citation and objective	L.N. __ of 2012 These Regulations provide for the implementation of an environmental permitting system, having the objective of preventing and mitigating environmental impacts resulting from commercial activities. The environmental permitting system shall apply to all commercial activities and enterprises on land and at sea within Maltese territorial waters, whether public or private, as defined within these Regulations and related Annexes/Schedules.
Interpretation	In these Regulations, words and expressions shall have the same meaning as they have in the Environment and Development Planning Act, 2010, unless the context otherwise requires. Definitions not mentioned in the Environment and Development Planning Act to be included, such as the following: "Employees" shall have the same definition as in the Commission Recommendation 2003/361/EC. *(This definition would distinguish between full-time and part-time employees, e.g. 2 part-time employees would be equivalent to one full-time employee).* "Trade effluent" means any liquid (either with or without particles of matter in suspension or dissolved in it), other than stormwater run-off and domestic sewage, which is discharged from trade premises (same meaning as in LN 139/02).
Scope	The list of activities requiring an environmental permit would be published as a guidance document on MEPA's website. This is given as Annex 1 in this document. *Note: This list, including applicable thresholds for industrial activities requiring an environmental permit, is a key component of this public consultation process.* Only commercial activities will be included. Laboratories and research & development facilities (including educational institutions) will be specifically excluded from these Regulations (commercial labs or those which carry out some form of commercial activity will be regulated under a General Binding Rule [registration] system, where a standard set of environmental conditions relating to waste management, emissions to atmosphere, effluent discharges and storage of materials and chemicals would be set; only commercial laboratory complexes will require an environmental permit, and only for the general management of the site). Artisanal activities are specifically excluded. Annex 1 also lists activities requiring permits under other Regulations (e.g. Waste Management, VOC Solvents). Where an activity also requires an IPPC permit according to L.N. 234 of 2002 as amended, this is exempt from the obligation to hold an environmental permit under these regulations.

	Where the Authority considers that an activity not listed in Annex 1 has the potential to cause environmental impact, the Authority reserves the right to require that that activity be in possession of an Environmental Permit prior to commencement of operations. In addition, the Authority may decide to regulate certain activities in Annex 1 through General Binding Rules. The list in Annex 1 may be varied accordingly.
Timeframes	For existing operations, staggered timeframes for application according to category (risk and existing legal obligations). Proposed timeframes are given in Schedule 1. Transitional measures would be applicable (existing facilities would be authorised to continue operating until a decision is made on the application, for not longer than the permitting timeframe as indicated in Schedule 1, and provided that the application timeframe in Schedule 1 is respected). New operations need to be in possession of an Environmental Permit prior to starting operation. MEPA may also require an application for an environmental permit as part of Development Permit conditions (irrespective of above timeframes).
Multiple activity installations	As a general rule, in the case of installations carrying out more than one activity listed in Annex 1, the timeframes and fees for the main activity occurring in a particular installation will apply (except where existing legal obligations necessitate the application of Priority 1 timeframes). The Authority shall exercise discretion in the determination of the main activity in an installation.
The Environmental Permitting Process	The following steps would be applicable in the processing of new Environmental Permit applications. ***PRE-APPLICATION ("SCREENING") STAGE*** **1. Application form (& supporting documentation) submitted – form available online.** *The application form shall require the applicant to provide information on specific topics, including air emissions, effluent discharges, noise, waste management, contingency measures and storage. The Authority shall publish the official application form on its website. The application form is to be submitted in one printed and one electronic copy, although conversion to an electronic system is being planned.* *At this stage, the application is checked briefly for completeness. If there is substantial missing information, the application is returned to the applicant for completion before proceeding to step 2.* **2. Application given tracking number.** *Application is acknowledged; applicant is advised of timeframe within which a response (as per step 4) will be provided.* **3. On-site visit (for existing installations) & meeting with applicant.** *Site inspections are an integral part of the environmental permitting process.*

4. **Queries re application ("screening letter"). (This letter is issued within a maximum of 16 weeks from step 2 -** this timeframe is aligned with Schedule 1 of LN 514/10; MEPA's shut down is not counted with these 16 weeks).

Applicant will have a set timeframe (depending on the complexities of the queries) to respond. The application will be considered as withdrawn if no information is received within this timeframe, unless agreement regarding extension of the timeframe is reached with MEPA in the meantime.

5. **Response to queries submitted by applicant.**

If these responses are insufficient to address the queries in (4), further queries may be made.

APPLICATION STAGE

6. **Application considered 'duly made' once sufficient information is supplied to MEPA.**

Application given EP number.

7. **Public consultation. (20 days)**

Initiated via a weekly advert in the newspaper, together with the weekly PA advert. In line with the PA process, a general email would also be sent by MEPA's PR office to Local Councils; the list of applications for each locality would also be published on the Local Council's notice board.

During this period, the application would be made public (on MEPA's website or through the e-id system when conversion to an electronic system is carried out). Confidential information is not made public (the provisions of the Freedom of Access to Information on the Environment Regulations, LN 116 of 2005 [Aarhus Convention] are to be followed).

The Authority shall take into account outcome of the public consultation in its decision.

8. **EPD recommendation discussed with operator.**

The draft conditions (if applicable) are sent to the applicant for his comments; a meeting may also be held if necessary. The draft conditions may be amended following discussions; however, there may still be conditions on which agreement is not reached between EPD and the applicant, in which case, the applicant will have the opportunity to make further representations in steps 9 and 10.

9. **Publication of EPD report. (21 days)**

The EPD report (including draft conditions) is sent to the operator, and objectors are notified that it has been published. A period of 21 days would apply, within which the operator and objectors would have the opportunity to submit comments.

In the case of new applications where what is being proposed is not compliant with regulation or with industry best practice, the application would be recommended for refusal.

	In existing installations where the installation is non-compliant, in cases where upgrading would be necessary, an improvement programme would be given as part of permit conditions; however, where there are overriding concerns, the application would be recommended for refusal. *For installations carrying out waste treatment, the provisions of regulation 21 of the Waste Regulations (Legal Notice 184 of 2011) shall apply.* **10. Final decision in public by Environment and Planning Commission (or MEPA Board for certain applications). (Maximum 26 – 52 weeks from step 6).** *It is proposed that the Environment and Planning Commission will make the decision to grant or refuse the permit (as per Article 35 of the Environment and Development Planning Act, Act X of 2010). However, the MEPA Board may wish to retain the right to decide on certain applications, or categories of applications, itself. Decisions would be made in public.* *The applicable timeframe for a decision to be made would be tied to the complexity and risk classification of the activity as per Schedule 1. Priority 1* and 1 activities would be determined within 52 weeks of the application being given an EP number (step 6); this is being aligned with Regulation 9(1)(a) of LN 514/10. Priority 2 and 3 activities would be determined within 26 weeks of the application being given an EP number (step 6); this is being aligned with Regulation 9(1)(b) of LN 514/10 (complex application).* *These timeframes apply provided that any timeframes given to the applicant (e.g. to submit comments regarding the EPD recommendation) are respected.* ***APPEAL STAGE*** **11. Appeals procedure** *An appeals procedure (as per Article 41 of the MEPA Act) would be applicable. The applicant and registered objectors would have the right to appeal within 30 days of notification. Notification is considered to have occurred when a press notice advising of the decision is published.*
Technically competent person (TCP)	Definition to be included in the legislation: must be suitably qualified and experienced. MEPA may publish guidelines to define minimum qualifications and experience for TCPs in different sectors. MEPA reserves the right to not accept persons without sufficient experience/ qualifications or with a record of environmental non-compliance as TCPs. Regular attendance of TCP on site would be a requirement.
Permits	Environmental permits may include conditions on the following aspects, among others: 1. Emissions to air 2. Effluent discharges 3. Emissions to land 4. Odour 5. Noise and vibration 6. Waste management 7. Storage 8. Contingency measures 9. Records and reporting

	For installations carrying out waste treatment, the permit shall as a minimum include the conditions specified in regulation 19 of the Waste Regulations (Legal Notice 184 of 2011). Permits may include emission limit values and monitoring obligations (to be carried out by the operator at the expense of the operator according to standards required by the Competent Authority). Possibility of an improvement programme, with defined timeframes for implementation of improvements. Validity of permits: Permits shall be granted for a specific period (this period normally ranges from six months to four years, although this may be shorter or longer, up to a maximum of eight years for installations possessing environmental certification [EMAS or ISO 14001]) and may be renewable (an application would need to be submitted by the applicant prior to expiry of the permit). The activity needs to already be permitted through the development planning process prior to issue of the environmental permit.
Reporting	Data reporting at least annually (Annual Environmental Report, specific to each sector, or requiring any other information as may be indicated by the Authority): to be uploaded on Authority's website unless confidential (the provisions of the Freedom of Access to Information on the Environment Regulations, LN 116 of 2005 [Aarhus Convention] will apply).
Fees	These are being proposed as a separate Legal Notice. Fees for: 1. Processing of application. 2. Annual fee (to cover maintenance of the permit and inspections). 3. Financial guarantee. Processing fee payable on application, used to recoup the cost of the permitting process. Different processing fees for renewal, variation, etc.
Renewal, variation, transfer or surrender of permit	The operator will be required by the permit to apply for renewal of the permit by a set timeframe before its expiry (timeframe to be set in the permit). A system of automatic reminders is foreseen. Requests for variation, transfer or surrender of the permit may be made by the operator using specific forms which will be published by the Authority. Surrender of the permit is important because the installation needs to be suitably decommissioned upon closure, including for example, removal of wastes from site. The process for renewal, variation, transfer or surrender of the permit is as follows:

	1. Application and supporting documentation submitted. *The application and supporting documentation are evaluated in conjunction with compliance monitoring reports and submissions made by the applicant as part of the existing permit.* 2. * On-site visit & meeting with applicant. 3. * Queries re application. 4. * Response to queries is submitted by applicant. 5. Application considered 'duly made' once sufficient information is supplied to MEPA. 6. Public consultation. (20 days) 7. EPD recommendation discussed with operator. 8. Publication of EPD report. (21 days) 9. Final decision in public by Environment and Planning Commission (or MEPA Board or Director of Environment Protection for certain applications). 10. Appeals procedure applicable for applicant and registered objectors (within 30 days of press notice advising of decision). * Not required in all cases; depends on complexity and completeness of proposal. Decisions on minor changes to Environmental Permits issued under these Regulations are to be delegated to the Director of Environment Protection, or his representative, in any case except the following: 1. Variations which could lead to significant impact on human beings or the environment, irrespective of whether planning permission is required. 2. Aspects of operations specifically prohibited by the Environmental Permit. 3. Changes to the fees. 4. Any changes in emission limit values. 5. Amendments requiring an Environmental Impact Assessment or an update thereto. 6. Amendments requiring an Appropriate Assessment or an update thereto. 7. Amendments which would bring the establishment to within COMAH (Seveso) thresholds or raise the classification of such an establishment from lower-tier to upper-tier. 8. Renewal of permits.
Guidance notes	Authority may publish guidance notes and Terms of Reference for application or to explain permit conditions.
Offences under these Regulations	Definition of what constitutes an offence.
Penalties	The penalties in the Environment and Development Planning Act would apply. The Authority may also stipulate a daily or one-off fine, or issue stop notices in accordance with Article 86 of the Environment and Development Planning Act.
Schedule 1	Proposed timeframes by sector for implementation of Environmental Permitting system.

Annex 1: Proposed sectors to be regulated by Environmental Permitting

The following activities are subject to an environmental permit under these Regulations. Where a threshold is specified, the activity is subject to an environmental permit if the respective threshold is exceeded; where no threshold is specified, all activities under that description require an environmental permit.

General

NACE Code[1]	Description	Threshold
Various	Manufacturing activities	250 employees on a single site
Various	Activities with a discharge of trade effluent to sea, land, storm/rain water drain or culverts	-

Energy industries

NACE Code	Description	Threshold
06* [2]	Extraction of crude petroleum or natural gas	-
19.20	Manufacture of refined petroleum products	-

Animal husbandry and slaughter

NACE Code	Description	Threshold
03.21 03.22	Fish farms	-
01.62	Animal slaughtering operations	-
n/a [3]	Rendering plants	-

Manufacturing/Industrial and Semi-industrial

NACE Code	Description	Threshold
16*	Manufacture of wood or of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	Production capacity of 60 m³ per day
22*	Manufacture of rubber or plastic products	-
23.11 23.12 23.13 23.14 23.19	Manufacture of other non-metallic mineral products: Manufacture of flat glass Shaping and processing of flat glass Manufacture of hollow glass Manufacture of glass fibres Manufacture and processing of other glass, including technical glassware	23.11-23.19: Melting capacity of 2 tonnes/day

[1] According to Revision 2 of the NACE code (Regulation EC 1893/2006). Note: NACE Codes are given for guidance only.
[2] * indicates that the activity includes sub-classes within this Code number.
[3] NACE codes are given as n/a (not applicable) where no NACE code is considered to adequately describe the specific activity being referred to.

NACE Code	Description	Threshold
23.20	Manufacture of refractory products	Production capacity of 10 tonnes/day
23.41	Manufacture of ceramic household and ornamental articles	Production capacity of 10 tonnes/day
23.42	Manufacture of ceramic sanitary fixtures	
23.43	Manufacture of ceramic insulators and insulating fixtures	
23.44	Manufacture of other technical ceramic products	
23.49	Manufacture of other ceramic products	
24.10	Manufacture of basic iron and steel and of ferro-alloys	Production capacity of 1 tonne/day
24.20	Manufacture of tubes, pipes, hollow profiles and related fittings of steel	
24.42	Aluminium production	
24.51	Casting of iron	
24.52	Casting of steel	
	Manufacture of fabricated metal products:	Production capacity of 1 tonne/day
25.11	Manufacture of metal structures and parts of structures	
25.12	Manufacture of doors and windows of metal	
25.29	Manufacture of other tanks, reservoirs and containers of metal	
25.30	Manufacture of steam generators, except central heating hot water boilers	
25.50	Forging, pressing, stamping and roll-forming of metal; powder metallurgy	
25.61	Treatment and coating of metals	
25.62	Machining	
25.72	Manufacture of locks and hinges	
25.73	Manufacture of tools	
25.92	Manufacture of light metal packaging	
25.93	Manufacture of wire products, chain and springs	
25.99	Manufacture of other fabricated metal products not elsewhere classified	
	Manufacture of the following machinery and equipment not elsewhere classified:	50 employees
28.11	Engines and turbines, except aircraft, vehicle and cycle engines	
28.13	Other pumps and compressors	
28.14	Other taps and valves	
28.15	Bearings, gears, gearing and driving elements	
28.22	Lifting and handling equipment	
28.23	Manufacture of office machinery and equipment (except computers and peripheral equipment)	
28.24	Power-driven hand tools	
28.25	Non-domestic cooling and ventilation equipment	
28.29	Other general-purpose machinery not elsewhere classified	
28.41	Metal forming machinery	
28.49	Other machine tools	
28.92	Machinery for mining, quarrying and construction	
28.93	Machinery for food, beverage and tobacco processing	
28.99	Other special-purpose machinery not elsewhere classified	

29.10 29.20 29.31 29.32	Manufacture of: Motor vehicles Bodies (coachwork) for motor vehicles, trailers or semitrailers Electrical or electronic equipment for motor vehicles Other parts and accessories for motor vehicles	50 employees
30.11 30.12 30.30 30.99	Manufacture of the following transport equipment: Building of ships and floating structures Building of pleasure and sporting boats Manufacture of air and spacecraft and related machinery Manufacture of other transport equipment not elsewhere classified	50 employees
31.01 31.02 31.03 31.09	Manufacture of the following furniture and miscellaneous items: Manufacture of office and shop furniture Manufacture of kitchen furniture Manufacture of mattresses Manufacture of other furniture	50 employees
32.40	Manufacture of games and toys	50 employees
32.99	Other manufacturing not elsewhere classified	50 employees
33.12 33.15	Repair of machinery Repair and maintenance of ships and boats	Premises with a working area of 100 m^2 in a residential area and 200 m^2 in any other area
33.16	Repair and maintenance of aircraft and spacecraft	-
45.20	Maintenance and repair of motor vehicles	Premises with a working area of 200 m^2 in a residential area and 500 m^2 in any other area

Waste management activities

NACE Code	Description	Threshold
Various	Waste management activities (as defined in the Waste Regulations, Legal Notice 184 of 2011)	As per L.N. 337 of 2001
n/a	Undertakings engaged in the decontamination and/or disposal of PCBs (polychlorinated biphenyls) and/or equipment containing PCBs (as set out in Regulation 6 of Legal Notice 166 of 2002)	-

Construction industry

NACE Code	Description	Threshold
08.11	Quarrying of ornamental and building stone, limestone, gypsum, chalk and slate	-
08.12	Operation of gravel and sand pits; mining of clays and kaolin	
08.99	Other mining and quarrying not elsewhere classified	
n/a	Manufacture of asphalt/tarmac	-
	Manufacture of other non-metallic mineral products (including batching plants):	
23.31	Manufacture of ceramic tiles and flags	Production capacity of 10 tonnes/day
23.32	Manufacture of bricks, tiles and construction products in baked clay	
23.51	Manufacture of cement	Production capacity of 5 tonnes/day
23.52	Manufacture of lime and plaster *(kalkari tal-ġir)*	-
23.61	Manufacture of concrete products for construction purposes	-
23.62	Manufacture of plaster products for construction purposes	-
23.63	Manufacture of ready-mix concrete	-
23.69	Manufacture of other articles of concrete, plaster and cement	-
23.99	Manufacture of other non-metallic mineral products not elsewhere classified	Production capacity of 5 tonnes/day

Electrical and electronic

NACE Code	Description	Threshold
	Manufacture of computer, electronic and optical products:	50 employees
26.11	Manufacture of electronic components	
26.12	Manufacture of loaded electronic boards	
26.20	Manufacture of computers and peripheral equipment	
26.30	Manufacture of communication equipment	
26.51	Manufacture of instruments and appliances for measuring, testing and navigation	
26.52	Manufacture of watches and clocks	
26.60	Manufacture of irradiation, electromedical and electrotherapeutic equipment	
26.70	Manufacture of optical instruments and photographic equipment	
	Manufacture of electrical equipment:	
27.11	Manufacture of electric motors, generators and transformers	50 employees
27.12	Manufacture of electricity distribution and control apparatus	50 employees
27.20	Manufacturers of batteries and accumulators	-
27.32	Manufacture of other electronic and electric wires and cables	50 employees
27.51	Manufacture of electric domestic appliances	50 employees
27.90	Manufacture of other electrical equipment	50 employees

Chemical manufacture, processing, storage and analysis

NACE Code	Description	Threshold
	Manufacture of the following chemicals, chemical products and man made fibres:	-
20.11	Manufacture of industrial gases	
20.12	Manufacture of dyes and pigments	
20.13	Manufacture of other inorganic basic chemicals	
20.14	Manufacture of other organic basic chemicals	
20.15	Manufacture of fertilisers and nitrogen compounds	
20.16	Manufacture of plastics in primary forms	
20.17	Manufacture of synthetic rubber in primary forms	
20.20	Manufacture of pesticides and other agrochemical products	
20.30	Manufacture of paints, varnishes and similar coatings, printing ink and mastics	
20.41	Manufacture of soap and detergents, cleaning and polishing preparations	
20.42	Manufacture of perfumes and toilet preparations	
20.52	Manufacture of glues	
20.53	Manufacture of essential oils	
20.59	Manufacture of other chemical products not elsewhere classified	
20.60	Manufacture of man-made fibres	
21*	Manufacture of basic pharmaceutical products and pharmaceutical preparations	-
46.71	Wholesale of solid, liquid and gaseous fuels and related products	-
46.75	Wholesale of chemical products	Storage capacity of 500 tonnes
52.10	Warehousing and storage of chemicals	
n/a	Commercial laboratory complexes	-

Leisure, food and beverage

NACE Code	Description	Threshold
10*	Manufacture of food products intended for human or animal consumption	Finished production capacity of 10 tonnes/day [4]
	Manufacture of beverages intended for human or animal consumption	
11.01	Distilling, rectifying and blending of spirits	-
11.02	Manufacture of wine from grape	-
11.03	Manufacture of cider and other fruit wines	-
11.04	Manufacture of other non-distilled fermented beverages	-
11.05	Manufacture of beer	-
11.06	Manufacture of malt	-
11.07	Manufacture of soft drinks; production of mineral waters and other bottled waters	50 employees
55.10	Hotels and similar accommodation	400 bed spaces
55.20	Holiday and other short-stay accommodation	

[4] Packaging shall not be included in the final weight of the product.

Medical services

NACE Code	Description	Threshold
86.10	Hospitals	-
86.21 86.22 86.23 86.90	General medical practice activities Specialist medical practice activities Dental practice activities Other human health activities	10 employees

Printing

NACE Code	Description	Threshold
18.11 18.12	Printing of newspapers Other printing	VOC solvent consumption of 5 tonnes/year (for existing installations, consumption is calculated as a three-year rolling average)

Transport sector

NACE Code	Description	Threshold
n/a	Airports	-
n/a	Seaports	-
n/a	Marinas	-
47.30	Retail sale of fuel, including petrol stations covered by the Control of Volatile Organic Compound - VOC Emissions (Storage and Distribution of Petrol from Terminals to Service Stations) Regulations (Legal Notice 54 of 2009 as may be amended from time to time)	-
n/a	Fuel terminals covered by the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations (Legal Notice 1 of 1996 as amended by Legal Notices 13 of 1996, 152 of 1997, 75 of 2002, 265 of 2004 and 425 of 2007, and Act XV of 2009)	-

Activities covered by other Regulations

NACE Code	Description	Threshold
Various	Establishments covered by the Control of Major Accident Hazards Regulations (Legal Notice 37 of 2003 as amended)	As per L.N. 37 of 2003 as amended.
Various	Activities covered by the Limitation of Emissions of Volatile Organic Compounds (VOC) Regulations (Legal Notice 349 of 2010)	As per L.N. 349 of 2010.
37.00	Activities covered by the Urban Waste Water Treatment Regulations, 2001 (Legal Notice 340 of 2001)	As per L.N. 340 of 2001

Schedule 1: Proposed timeframes by sector for implementation of Environmental Permitting system

Category of activity	Examples	Application timeframe	Permitting timeframe
Priority 1* (Highest risk)	COMAH (Seveso) establishments Fuel terminals Container terminals Shipyards Batching and asphalt plants	One year from issue of Legal Notice	Three years from issue of Legal Notice
Priority 1 (Existing legal obligations)	Waste management activities, e.g. scrapyards, inert landfills, waste transfer stations, waste oil producers, abattoirs Quarries Petrol stations VOC solvents activities, e.g. printing, surface coating, drycleaners Activities with a discharge to sea Sewage treatment plants of a certain size (as per LN 340/01)	As per existing legal obligations	Two years from issue of Legal Notice
Priority 2 (Medium risk)	Manufacturing activities with more than 250 employees on a single site Chemical & pharmaceutical plants Marinas Airports Hospitals Fish farms	Two years from issue of Legal Notice	Four years from issue of Legal Notice
Priority 3 (Lowest risk)	Manufacturing, e.g. wood, machinery, plastic, rubber, electronic products Food & beverage manufacturing Seaports Hotels with more than 400 bed spaces	Three years from issue of Legal Notice	Five years from issue of Legal Notice

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