

L.N. XXX of 2017

**ENVIRONMENT PROTECTION ACT
(CAP. 549)**

Daily Penalty Regulations, 2017

By virtue of the powers conferred by articles 54, 55 and 78 of the Environment Protection Act 2016, the Minister for Sustainable Development, the Environment and Climate Change, after consultation with the Environment and Resources Authority and with the concurrence of the Minister responsible for Finance, has made the following regulations:

- Citation 1. The title of these regulations is the Daily Penalty Regulations, 2017.
- Interpretation 2. In these regulations, unless the context otherwise requires:-
- CAP. 549 “the Act” means the Environment Protection Act 2016;
- “the competent authority” means “the Environment and Resources Authority” established under article 6 of the Act;
- “person” means any person, whether natural or legal, corporate or incorporate, and includes any person acting on his own behalf or under the instructions of any other person;
- “Tribunal” means the Environment and Planning Review Tribunal referred to in article 3 of the Environment and Planning Review Tribunal Act;
- Penalties
CAP. 549 3. (1) Where the Authority gives notice in writing to a person in accordance with article 76, 78, 80 or 86 of the Act in relation to an infringement carried out under any Schedule under these regulations after the date of coming into force of these regulations, it shall also notify such person that he shall be liable to:
- (i) an administrative fine of one hundred euro (€100); and
 - (ii) a fine for every day after fifteen days from the date of notification of the notice as established and set out in accordance with the provisions of the relevant Schedule to these regulations.

(2) This penalty shall be levied without prejudice to any other fine or amount payable to the Authority under the provisions of the Act.

Concurrent offences

4. Where a person is subject to a daily penalty for any offence which falls under any Schedule in this regulation, and concurrently has additional or separate infringements listed in any Schedule under this regulation or in any regulation under the Act, the person shall be subject to separate daily penalties that will accrue separately until all offences are addressed to the satisfaction of the Authority.

Appeal
CAP. 549

5. Where the notice has been appealed against in accordance with the provisions of article 76(9) of the Act, and the notice has been confirmed by the Tribunal or the Court of Appeal, as the case may be, the penalty is due from such person with effect from the sixteenth (16th) day following the date of the notification of the notice in accordance with the provisions of the Act.

Default of payment

6. Where a person fails to pay the penalty within ninety (90) days from the request for payment by the Authority, the amount due shall be considered as a civil debt owed to the Authority.

Remediation

7. When the person subject to daily penalty under this regulation remedies the matter subject to the daily fine, formal written notice to the Authority is to be sent without delay, accompanied by any submissions and evidence as required by the Authority, which in turn will be verified by the Authority and will confirm in writing that the source of infringement has been remedied.

Suspension of Penalties

8. Whenever the Authority requests the submission of a Method Statement or any other document or submissions from the person subject to the daily penalty to explain the remedial actions that are to be undertaken to remedy the offences subject to the daily penalty, the Authority shall temporarily stop the accruing daily penalty until the Authority processes the documentation submitted, which daily penalty shall resume accruing on the day a formal reply from the Authority is given or following any future date indicated in the formal reply given by the Authority.

Termination

9. A daily penalty shall cease when the subject matter of the notice giving reason for the issuance of such penalty under any Schedule under this regulation is removed or remedied to the satisfaction of the Authority, after the Authority confirms this in writing to the person.

Management of revenue generated under these Regulations.
CAP. 549

10. All the revenue generated under these regulations shall be payable to the Authority as stipulated in the Act.

DAILY PENALTY SCHEDULE I
Failure to report to the Authority within deadline

	Running days after date of Notification				
	0-15 days	16-50 days	51-180 days	181-365 days	366 days+
Failure to submit data reporting to the Authority under: (i) S.L. 549.63 - Waste Regulations (ii) S.L. 549.45 – Waste Management (Activity Registration) Regulations (iii) S.L. 549.50 – Waste Management (Management of waste from Extractive Industries and backfilling) Regulations (iv) S.L. 549.47 - European Pollutant Release and Transfer Register Reporting Obligations Regulations (v) S.L. 549.79 – Industrial Emissions (Limitation of Emissions of Volatile Organic Compounds) Regulations (vi) S.L. 549.52 – Control of Volatile Organic Compound-VOC Emissions (Storage and Distribution of Petrol From Terminals to Service Stations) Regulations	Nil	€5 daily	€10 daily	€30 daily	€50 daily
Failure to submit data reporting to the Authority under: (i) S.L. 549.77 – Industrial Emissions (Integrated Pollution Prevention and Control) Regulations	Nil	€10 daily	€20 daily	€60 daily	€100 daily
Failure to submit information to the Authority required under: (i) S.L. 549.43 – Waste Management (Packaging and Packaging Waste) Regulations (ii) S.L. 549.54 – Waste Management (Waste Batteries and Accumulators) Regulations (iii) S.L. 549.89 – Waste Management (Electrical and Electronic Equipment) Regulations (iv) Regulation 46(4) of S.L. 549.44 – the Flora, Fauna and Natural Habitats Protection Regulations (v) Regulation 7(5) of S.L. 549.35 - the Marine Mammals Protection Regulations (vi) Regulation 25(1) of S.L. 549.64 – Trees and Woodlands Protection Regulations (vii) S.L. 549.49 - Contained Use of Genetically Modified Micro-Organisms Regulations (viii) S.L. 549.60 on the Deliberate Release into the Environment of Genetically Modified Organisms Regulations	Nil	€5 daily	€10 daily	€30 daily	€50 daily

DAILY PENALTY SCHEDULE II

Operation without authorisation and Failure to comply with conditions set out in permit

		Running days after date of Notification				
		0-15 days	16-50 days	51-180 days	181-365 days	366 days+
Part I – Operation without authorisation						
Failure to obtain an authorisation issued by the Authority under Article 58 and any Schedule of the Act for any activity related to or affecting the environment	General Binding Rule	Nil	€15 daily	€30 daily	€50 daily	€70 daily
	Environmental Permit	Nil	€15 daily	€35 daily	€75 daily	€150 daily
Failure to obtain an authorisation issued by the Authority under S.L. 549.45 – the Waste Management (Activity Registration) Regulations: (i) Waste carrier (ii) Waste broker (iii) Farms and rearing of livestock (iv) Registrations other than the above with confirmation		Nil	€15 daily	€30 daily	€50 daily	€70 daily
Failure to obtain an authorisation issued by the Authority under: (i) S.L. 549.63 – the Waste Regulations. (ii) S.L. 549.50 – Waste Management (Management of waste from Extractive Industries and backfilling) Regulations		Nil	€15 daily	€35 daily	€75 daily	€150 daily
Failure obtain an authorisation issued by the Authority under S.L. 549.79 – Industrial Emissions (Limitation of Emissions of Volatile Organic Compounds) Regulations		Nil	€10 daily	€20 daily	€60 daily	€100 daily
Failure obtain an authorisation issued by the Authority under S.L. 549.52 – Control of Volatile Organic Compound-VOC Emissions (Storage and Distribution of Petrol From Terminals to Service Stations) Regulations	Road tankers	Nil	€5 daily	€10 daily	€30 daily	€50 daily
	Service Stations	Nil	€10 daily	€20 daily	€60 daily	€100 daily
	Terminals	Nil	€15 daily	€35 daily	€75 daily	€150 daily
Part II - Failure to comply with conditions set out in permit						

Failure to comply with any conditions referred to in a registration issued by the Authority including any condition in the said authorisation related to reporting under S.L. 549.45 – the Waste Management (Activity Registration) Regulations.	Nil	€10 daily	€20 daily	€30 daily	€50 daily
Failure to comply with any conditions referred to in an authorisation issued by the Authority to operate a: <ul style="list-style-type: none"> (i) packaging waste recovery scheme under S.L. 549.43 – the Waste Management (Packaging and Packaging Waste) Regulations, other than any condition in the said authorisation related to reporting. (ii) waste batteries and accumulators collection, treatment and recycling scheme under S.L. 549.54 – the Waste Management (Waste Batteries and Accumulators) Regulations, other than any condition in the said authorisation related to reporting. (iii) waste electrical and electronic equipment compliance scheme under S.L. 549.89 – the Waste Management (Electrical and Electronic Equipment) Regulations, other than any condition in the said authorisation related to reporting. 	Nil	€10 daily	€20 daily	€30 daily	€50 daily
Failure to comply with any conditions referred to in a permit issued by the Authority pursuant to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.	Nil	€10 daily	€20 daily	€30 daily	€50 daily
Failure to comply with any conditions referred to in an authorisation issued by the Authority under S.L. 549.63 – the Waste Regulations, other than any condition in the said authorisation related to reporting.	Nil	€10 daily	€20 daily	€30 daily	€50 daily
Failure to comply with any conditions referred to in an authorisation issued by the Authority including any condition in the said authorisation related to reporting under: <ul style="list-style-type: none"> i. S.L. 549.44 – the Flora, Fauna and Natural Habitats Protection Regulations; ii. S.L. 549.35 - the Marine Mammals Protection Regulations; iii. S.L. 549.01 - Fungus Rock (il-Ġebbla tal-Ġeneral) Nature Reserve Regulations; iv. S.L. 549.03 - Selmunett Islands (St. Paul's Islands') Nature Reserve Regulations v. S.L. 549.02 –Reptiles (Protection) Regulations vi. under S.L. 549.64 – Trees and Woodlands Protection Regulations. vii. S.L. 549.111 – Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their utilization Regulations. viii. S.L. 549.49 Contained Use of Genetically Modified Micro-Organisms Regulations; and ix. S.L. 549.60 on the Deliberate Release into the 	Nil	€10 daily	€20 daily	€30 daily	€50 daily

<p>Environment of Genetically Modified Organisms Regulations</p> <p>x. S.L. 549.38 - Trade in Species of Fauna and Flora Regulations</p> <p>xi. Article 58 of the Act and any Schedule of the Act for any activity related to or affecting the environment</p> <p>a. General Binding Rule</p> <p>b. Environmental Permit</p>					
<p>Failure to comply with the conditions of an authorisation issued by the Authority under:</p> <p>(i) S.L. 549.50 – Waste Management (Management of waste from Extractive Industries and backfilling) Regulations</p> <p>(ii) S.L. 549.79 – Industrial Emissions (Limitation of Emissions of Volatile Organic Compounds) Regulations</p> <p>(iii) S.L. 549.52 – Control of Volatile Organic Compound-VOC Emissions (Storage and Distribution of Petrol From Terminals to Service Stations) Regulations:</p> <p>a. Road tankers</p> <p>b. Service Stations</p> <p>c. Terminals</p>	<p>Nil</p>	<p>€10 daily</p>	<p>€20 daily</p>	<p>€30 daily</p>	<p>€50 daily</p>