ERA
Environment & Resources Authority

# The Environmental Permitting Regulations 2025

## Procedure for Applications and their Determination

User Guidance Notes Version 01

ERA.ORG.MT

## Revision of the Guidance /Revision Schedule

This publication is updated from time to time with new or amended guidance. The table below is an index to these changes.

| Rev/version | Date of amendment | Change Details |
|---|---|---|
| | | |

More information on is available on era.org.mt

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Bibliographical reference: The Environmental Permitting Regulations, 2025

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ERA The Environmental Permitting Regulations 2025

ISBN: 978-9918-628-14-8

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# 1. About these guidelines

These User Guidelines are intended to be read in conjunction with the Environmental Permitting (Procedure for Applications and their Determination) Regulations, 2025 (hereinafter referred to as the 'Regulations'). They aim to assist individuals and entities seeking to undertake an operation, intervention or activity prescribed in the Regulations. **Whilst describing the key provisions of the Regulations, they are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. This note is not intended to be a definitive explanation of the law.**These guidelines are intended for:

- **Permit Holders / operators / applicants**: who are advised to consider this guide submitting an applications, and in the subsequent operation of their process;
- **Members of the public:** who may be interested to know further information on the environment permits and their role in decision making.

# 2. Introduction

## 2.1 THE REGULATIONS

Environment protection and resources management are horizontal processes that affect a broad spectrum of sectors and stakeholders. The Environment & Resources Authority (hereinafter referred to as 'ERA') issues a range of environmental permits designed to control activities that could, if uncontrolled lead to pollution or harm of the environment. Sectors broadly include the manufacturing, quarrying, and waste management industries.[1]

The Regulations streamline and replace existing fragmented permitting regimes covering a multitude of activities, extending also to other areas that were unregulated. They serve to introduce a common procedure applicable to all applications, simplify permitting procedures for the public whilst ensuring good governance, efficiency and transparency.

## 2.2 OBJECTIVES

The Regulations aim to:

- Protect the environment so that national environmental targets can be achieved;
- Improve the permitting procedure so that it is effective and efficient both for the applicant and the regulator;
- Establish procedure and consolidate fragmentary permitting regimes;
- Provide for increased public participation in decision making and access to justice;

The Regulations *inter alia* set out:

- Which activities require an environmental permit;
- The process and timeframes applicable for environmental permit applications;
- Provisions related to modifications, variations, renewals, transfers and cessation of environmental permits;
- The applicable fees;
- Provisions with respect to public participation in the permitting process;
- Provisions for reconsideration and appeals from permitting decisions.

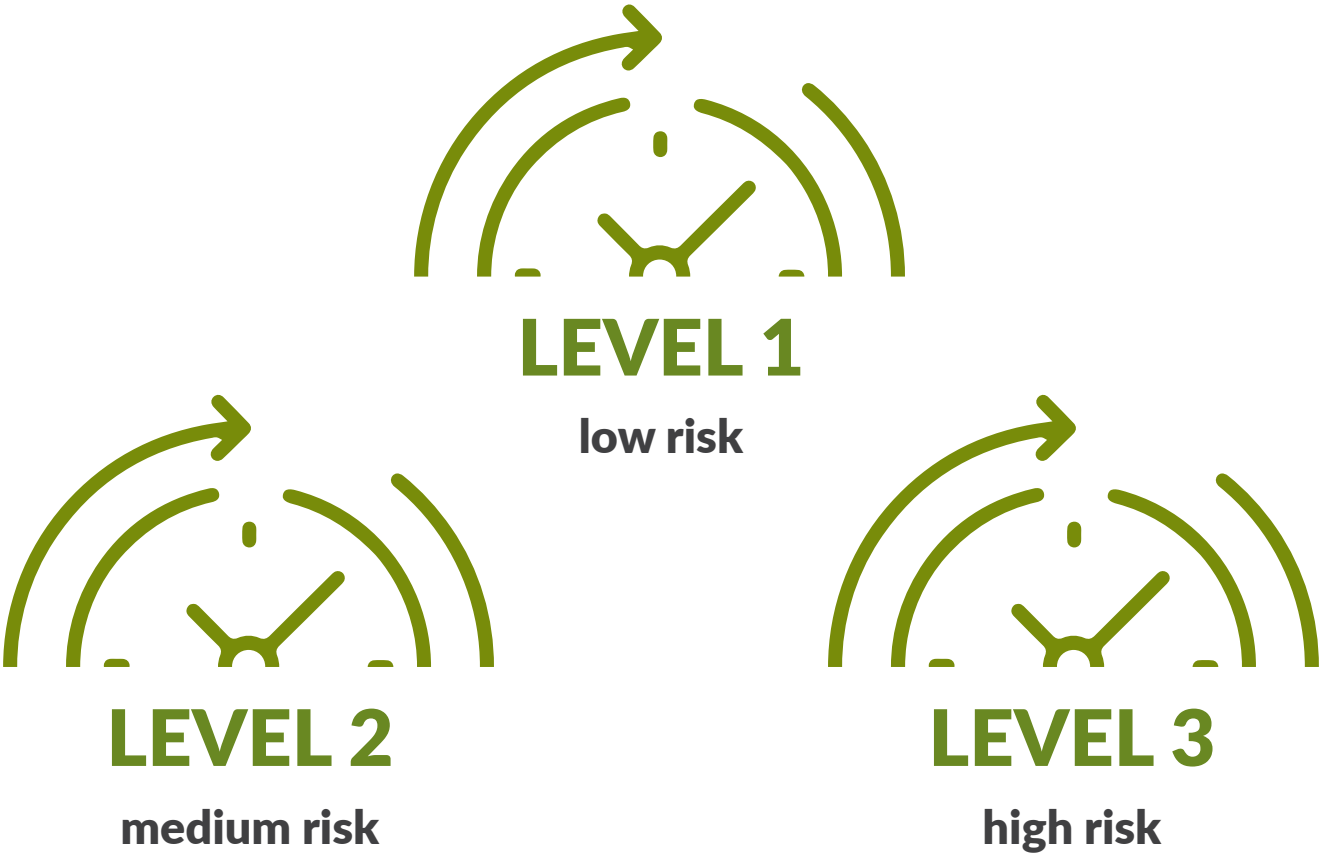
## 2.3 OVERVIEW OF THE REGULATIONS

The Regulations fall under the Environment Protection Act (Chapter 549 of the Laws of Malta) and are divided into the following seven parts:

- Part I - Interpretation and applicability
- Part II - General provisions
- Part III - Permitting procedures
- Part IV - Fees, guarantees and contributions
- Part V - Reconsideration & appeals
- Part VI - Miscellaneous provisions
- Part VII - Transitory provisions

1 More information: https://era.org.mt/era-topic-categories/environmental-permitting/

**ENVIRONMENTAL IMPACTS AND RISKS:**




The Regulations also include two schedules, which form a substantive part of the legislation. The **First Schedule,** outlines operations, interventions, and activities which require an environmental permit, whilst the **Second Schedule** lists operations, interventions, and activities that may be subject to a clearance in line with the provisions set out under regulation 35.

The Regulations apply to the operations, activities or interventions listed in the Schedules and these have been classified into three levels according to their general nature/scale and their associated environmental impacts and risks:

- Level I – low risk;
- Level II – medium risk; and
- Level III – high risk.

# 3. The Operator

The operator is the person or entity who has control over the operation of a regulated facility and is eligible to obtain or hold an environmental permit. This individual may also be the person carrying out the intervention or activity as prescribed by the First and Second Schedule.

The operator must demonstrably have the authority and the ability to ensure the environmental permit is complied with.

In the event that the applicant operates multiple facilities, the operator will have to obtain one or more environmental permits for each regulated facility it operates.

# 4. Which activities, operations or intervention require an environmental permit/clearance?

### 4.1 THE FIRST SCHEDULE

The First Schedule specifies which activities require an environmental permit. The activities, operations or interventions in the First Schedule have been broadly divided into the following categories:

- **Waste management operations** - these relate to waste management facilities and movement of waste;
- **Interventions and activities in relation to biodiversity and the natural environment -** these relate to activities carried out in protected sites, protected species and intervention on protected trees;
- **Use of genetically modified organisms -** these relate to the contained use, deliberate release, and placing on the market of genetically modified organisms; and
- **Others -** these relate to various industrial and manufacturing activities.

Due consideration must also be placed on thresholds stipulated by the Regulations in certain activities. Operations below the threshold are exempt from the obligation to obtain a permit for that said activity. Conversely, for certain industrial activities if the capacity is within the thresholds established in the Industrial Emissions (Integrated Pollution Prevention and Control) Regulations, such activity or operation shall be subject to the provisions of such legislation.

### 4.2 ACTIVITIES WITH PRE-EXISTING OBLIGATIONS

Prior to the publication of these Regulations, ERA already exercised a permitting role, ranging from minor permitting processes such as clearances of trade license to those falling under the Industrial Pollution Prevention and Control permits. Environmental permitting provides a mechanism to implement the legislative framework on the ground by means of operational permits. ERA's permitting obligations stem mostly from European Union Directives, and international agreements.

The Regulations do not seek to replace existing regimes, however they aim to streamline permitting streams into a unified framework. Whilst in general, environmental permits issued by ERA are covered by the Regulations, particular permitting requirements and obligations set out by the various subsidiary legislation, specific to certain activities, remain applicable.

### 4.3 ONGOING PERMITTED ACTIVITIES OR OPERATIONS PRIOR ENTRY INTO FORCE OF THE REGULATIONS

The Regulations clarify that permits which have been issued by the Authority prior to the coming into force of these Regulations and which are still valid, shall be construed as authorised under these Regulations, unless they have expired or have been superseded by a permit issued under these Regulations.

For those activities listed in the Second Schedule, the Regulations allows for a transitory period whereby operations, interventions or activities being carried out prior to the coming into force of these Regulations may apply for a clearance within 6 months from entry into force. Such applications shall be determined by the Authority without delay and shall be valid for a period of four years. Prior to its expiration, the operator shall apply for a permit under the Regulations, following all procedures as applicable in the Regulations for renewals of a permit, including public consultation.

### 4.4 APPLICATIONS SUBMITTED PRIOR TO ENTRY INTO FORCE OF THE REGULATIONS

Applications that have been submitted before the coming into force of these Regulations shall be exempt from the fee prescribed in the respective Schedule, unless a fee was already applicable in accordance with any other Regulations issued under the Act. However, in such cases **the applicant shall be exempt from paying any new application fee applicable under the new Regulations.**

# 5. Application procedures

These procedural guidelines are intended to ensure a consistent approach for environmental permit applications. Most applications must be submitted through the **Environmental Resources Information System (ERIS)**.

There is exceptions to the above:

- For clearances, applications are to be submitted by filling in the application form: **here**
- For Trans-frontier Shipment of Waste, applications are to be submitted via email to **tfs.permitting@era.org.mt**
- For GMOs, particularly concerning the placing on the market of genetically modified organisms and the deliberate release of genetically modified organisms, applications are to be submitted via email to **nature.permitting@era.org.mt**
- For Consignment Permit applications are to be submitted via **EWASP**

## 5.1 PRE-APPLICATION DISCUSSIONS

Pre-application discussions between operators and Authority can help in improving the quality of the formal application and are therefore encouraged. In order to ensure best use of time, the operator is encouraged to read these published guidelines prior to any discussions.

Such discussions may be used to clarify whether a permit is required. The Authority can provide potential applicants with general advice needed on the application and permitting process.

Engagement by the applicant with local or national interested parties and communities at the pre-application stage can also be beneficial to all sides, where relevant, and operators are encouraged to take account of the interests of the local community at the earliest possible stage.

The environmental permit is distinct to any other permit required under any other law or by any other Authority and therefore, if a facility also requires development consent for example, it is recommended that the operator should address this issue prior or in parallel to the Environmental Permitting process.

## 5.2 TIMING OF APPLICATIONS

When considering carrying out an activity or commencing operations of one of activities listed in the Schedules of these Regulations, due consideration must be placed on the timeframes required for the:

a) Collection of information required to compile the application form;
b) Submission and processing of the application form; and
c) Any possible pre-operational considerations to be implemented should a permit be granted.

Applicants are encouraged to submit their application for a permit at the earliest stage possible so as to avoid any costly delays.

For renewals, the Permit Holder must apply for the renewal of the permit within the timeframe stipulated in the valid permit during its period of validity.

## 5.3 APPLICATION FORMS

Standard application forms have been produced for new applications, variations, modifications, transfers, renewals and cessation which are available through ERA's online e-permitting system: **ERIS** or through alternative means as described on the ERA webpage.

Each application form typically requires as a minimum:

- Details and extent of the activity;
- Contact information of the Applicant;
- Technical information pertaining to the activities being applied for.

It is the applicant's responsibility to ensure that applications to ERA are submitted in accordance with the Regulations and ERA's guidelines.

It is the applicant's duty to ensure that the form shall be filled in correctly and completely (where sections are not applicable, they shall be marked accordingly).

Submission of fraudulent or misleading information will annul the application and may also lead to relevant penalties.

An applicant can withdraw an application at any time before it is determined however the fee paid is non-refundable.

### 5.4 FEES

The First Schedule sets out the fees applicable for new applications. These differ depending on the level of activities however they range from:

- Level I: €20 - €800
- Level II: €750 - €1,500
- Level III: €2,500

Most fees are at a fixed rate however some contain a variable element. As stated therein, fees which are prescribed in other specific subsidiary legislation will continue to apply.

Furthermore, the following rates apply:

| | |
|---|---|
| *Substantial modification of an application* | Half of the application fee stipulated in the First/Second Schedule |
| *Renewal of an application* | Half of the application fee stipulated in the First/Second Schedule |
| *Application under regulation 22 (ongoing activity)* | Double the application fee stipulated in the First/Second Schedule |

When an operation includes more than one activity as listed in the Schedules the highest fee out of the activities proposed shall be applicable together with a fee of hundred euro (€100) per activity for any additional activities.

Furthermore, the Authority may exempt the payment of the application fee for certain applications (identified in the First Schedule) due to research or educational purposes when the application has been submitted by or on behalf of an educational institution. Certain clean-up activities may also be exempt from the payment of the application fee.

Notably, if the fee due has not been paid after the lapse of 90 days from the submission of the application, the application shall be dismissed by ERA.

### 5.5 EMERGENCY PERMIT

In certain cases, an applicant may apply for an emergency permit. However this is only possible in cases requiring immediate action due to:

a) Threat to the environment or national heritage;
b) Circumstances which are likely to endanger life, health or public safety;
c) Circumstances which may increase the environmental risk or environmental impact of other projects, situations, actions or accidents if authorisation is delayed; or
d) Significant national importance as declared by the Minister.

Applications for emergency permits are to be accompanied by a report drafted by a warranted engineer or architect or other duly qualified expert in the field, which report shall certify the nature of the emergency that merits such a permit.

The Authority may nonetheless specify conditions within the permit, require further studies or consultations, as it deems fit.

# 6. Validation and Processing

### 6.1 VALIDATION

Upon receiving the application, the Authority shall validate it or otherwise. Applications which are not in conformity with the Regulations shall be deemed as incomplete and shall not be processed further by the Authority. The Authority may also dismiss an application that has remained persistently incomplete and invalid for over 6 months.

In case of a validation, the Authority shall issue a confirmation to the applicant and those applications falling within those categories indicated within the First Schedule (and Second Schedule when required) shall be published on the Authority's website for any person to declare an interest and make representations.

### 6.2 PROCESSING

In processing an application, the Authority may require the submission of additional information or documents and, or the carrying out of studies or investigations. The Authority may dismiss the application if required documentation is not received within the timeframe requested.

The Regulations bind the regulator to certain time limit for the processing of applications – which start to run on the date of publication of the validated application. These range from:

a) 15 days for certain specified categories;
b) 90 days for other Level I applications;
c) 120 days for other Level II applications; and
d) 270 days for Level III applications.

Such processing times may be extended if external consultation on specific technical matters is required and may be paused in case environmental assessments or similar studies are required.
The processing of an application may also be suspended upon the request of the applicant, for not more than two (2) calendar years in aggregate, and subject to the Authority's approval.

### 6.3 CONSULTATION AND PUBLIC PARTICIPATION

In the processing of an application, the Authority may consult any other public entity as may be required.

The Schedules indicate which applications will be subject to public participation (through the # symbol), whereby following validation the application is uploaded online and the public is given time to make representations on the application, rendering them as an "interested third party" in the process.

In general, the timeframes are 10 days for Level I, 20 days for Level II and 30 days for Level III; however they may be shortened to 7 days in urgent cases.

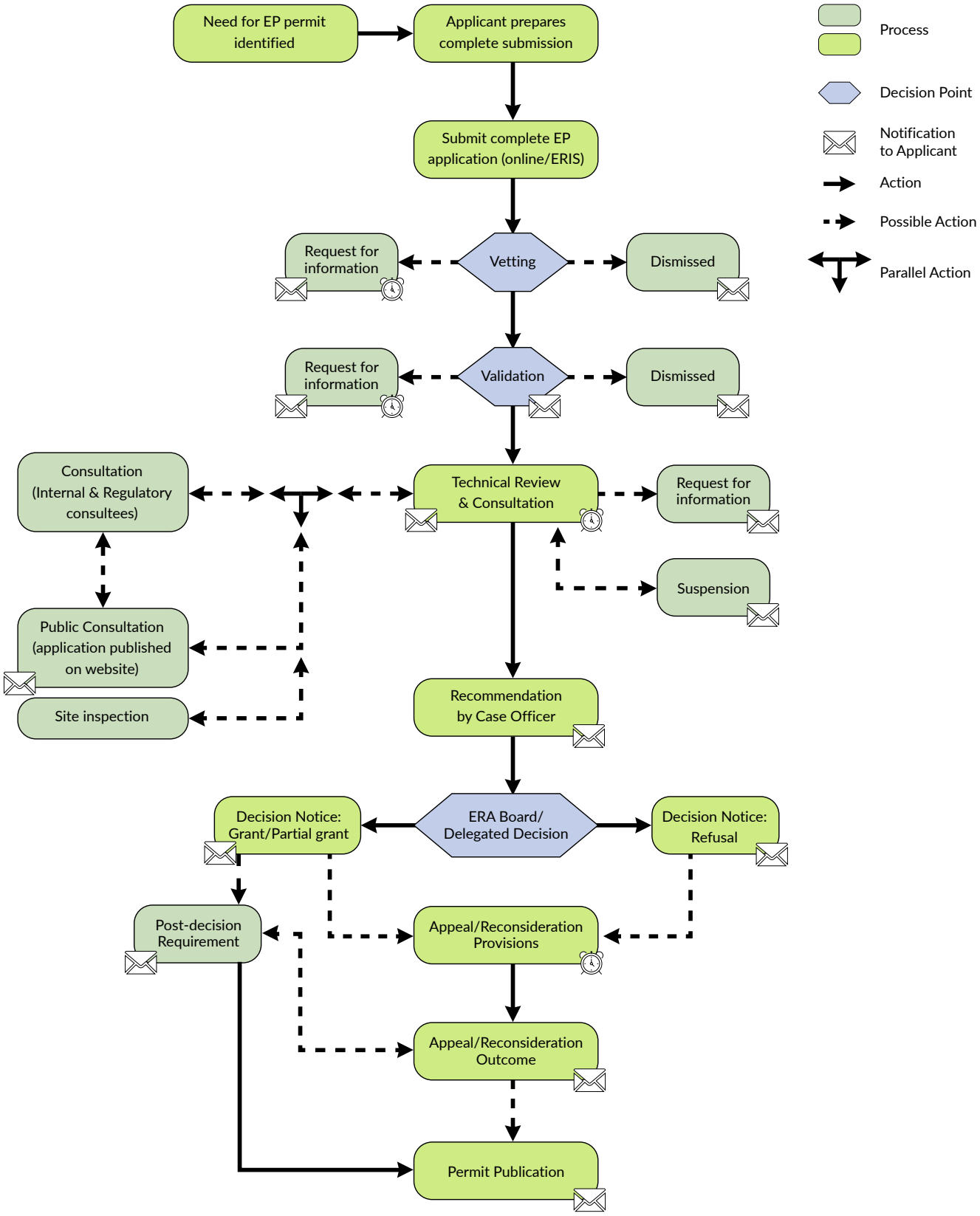
Representations are to be submitted through the electronic system (ERIS), in Maltese or English, within the timeframes stipulated.

When assessing the application, ERA will take due account of the representations made.

## 6.4 DECISION MAKING

Decisions on the application will be taken by ERA and in the case of those identified in the First Schedule, shall be taken in public. Applicants will be informed of the final decision and all decisions shall be made available on ERA's website.

A schematic of the above described processes is shown below:



# 7. Permitting Considerations

### 7.1 PERMIT CONDITIONS

The Authority may impose any conditions that it deems fit within the permit in order to secure the objectives that apply to the respective activity, in line with the Regulations.

Permit conditions may address several aspects of the operation/activity and may include the following:

- Conditions stipulating objectives or outcomes;
- Standards to mitigate a particular hazard/risk;
- Conditions addressing particular legislative requirements;
- Rights and obligations as the Permit Holder;
- Period of validity.

### 7.2 FINANCIAL GUARANTEE

The Authority may impose the provision of a financial guarantee as a condition for granting of the permit after assessing the risks associated to any activity or operation requiring a permit. The financial guarantee secures performance and fulfilment of the permits obligations and, if in default, the guarantee is forfeited in favour of the Authority.

The financial guarantee calculation for Environmental Permits is based upon a standardised risk matrix which can be accessed here: **Link**

Similarly for Integrated Pollution and Prevention and Control (IPPC) Permits the financial guarantee calculator can be accessed here: **Link**

### 7.3 ENVIRONMENTAL CONTRIBUTIONS

For certain activities the Authority may request the submission of an environmental contribution as per article 64 of the Environment Protection Act. Such contribution may be solicited in cases whereby significant residual adverse impacts arising from project's implementation, after appropriate preventive, minimisation and mitigation measures have been taken.

### 7.4 AUTOMATIC SUSPENSION

The execution and validity of a permit which was subject to public consultation and for which representations were received from interested third party or parties, shall be automatically and temporarily suspended for thirty (30) days from publication of the decision on the Authority's website, and no works, interventions, operations or activities may commence before the lapse of such period. This allows time for possible appeals to be filed in accordance with the Regulations.

Nonetheless, this suspension shall not be applicable for:

a) Emergency permits;
b) Renewed permits;
c) Clearances; and
d) Permits which were not subject to an Environmental Impact Assessment or IPPC permit and which in the opinion of the Minister:
    - i are of strategic significance or of significant national importance;
    - ii are related to any obligation ensuing from European Union legislation;
    - iii affect national security or the interests of other governments; or
    - iv affect response to civil or environmental emergencies.

# 8. Renewals, variations, modifications and cessation

### 8.1 RENEWAL OF A PERMIT

In general, a Permit Holder may apply for the renewal of the permit during its period of validity. However, certain permits as listed in the Regulations cannot be renewed.

In processing the renewal, ERA may grant, partially grant or refuse the renewal of a permit, and may also vary or modify any condition therein or request any further information.

### 8.2 VARIATION OF PERMITS

A permit may be varied at the request of the Permit Holder or at ERA's instigation at any time in the following cases:

- Where such variations are minor or administrative in nature, such as typographical corrections or changes to applicant details;
- Where it is necessary to comply with new or revised environmental legislation; or
- Where the permit needs to be adapted to meet technical advancements.

In such instances, the Authority shall notify the Permit Holder of such a decision by issuing a variation notice.

### 8.3 MODIFICATION AND REVOCATION OF A PERMIT

The Permit Holder may request a modification to a permit in accordance with article 62 of the Environment Protection Act.

The application for a modification is to include the details of the proposed changes, including relevant drawings, plans and photographs, in a manner that may be easily compared to what was already covered by the permit and an assessment of the possible effects on the environment.

The Authority may modify or revoke any permit granted in accordance with articles 65 and 66 of the Environment Protection Act.

### 8.4 CESSATION

In order to cease operating, the Permit Holder needs to be submit an application to ERA for cessation of the operation, activity or intervention covered by the permit.

The Authority must verify that the Permit older is compliant with the conditions and approved specifications in the permit, including any decommissioning, closure, cessation, dismantling, and remediation obligations.

The Permit Holder shall retain all the responsibilities for the operations, interventions and activities until the Authority officially approves the cessation of the permit in writing, and the financial guarantee shall likewise not be released prior to the Authority's approval.

# 9. Reconsideration and Appeals

### 9.1 RECONSIDERATION

Once the Authority has issued its final decision on the application, the applicant may apply to the Authority for a reconsideration of its decision within 30 days. This is only available for those decisions that were not taken in public by the Board.

Such requests must be submitted via **ERIS** or using the **designated application form**, with a non-refundable administrative fee of €50.

The request for a reconsideration shall be invalid if:
it relates to a change in operations or in the proposal;

- It relates to a change in the documentation submitted to the Authority as part of the processing of the application;
- The request is not submitted by the applicant.
- The reconsideration decision will be taken by the ERA Board in public.

### 9.2 APPEALS

Decisions taken by the Authority may be appealed before the Environment and Planning Review Tribunal within 30 days from the publication of the decision on the Authority's website, by:

- The applicant, in relation to an application filed by him; or
- A registered interested third party, only in relation to the applications falling within the scope of regulation 13.

# 10. Compliance and monitoring

Inspections to secure compliance are carried out by the Authority and can include reviewing information from the operator as well as carrying out independent monitoring, site inspections, in-depth audits and other compliance-related work.

Operators may also have monitoring responsibilities under the environmental permit. The permit conditions may require operators not just to provide basic data (for example, the actual results from monitoring equipment), but also to demonstrate whether they are meeting the conditions of the permit.

The Authority may take action under the provisions of the Environment Protection Act in case of failure to comply with the Regulations and/or the permit conditions.