

ENIRONMENT PROTECTION ACT (CAP. 549)

Daily Penalties (Environment) (Amendment) Regulations, 2022

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister for the Environment, Climate Change and Planning after consultation with the Environment and Resources Authority, has made the following regulations:-

Citation.

S.L 549.72. 1. The title of these regulations is the Daily Penalties (Environment) (Amendment) Regulations, 2022 and these regulations shall be read and construed as one with the Daily Penalties (Environment) Regulations, hereafter referred to as "the principal regulations".

Substitutes regulation 1 of the principal regulations.

2. Regulation 1 of the principal regulations shall be substituted by the following new regulations:

"1. The title of these regulations is the Daily Fines (Environment) Regulations."

General amendment.

3. In the principal regulations, the word "notice" wherever it occurs, provided that such word is not part of the phrases "gives notice", or "send formal written notice", shall be substituted by the word "Order".

Amends regulation 3 of the principal regulations.

4. Regulation 3 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted with the following new sub-regulation:

"(1) Where the Authority gives notice in writing to a person in accordance with articles 76 and 78 of the Act in relation to an infringement carried out under the Schedule after the date of coming into force of these regulations, it shall also notify such person that he shall be liable to:

(a) an administrative penalty of one hundred euro (€100); and

(b) a daily fine after fifteen (15) days from the date of notification of the notice as established and set out in accordance with the Schedule."; and

(b) sub-regulation (2) thereof shall be substituted by the following

new sub-regulation:

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

Provided that if a fine falls due following the approval by the Authority of a permit covering the offence in respect of which an Order has been issued, only the accumulated daily fine or the regularisation fine , whichever is the higher, shall be imposed:

Provided further that if existing offence remains uncovered by a regularisation environmental permit, the daily fine shall continue to accrue on the unregularised offence.”.

Substitutes regulation 4 of the principal regulations.

5. Regulation 4 of the principal regulations shall be substituted by the following new regulation:

Concurrent offences and breach of Order.

“4. Where a person is subject to separate daily fines for different offences which fall under any part of the Schedule, the person shall be subject to the highest daily fine applicable at any one time.”.

Substitutes regulation 5 of the principal regulations.

6. Regulation 5 of the principal regulations shall be substituted by the following new regulation:

Appeal.

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

(2) Where the person served with the Order submits an application for regularisation, upon the determination of such application, the fine due from such person under these regulations shall be with effect from the sixteenth (16) day following the date of the first notification of the Order in accordance with the provisions of the Act.”.

Adds new regulation to the principal regulations.

7. Immediately after regulation 5 of the principal regulations there shall be added the following new regulation:

Petitions to submitted the Environment and Planning Review Tribunal.

“5A. The Environment and Planning Review Tribunal shall examine petitions submitted to it and shall only accede to a petition in part or in whole when there are compelling reasons for it to do so, such as:

(a) humanitarian reasons attenuating the circumstances relating to the commission of the scheduled offence; and

(b) when the nature of the Order is manifestly unjust and, or oppressive, and or manifestly disproportionate considering the nature and facts of the case.”.

Amends regulation 6 of the principal regulations.

8. In regulation 6 of the principal regulations, the words "pay the penalty" shall be substituted by the words "pay the fine".

Amends regulation 7 of the principal regulations

9. In regulation 7 of the principal regulations, the words "daily penalty", wherever they occur, shall be substituted by the words "daily fine".

Amends regulation 8 of the principal regulations

10. Regulation 8 of the principal regulations shall be amended as follows:

(a) the marginal note thereof shall be substituted by the words "Suspension of fines"; and

(b) the words "daily penalty", wherever they occur, shall be substituted by the words "daily fine".

Amends regulation 9 of the principal regulations.

11. In regulation 9 of the principal regulations, the words "A daily penalty shall cease, when the subject matter of the notice giving reason for the issuance of such penalty," shall be substituted by the words "A daily fine shall cease, when the subject matter of the notice giving reason for the issuance of such fine,".

Substitutes Schedule I of the principal regulations.

12. Schedule I of the principal regulations shall be substituted by the following new Schedule:

“SCHEDULE

DAILY FINES SCHEDULE					
	0-15 days	16-50 days	51-180 days	181-365 days	366 days +
Activity without permit	Nil	€15/day	€30/day	€45/day	€50/day

Activity without permit within protected site	Nil	€15/day	€35/day	€50/day	€60/day
Breach of Permit/Registration condition/Any other provision under any Regulations issued under the Act	Nil	€10/day	€20/day	€30/day	€35/day
Failure to submit reports/data to the Competent Authority	Nil	€5/day	€10/day	€25/day	€30/day

Deletes the Second Schedule to the principal regulations.

13. The Second Schedule to the principal regulations shall be deleted.

Transitory provision.

14. Any Order issued before the coming into force of these Regulations shall remain in force provided that the applicable daily fines shall be those most favourable to the person
