

Subsidiary Legislation made under s.18(c).

Environment (Control of Dust) Regulations 2010

LN.2010/127

		<i>Commencement</i>	15.7.2010
Amending enactments	Relevant current provisions		Commencement date
LN. 2013/127	rr. 11(1)-(3), 13		19.9.2013

EU Legislation/International Agreements involved:
Directive 2008/50/EC

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ARRANGEMENT OF REGULATIONS

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In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005, and for the purposes of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, and in particular Article 22 thereof; the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Environment (Control of Dust) Regulations 2010 and come into operation on the day of publication.

Interpretation.

2. In these Regulations, unless the content otherwise requires—

“ambient air” means outdoor air in the troposphere;

“authorised person” means the Chief Environmental Health Officer and a person authorised by him;

“approved code of practice” means a code of practice approved by the Minister under regulation 9;

“certificate of approval” means a certificate issued by the Chief Environmental Health Officer under regulation 5;

“dust control plan” means a plan detailing measures to be used to prevent or reduce dust emissions;

“dust” means particulate matter in ambient air;

“dust emissions” means particulate matter in ambient air including that which is caused by man-made or natural activities such emissions by or from vehicles, use of equipment, the movement of soil and windblown dust;

“Minister” means the minister with responsibility for the Environment;

“particulate matter” means any material in ambient air, whether as liquid or solid particles, with the exception of water not combined with any other substance;

“unpaved land” includes any road or similar means of access that is not covered by material which provides a permanent stable surface;

“vehicle” where the context so admits, includes plant and equipment.

Scope.

3. These Regulations shall apply to an activity or operation involving–
- (a) dismantling or demolition of buildings and structures;
 - (b) construction works and excavation works;
 - (c) refurbishment works;
 - (d) mining, road building and all other engineering works;
 - (e) processing or stock piling of solid bulk materials, including sand, grit, gravel, rock, dirt, sawdust and ash;
 - (f) operation of machines, equipment or vehicles;
 - (g) operation and use of unpaved land for any purpose whatsoever;
 - (h) any agricultural or horticultural activity or process;
 - (i) any other type of operation, process or activity prescribed by the Minister by notice published in the Gazette.

Prevention of dust emissions.

4.(1) A person who intends to undertake an activity or operation to which these Regulations apply shall apply to the Chief Environmental Health Officer for a certificate of approval in the form set out in Schedule 1.

(2) An application under subregulation (1) shall be accompanied by a dust control plan.

Issue of certificate.

5.(1) In determining an application for a certificate of approval the Chief Environmental Health Officer must consider whether the dust control plan makes sufficient provision for the prevention or reduction of dust emissions in relation to the proposed activity or operation.

(2) The Chief Environmental Health Officer must also consider the extent to which the dust control plan follows or implements an approved code of practice.

(3) Subject to regulation 6(1), where he is satisfied that the dust control plan makes adequate provision for the prevention or reduction of dust emissions, the Chief Environmental Health Officer may issue a certificate of approval and in issuing that certificate he may impose such conditions, restrictions or limitations as he deems appropriate having regard to the purpose of these Regulations.

(4) The Chief Environmental Health Officer may at any time at his absolute discretion amend, modify or revoke a certificate issued under this regulation, including any condition, restriction or limitation imposed and may impose new and additional conditions, restrictions or limitations.

(5) A certificate of approval shall be valid for the period stated therein.

(6) A certificate issued under this regulation shall be in the form set out in Schedule 2.

Charging of fee.

6.(1) Where the Chief Environmental Health Officer incurs costs in carrying out his functions under these Regulations he may charge a fee determined in accordance with this regulation to any person making an application for a certificate of approval.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the Chief Environmental Health Officer in processing the application.

(3) Where, in the opinion of the Chief Environmental Health Officer, he can only properly carry out his functions under these Regulations by engaging specialists or consultants, the cost of such specialists or consultants shall be included in the fee payable under subregulation (1).

(4) The Chief Environmental Health Officer may determine the cost of employing an officer for any period of work appropriate to his grade by reference to the average cost of employing officers of that grade for that period.

(5) When requiring payment, the Chief Environmental Health Officer shall send or give to the person by whom the fee is payable a detailed statement of the work done and costs incurred and the period to which the statement relates, and—

- (a) the requirements in respect of an application under these Regulations shall be deemed not to have been complied with unless the fee has been paid; and
- (b) the fee or such part of it as remains unpaid shall be recoverable as a civil debt.

Grounds for refusal.

7. The Chief Environmental Health Officer may refuse an application for a certificate of approval on any of the following grounds—

- (a) a dust control plan has not been submitted together with the application;
- (b) the fee has not been paid;
- (c) in his opinion the dust control plan does not provide for any, or any suitable, measures for the prevention or reduction of dust emissions;
- (d) that it is not in the public interest.

Appeal.

8.(1) A person who is refused a certificate of approval or who is dissatisfied with a condition, restriction or limitation in such a certificate may appeal to the Magistrates' Court within 21 days from the date of refusal or the date of the issue of the certificate, as the case may be, on the ground that the refusal or the imposition of that condition, restriction or limitation is unreasonable.

(2) In determining an appeal against the refusal by Chief Environmental Health Officer to issue a certificate of approval the court may uphold his decision or it may direct him to issue a certificate and that direction may also require that the certificate be issued subject to such conditions, restrictions or limitations as the Court directs.

(3) In determining an appeal against the imposition by the Chief Environmental Health Officer of any condition, restriction or limitation in a certificate of approval the court may uphold his decision or it may direct him to remove a condition, restriction or limitation or to amend it as the Court directs.

Codes of practice.

9. The Minister may approve a code of practice if he is satisfied that the code of practice promotes the prevention or reduction of dust emissions.

Transport of materials.

10.(1) A person in charge of or operating any vehicle used to transport any thing which is likely to cause emissions of dust shall take all necessary action to prevent emissions of dust.

(2) A police officer or authorised person may stop any vehicle used in connection with an activity or operation to which these Regulations apply and require the production of a certificate of approval or a copy thereof.

(3) A police officer or authorised person who is not satisfied that a vehicle is effectively containing dust may direct the driver to stop at a particular location and remain there until he has applied reasonable measures for the prevention or reduction of dust emissions.

(4) In this regulation a person shall be deemed to have taken all necessary action and shall be deemed to have applied reasonable measures if he can show that he has followed an approved code of practice.

Compliance with dust control plan.

11.(1) For the purpose of assessing whether the dust control plan is being properly implemented, the holder of a certificate of approval shall grant an authorised person access to any place and to any record or other information which he may require.

(2) Where the authorised person is not satisfied that the dust control plan is being implemented, or is being properly implemented, and dust emissions are being created by an activity or operation as set out in regulation 3, that person shall issue a notice in writing prohibiting that activity and setting out those matters that must be addressed and the time by which it must be done.

(3) The Chief Environmental Health Officer may revoke a certificate of approval for non-compliance with a notice issued under subregulation (2) or for the failure to comply within the stipulated time.

Certificate cumulative.

12. A certificate of approval issued under these Regulations is cumulative to and does not replace a requirement for authorisation under any other enactment.

Offences.

13.(1) A person who undertakes an activity or operation without a valid certificate of approval commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person who undertakes an activity or operation to which these Regulations apply commits an offence if that person—

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- (a) fails to make any suitable provision for the prevention or reduction of dust emissions in relation to that activity or operation; or
- (b) creates or allows dust emissions to be created by that activity or operation,

and a person guilty of an offence under this sub-regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person who without reasonable excuse obstructs or interferes with an authorised person in the execution of his duty, or fails to comply with the requirements of a prohibition notice served under regulation 11(2), commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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**SCHEDULE 1
APPLICATION FORM**

Regulation 4

ENVIRONMENTAL ACT 2005

CONTROL OF DUST REGULATIONS 2010

**APPLICATION FOR CERTIFICATE
REGULATION 4**

I/We being a person intending to undertake an activity or operation to which the Control of Dust Regulations 2010 are applicable hereby apply for a Certificate of Approval.

1	Name:	
	Capacity:	
	Registered Address:	
	Principal Address of the business:	
	Tel No:	
	Fax No:	
	E-mail:	

2	Site Office Address:	Tel No:
		Fax No:
		E-mail:

3. Details of person in charge of the activity or operation:

Name:
Position:
Mobile Tel No:

4. Out of Hours Contact Details:

State names, position and out of hours telephone numbers of personnel who may be contacted out of hours.

1. Name	Position	Tel No:
2. Name	Position	Tel. No:

5. State the activity or operation for which a Certificate of Approval is sought.

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6. State the address or name of site in respect of which this application is made.

This application must be submitted together with a Dust Control Plan as required by Regulation 4 of the Dust Control Regulations 2010 to:–

Chief Environmental Health Officer
37 Town Range
Gibraltar

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SCHEDULE 2
CERTIFICATE OF APPROVAL

Regulation 5

ENVIRONMENTAL ACT 2005

CONTROL OF DUST REGULATIONS 2010

CERTIFICATE OF APPROVAL
REGULATION 5

I.....⁽¹⁾ being the Chief Environmental Health Officer certify that I am satisfied that the Dust Control Plan submitted by⁽²⁾ of⁽³⁾ in respect of⁽⁴⁾ makes sufficient provision for the prevention or reduction of dust emissions in relation to the proposed activity or operation.

THIS CERTIFICATE IS SUBJECT TO THE FOLLOWING CONDITIONS, RESTRICTIONS OR LIMITATIONS:

Period of Validity of this Certificate:

(from) (to)

Chief Environmental Health Officer

Certificate No:.....

NOTES:

- (1) Name of Chief Environmental Health Officer
- (2) Name of Applicant
- (3) Address of Applicant
- (4) Address of work site.