CHAPTER 473

ECO-CONTRIBUTION ACT

To make provision for the imposition of an eco-contribution on products which result in waste and to provide for matters ancillary or incidental thereto.

1st September, 2004

ACT XII of 2004, as amended by Legal Notices 393, 394, 529 and 533 of 2004, and 28, 312 and 341 of 2005; Act II of 2006; Legal Notice 106 of 2006; Act IV of 2007; Legal Notices 172, 229, 300 and 427 of 2007, 105 of 2008, and 7, 109, 141 and 230 of 2009; Act II of 2009; Legal Notice 383 of 2009; Act I of 2010; Legal Notice 421 of 2010; Acts IV of 2011 and XIII of 2015; Legal Notice 260 of 2015; Act XV of 2016; Legal Notices 174, 175 of 2016 and Acts XVI of 2017, XIV of 2020, XXXV of 2023 and Act III of 2026.

Part I - Preliminary

Short title.

1. The short title of this Act is the Eco-Contribution Act.

Interpretation. *Amended by: II. 2006.21; II. 2009.60.*

2. In this Act, unless the context otherwise requires -

"competent authority" means the authority designated by the Minister under article 10;

"eco-contribution" or "contribution" means the contribution chargeable under article 3;

"the Minister" means the Minister responsible for waste management and includes, to the extent of the authority given, any person authorised in that behalf for any purpose of this Act;

"placed on the market" means when a product is transferred from the manufacturing stage or when a product is brought into Malta with the intention of distribution on the market in Malta, including when a product is so transferred or brought into Malta for use in the trade, business, profession or vocation of the person transferring or bringing the product into Malta;

"producer" means a person who, for the purpose of trade or otherwise in the course of business, manufactures or brings into Malta products on which the eco-contribution shall be payable in terms of this Act, and in relation to services means a person who for the purpose of trade or otherwise provides services in Malta on which eco-contribution shall be payable in terms of this Act;

"products" means products which result in waste and on which an eco-contribution is chargeable;

"recovery of waste" means the re-use, recycling or reclamation of waste or any other process aiming to extract secondary raw materials or energy from such waste;

"Schedule" means a schedule to this Act;

"services" means services which are listed in the Second Schedule and on which an eco-contribution is chargeable;

"waste" means any thing, substance, product or object, in whatever form, whether hazardous or otherwise, which is discarded

or intended to be discarded or is required to be kept in order to be discarded and includes such other thing, substance or object as the Minister may prescribe.

Part II - Imposition of eco-contribution

Imposition of eco-contribution. *Amended by: II.2009.61; III.2026.76.*

3. (1) There shall be charged and levied by the competent authority, on account of the Government, an eco-contribution at the rates shown in the Third Column of the First Schedule payable on products described in the First and Second Columns of the said Schedule, which are placed on the market, and in the Fourth Column of the Second Schedule payable on services described in the First, Second and Third Columns of the said Schedule.

(2) The First and Second Schedules shall be published in the English language only:

Provided that the Minister may, from time to time, order the publication of the said First and Second Schedules in the Maltese language and in any such case, if there is any conflict between the Maltese and English texts of the said First and Second Schedules, the English text shall prevail.

(3) The Minister may, by regulations made in accordance with this article, amend, substitute or repeal the Second Schedule.

Time when contribution shall fall due. *Amended by: II. 2009.62.*

4. (1) The eco-contribution on products listed under the First Schedule shall be due at the time at which the products are placed on the market and the eco-contribution on services listed under the Second Schedule shall be due at the time indicated in the third column of the Second Schedule:

Provided that where products are placed under a customs procedure on entry into Malta, placing on the market shall be deemed to take place when they leave the customs procedure.

(2) The conditions on which the contribution shall be chargeable and the rate of the contributions to be adopted shall be those in force on the date on which the products are placed on the market.

Recovery of waste.

5. In cases of recovery of waste from products on which eco-contribution is paid in terms of this Act, the producers of those products may, in accordance with regulations made under articles 12 and 13, be granted a credit of the contribution paid thereon, or part thereof, against eco-contributions which may fall due in future.

Savings.

6. The contribution due in terms of this Act shall be without prejudice to any other obligations, of whatever nature, imposed by or under any other law in respect of the products on which the contribution shall fall due.

Part III - Payment of eco-contribution

Liability for payment of eco-contribution.

7. (1) The liability for the payment of the eco-contribution shall lie with the producer.

(2) Where two or more persons are liable for the payment of the contribution, their liability under the Act shall be joint and several.

Time of payment of eco-contribution.

8. The eco-contribution shall be payable on a quarterly basis in arrears on submission of the return relative to the preceding quarter:

Provided that the Minister may by regulations prescribe in respect of such class or classes of producers as may be specified in those regulations, a period of time longer or shorter than a quarter for the payment in arrears of the eco-contribution and for the submission of the relative return.

Registration and reporting procedure.
Amended by: II. 2009.63.
Substituted by: III.2026.77.

9. (1) The registration and reporting procedure that shall be adhered to by all producers liable to the payment of an eco-contribution is established in the Third Schedule.

(2) The Minister may, by regulations made in accordance with this article, amend, substitute or repeal the Third Schedule.

Part IIIA - Imposition of Eco-contribution on Plastic Bags

Added by: II. 2009.64.

Information to be printed on plastic bags.
Added by: II. 2009.64.

9A. (1) A producer of plastic bags described in the First and Second Columns of the First Schedule who is liable for the payment of an eco-contribution at the rate shown in the Third Column of the said Schedule shall be obliged to comply with the obligations in accordance with the provisions of the said Fourth Schedule.

(2) The Minister may, by regulations made under this article, amend, substitute or repeal the Fourth Schedule.

Offences and penalties.
Added by: II. 2009.64.

9B. Any person in the course of an economic activity who, upon an inspection by the competent authority or any person appointed by it for such purpose in terms of article 25 -

(*a*) has in his possession plastic bags, already placed on the market in Malta, which do not conform to the obligations listed under the provisions of the Fourth Schedule; or

(*b*) fails to comply with any other obligation listed under the provisions of the Fourth Schedule,

shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000):

Provided that where a person has been convicted under this article and is again convicted of an offence under the said article committed within six months from the date of the previous conviction, the fine (*multa*) shall in no case be less than one thousand five hundred euro (€1,500):

Provided further that where a person has been convicted for a third offence under this article within a period of twelve months from the date of the first conviction, the fine (*multa*) shall in no case be less than two thousand euro (€2,000):

Provided further that where a person has been convicted for four offences under this article in a period of twenty-four months,

the court shall on the latest of the said convictions impose a fine (*multa*) of not less than two thousand five hundred euro (€2,500) and in addition to the punishment for that conviction order the suspension for a determinate time of not less than one week and not more than one month of all licences, permits, warrants or other authorisation granted by the Police or by any other authority to carry on the economic activity or activities to which the offences relate.

Compromise penalties. *Added by: II. 2009.64.*

9C. (1) Notwithstanding any other provision of this Act, the competent authority may, in the case of an offence under article 9B, enter into an agreement in writing with the offender whereby the said offender pays to the competent authority five hundred euro (€500) in the case of a first offence, seven hundred and fifty euro (€750) in the case of a second offence and one thousand euro in the case of a third offence (€1,000), within fifteen days from the receipt of a notice by the competent authority to this effect, and upon the payment of such fine (*multa*), all criminal liability under this Act with regard to the offences in relation to which the fine (*multa*) has been paid, shall be extinguished.

(2) Any sum due in virtue of an agreement entered into in terms of sub-article (1) shall be due to the Government as a civil debt. The competent authority shall not enter into an agreement as is referred to in sub-article (1) unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.

(3) The provisions of this article shall be without prejudice to any proceedings or forfeiture instituted or having effect in virtue of any other law.

(4) The said agreement and the payment of the fine (*multa*) so imposed shall be without prejudice to any eco-contribution and administrative penalty due under this Act.

Part IV - The Competent Authority

Nomination of competent authority.

10. The Minister shall by order in the Gazette designate a person or body to be the competent authority for the purposes of this Act to carry out the functions laid down in the Act and in the regulations made by the Minister under the Act and such other functions as the Minister may consider appropriate in relation to the operation of the Act. Such person or body shall be designated for an indefinite period:

Provided that the Minister shall have the power at any time to terminate such nomination by order in the Gazette:

Provided further that the Minister may in the regulations provide that a person or authority other than the competent authority shall be responsible for the performance of certain functions specified in the regulations.

Functions of the competent authority.

11. Save where otherwise provided in any regulations made under this Act, the competent authority shall be responsible for the administration of this Act and for any regulations made thereunder. The competent authority shall also have the function of advising

the Minister on the following matters:

(*a*) the products on which an eco-contribution should be charged and the applicable rate of contribution;

(*b*) the issue of any regulations under this Act; and

(*c*) any matter as may be necessary for the better carrying out of the provisions of this Act or of any regulations made thereunder.

Part V - Powers of the Minister

Power to exempt payment of eco-contribution. *Amended by: II. 2009.65.*

12. (1) The Minister may, with the concurrence of the Minister responsible for finance and in accordance with regulations made under the provisions of article 13 -

(*a*) exempt any producer from the payment of the eco-contribution, in whole or in part, which would otherwise have been payable on products produced by him, or

(*b*) grant any producer a credit of the contribution paid on such products, in whole or in part, against eco-contributions which may fall due in future,

if the producer provides or participates in a scheme, approved as provided in the regulations, for the recovery of waste from those products:

Provided that producers of bags of plastics falling under the First Schedule and producers of services falling under the Second Schedule shall not qualify for the purpose of this sub-article.

(2) The Minister, shall, by not later than the second week of each month publish in the Gazette a list of the exemptions which may have been allowed in terms of sub-article (1).

Power to make regulations. *Amended by: XIV.2020.2; XXXV.2023.71.*

13. The Minister, with the concurrence of the Minister of finance, may make regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for any of the following:

(*a*) the time or times within which, the place where, and the manner in which, the contribution due under this Act is to be paid;

(*b*) the circumstances under which products not fit for consumption or which are unmarketable are destroyed with or without payment of the eco-contribution, or with or without a refund of the contribution paid;

(*c*) amend or revoke, in whole or in part, any Schedule issued under this Act;

(*d*) to provide for any powers which may be required in order to enforce the provisions of this Act and the regulations thereunder;

(*e*) the giving of a guarantee or other form of security by producers in order to ensure the payment of the eco-contribution due in terms of this Act, and the manner

in which such guarantee or other security may be enforced;

(*f*) for the procedure for producers to be exempted from the payment of the eco-contribution as provided in article 12;

(*g*) providing for schemes which encourage persons other than producers to undertake the recovery of waste from products in agreement with producers; and

(*h*) to remit administrative penalties and for prescribing conditions under which part of the penalty or all the administrative penalty incurred under this Act may be remitted;

(*ha*) the extension of the applicability of all or part of the provisions of this Act or subsidiary legislation thereunder to any exclusive economic zone area or environment protection area as defined in the Exclusive Economic Zone Act and the regulation of matters contemplated by this Act in respect of such areas; and

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(*i*) anything that may be prescribed in accordance with the provisions of this Act.

Part VI - Enforcement and Sanctions

Power of competent authority to issue assessments. *Added by: IV. 2007.45.*

13A. (1) Where any person liable to the payment of eco-contribution fails to furnish a return when due or furnishes a return with an understatement of the eco-contribution due for that period, or furnishes an incomplete or incorrect return which he fails to correct within the prescribed time period, the competent authority may issue an assessment on that person indicating the amount of eco-contribution due and shall serve such assessment at any time after the expiration of the time allowed in terms of this Act for the furnishing of the return and by not later than six years from the end of the period to which the return relates.

(2) An assessment issued in terms of sub-article (1) shall not relieve the person who has not furnished a return or the corrected return, as the case may be, from his obligation to furnish the return and from his liability to any or to further administrative penalties due in terms of this Act.

(3) The power of the competent authority to issue an assessment includes the power to issue an additional or revised assessment within the same time limits and to cancel an assessment so issued.

Assessments. *Added by: IV. 2007.45.*

13B. (1) An assessment issued in terms of article 13A shall be made in such form and contain such particulars as the competent authority may deem appropriate.

(2) An assessment may be issued by reference to such information, estimates or criteria as the competent authority may, in its judgement, deem appropriate.

(3) Where an assessment is issued any amount of eco-contribution indicated in such assessment shall, except if and to the

extent that the assessment is cancelled or revised, be deemed for the purposes of this Act to be and to always have been the eco-contribution properly due and chargeable with respect to the period to which the return relates.

Notice to constitute as executive title. *Added by: I. 2010.70. Substituted by: XIV.2020.3.*

13C. (1) Any notice issued by the competent authority showing any amount of eco-contribution and administrative penalty due by a person shall, unless the contrary is proved, be sufficient evidence that that amount is due to the competent authority by that person and shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. Cap. 12.

(2) The competent authority may request the payment of any eco-contribution and administrative penalty payable by any person in terms of this Act by means of a demand note, and if the payment requested is not made within thirty days from the date when the said demand note is served on that person, the competent authority may proceed to enforce payment in virtue of the executive title referred to in sub-article (1) after two days from the service on that person of an intimation for payment made by means of a judicial act. Upon the lapse of the period of two days mentioned in this sub-article the competent authority shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.

(3) The provisions of article 467 of the Code of Organization and Civil Procedure shall apply with respect to any warrant issued on the strength of an executive title mentioned in this article and to the paying out of the proceeds of the sale by auction of the property seized, and no opposition or reservation in the schedule of deposit shall stay the paying of any sum deposited in court following any such warrant as aforesaid. Cap. 12.

Validity of statements, etc. *Added by: I. 2010.70.*

13D. (1) Any statement, assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall not be deemed to be void or voidable for want of form or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act.

(2) In the case of a body of persons it shall be sufficient if only the name of the body of persons appears on any notice, warrant or proceeding, including any proceeding in the Court of Appeal, issued or made under or for the purposes of this Act.

Administrative infringements. *Amended by: IV. 2007.46; L.N. 427 of 2007; L.N. 105 of 2008.*

14. (1) The authority may impose an administrative penalty upon any person who -

(*a*) infringes any provision of this Act or of regulations made thereunder;

(*b*) fails to comply with any request or decision given by the Authority under this Act or the regulations made

thereunder:

Provided that in all cases where the authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence:

Provided further that in all cases where the competent authority imposes an administrative penalty in terms of the Act, it shall be payable in addition to the eco-contribution properly chargeable and due under the Act.

(2) An administrative penalty imposed under sub-article (1) shall not, unless provided otherwise by or under this Act exceed eleven thousand and six hundred and forty-five euro (11,645) for each infringement or failure to comply and two hundred and thirty euro (230) for each day of infringement or non-compliance, as the case may be.

(3) In determining the amount of an administrative penalty, regard shall be had, in particular, to the nature and extent of the infringement and its duration.

(4) The Minister may, by regulations made under this Act establish administrative penalties that may be imposed by the authority for breaches of the said regulations:

Provided that the amount of the penalties that may be so prescribed shall not exceed the maximum amounts prescribed under sub-article (2).

(5) Notwithstanding the provisions of any law, no precautionary warrant or order shall be issued by any court restraining the authority from the exercise of any of the powers conferred upon it by or under this article.

Returns. *Added by: XIV.2020.4.*

14A. (1) When a person furnishes a return within the time laid down in the relevant provisions of this Act and such a return is accompanied by a payment of all or part of the eco-contribution declared to be payable therein, such payment shall be deemed to be made on account of the eco-contribution payable on that return.

(2) When a person furnishes a return within the time laid down in the relevant provisions of this Act and such a return is not accompanied by a payment of all the eco-contribution declared to be payable therein, such person may request, by the furnishing of such form as may be acceptable to the competent authority, that any payment accompanying such form shall be deemed to be made on account of the eco-contribution declared to be payable in such a return, so however that:

(*a*) such request shall not be valid if it is made later than six months from the time within which the return is required to be furnished in terms of the relevant provisions of this Act;

(*b*) the provisions of sub-article (3) shall apply to such

payment.

(3) Subject to the provisions of sub-articles (1), and (2), when an administrative penalty is due by a person, other than a penalty the payment of which may be kept in abeyance in terms of article 20, any payment made by that person to the competent authority shall, notwithstanding any declaration made by that person, be appropriated to such administrative penalty before it is appropriated to any eco-contribution.

(4) Subject to the other provisions of this article, when eco-contribution due by a person, other than eco-contribution the payment of which may be kept in abeyance in terms of the provisions of this Act, became due on more than one occasion, any payment made by that person to the competent authority shall, notwithstanding any declaration made by that person, be appropriated to that amount of eco-contribution that became due at the earliest of those occasions before it is appropriated to the eco-contribution that became due on subsequent occasions.

(5) When a payment is made by a person to the competent authority in circumstances which indicate that that person intended that payment to relate to a return, that payment shall be deemed to relate to that tax return for the purposes of this article without prejudice to the power of the competent authority under any other provision of this Act to appropriate that payment in any other manner.

Representatives. *Substituted by: XIV.2020.5.*

15. (1) Any secretary, manager, director, liquidator or other principal officer of an entity or of a body of persons, any heir and any testamentary executor and any curator of the vacant inheritance of a deceased person, and any person who is a tutor, curator, administrator or trustee of any other person or of any trust, fund or other entity shall, for the purposes of this Act, be a representative of that body of persons, deceased person, other person, trust, fund or other entity, as the case may be.

(2) (*a*) Subject to the provisions of sub-article (4) a representative of a person shall be liable in the same manner and to the same extent as the person of whom he is a representative for all the obligations imposed by or under this Act.

(*b*) Anything done or omitted to be done by a representative acting as such shall for the purposes of this Act be deemed to have been done or omitted to be done by the person of whom he is a representative.

(*c*) Any notice served on a representative in his capacity as such under any of the provisions of this Act shall be deemed to have been served on or to have been made to the person of whom he is a representative.

(*d*) The existence of or the designation of a person as

a representative of another person shall not relieve the latter person from any obligation or liability under this Act.

(3) A representative who has under his management or control any funds or property belonging to or due to the person of whom he is a representative shall not dispose of such funds or property unless he has made adequate provision for any eco-contribution due under this Act.

(4) A representative shall be jointly and severally liable with the person of whom he is a representative for the eco-contribuation due by that person:

Provided that where the representative has acted in good faith and is not knowingly in breach of sub-article (3) or of any other obligation under this Act, his liability under this sub-article shall be limited to the funds or to the value of any property under his management or control which belongs or is due to the person of whom he is a representative.

Criminal proceedings. *Amended by: L.N. 427 of 2007; L.N. 105 of 2008; I. 2010.71; XIV.2020.6.*

16. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of regulations made thereunder shall be guilty of an offence, and shall be liable, on conviction, to a fine (*multa*) not exceeding twenty-three thousand and two hundred and ninety euro (23,290) or an amount equal to three times the amount of the eco-contribution payable on the products in respect of which the offence is committed, whichever shall be higher.

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(2) Article 21 of the Criminal Code and the provisions of the Probation Act shall not apply to any conviction under this Act.

(3) No criminal proceedings under this Act shall be taken except at the instance or with the sanction of the competent authority, and proceedings that have been so taken may, at any time before final judgment, be withdrawn at the request of the competent authority.

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(4) Notwithstanding the provisions of the Criminal Code, the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings under this Act.

(5) *Deleted by Act XIV.2020.6.*

(6) In any criminal proceedings under this Act the competent authority or any other officer designated by the competent authority may, notwithstanding the provisions of any other law, produce the evidence, plead and otherwise conduct the prosecution instead of or jointly with the police.

(7) Should the evidence of the competent authority or of the officer designated by the competent authority as aforesaid be required as part of the case for the prosecution, he shall be heard before assuming the duties of a prosecuting officer unless the necessity of his giving evidence arises at a later stage:

Provided that the competent authority or other officer as aforesaid may state the facts constituting the offence before giving

evidence.

Prescription for offences and administrative infringements.

17. The prosecution of a criminal offence or the initiation of proceedings to impose an administrative penalty under this Act shall be prescribed by the lapse of five years from the date on which the offence or administrative infringement is committed.

Imposition of administrative penalty.

18. *Deleted by Act XIV.2020.6.*

Reasonable excuse.

19. Notwithstanding the provisions of articles 14 and 15, no administrative penalty shall be imposed by the authority for any default if that person shows to the satisfaction of the authority that there is a reasonable excuse for the default:

Provided that -

(*a*) an insufficiency of funds to pay an eco-contribution due; or

(*b*) when reliance is placed on any other person to perform any task, the fact of that reliance or any dilatoriness or inaccuracies on the part of the person relied upon,

shall not constitute a reasonable excuse for the purposes of this article.

Appeals. *Substituted by: IV. 2007.47.*

20. (1) The procedure to be followed in relation to appeals against an assessment issued and administrative penalties imposed by the competent authority shall be regulated by the provisions of this article.

(2) A person who receives and is notified of an assessment in terms of article 13A or is notified with a judicial act referred to in article 18(2) may, within thirty days from the date of such notification, lodge an appeal before the Appeals Board objecting to the amount of eco-contribution and administrative penalties so fixed:

Provided that an appeal shall not be valid unless:

(*a*) the return for the period in respect of which the assessment is issued or the penalty has been imposed, or a copy thereof, has been submitted to the competent authority;

(*b*) the amount of the ecocontribution which is not in dispute, if any, due by the appellant, has been paid; and

(*c*) a payment of such administrative fees as may be prescribed has been made.

(3) The Appeals Board shall not annul an administrative penalty as aforesaid unless such penalty cannot at law be imposed in the circumstances of the case, or cannot at law be fixed in the amount established by the competent authority, due account being given to the principle of proportionality.

(4) The Appeals Board shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than sixty days from the date of the service of the appeal on

the competent authority.

(5) The appeal, and the notification of the date fixed for hearing, shall be notified to the competent authority without delay, and the competent authority shall file its reply thereto within thirty days from the date of the notification of the appeal.

(6) The decision of the Appeals Board shall, upon becoming *res judicata*, be deemed to be a decision of the Appeals Board equivalent to a decision of the First Hall of the Civil Court ordering payment by the appellant of the eco-contribution and administrative penalty as confirmed or reduced.

(7) Any of the parties to the proceedings before the Appeals Board shall have a right of appeal to the Court of Appeal in accordance with article 23.

Decisions of Appeals Board.

21. (1) In determining an appeal, the Appeals Board shall take into account the merits of the appeal, and may in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

(2) Subject to the provisions of article 23 the decisions of the Appeals Board shall be final and binding.

Procedure of the Appeals Board.

22. (1) In the exercise of its functions, the Appeals Board may summon any person to appear before it and give evidence and produce documents, and the Chairman of the Appeals Board shall have the power to administer the oath.

(2) The Appeals Board shall endeavour to determine an appeal within one hundred and eighty days from the lapse of the period by when the Authority may file its reply to the aforesaid appeal and in any case shall deliver its final decision not later than thirty days from when the parties declare that they have concluded with their evidence and made their final submissions.

(3) The Appeals Board in order to assist it in the exercise of its functions may appoint independent and impartial experts to advise it on any issue that may be relevant to any appeal lodged before it. In such cases the Appeals Board shall be entitled to make both provisional and final orders in respect of the payment of the costs and fees of such experts by any of the parties to the appeal.

(4) The Appeals Board in the exercise of its functions shall have the same powers as are competent to the First Hall, Civil Court according to law.

(5) The Minister may subject to the provisions of this Act, by regulations prescribe the procedure to be followed before the Appeals Board, and subject thereto and to any other provisions of this Act, the Appeals Board may regulate its own procedure.

(6) The Minister may, with the concurrence of the Minister responsible for finance by regulation, establish any such fees as are considered to be necessary in relation to any proceedings before the Appeals Board.

(7) The Minister may by regulation amend any of the periods

stated in sub-article (2).

Appeal to the Court of Appeal. *Amended by: IV. 2011.79.*

23. (1) Any party to an appeal to the Appeals Board, including the authority, who feels aggrieved by a decision of the Appeals Board, may on a question of law appeal to the Court of Appeal (Inferior Jurisdiction) as constituted in accordance with article 41(9) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within thirty days from the date when the decision of the Appeals Board is notified to that party.

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(2) The Minister responsible for Justice may by regulation under this sub-article establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals under this article:

Provided that until such fees are so established, the fees in Schedule A to the Code of Organization and Civil Procedure shall apply.

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(3) The Board established under article 29 of the Code of Organization and Civil Procedure may make Rules of Court governing appeals to the Court of Appeal under this article.

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Service of notices. *Amended by: XIV.2020.8.*

24. Where a notice however so described is required to be given by the authority to any person under this Act or any regulations made thereunder, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

(*a*) by delivering it to the person,

(*b*) by leaving it at the address at which the person ordinarily resides or carries on business,

(*c*) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business, or

(*d*) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address.

Provided that, where such notice is not served on a person because that person could not be found or for other reasons attributable to that person and the competent authority publishes a notice in the Gazette and in one or more daily newspapers stating that a notice has been made and inviting that person to call for it as and where directed by the competent authority, then such notice shall also be deemed to have been duly notified on the date of such publication on a daily newspaper.

Right of access and inspection. *Amended by: L.N. 427 of 2007; L.N. 105 of 2008.*

25. (1) The authority, or any person appointed by it for such purpose, shall, upon the production of his written authority and at all reasonable times, have the right to enter upon any land, building or place for the purposes of inspecting any stocks, books, records or documents, in order to ensure compliance with the provisions of

the Act and the regulations thereunder and may inspect any such stocks, books, records or documents and may, without fee or reward, make extracts or copies of any such books, records or documents.

(2) If access is required in virtue of sub-article (1) to any premises occupied in whole or in part for the purpose of habitation, such access shall require the prior warrant issued by a Magistrate sitting in the Court of Magistrates in its civil jurisdiction.

(3) In the course of the exercise of the powers under this article, the authority may request the assistance of the Police.

(4) Any person who wilfully or maliciously refrains from giving his assistance, or wilfully obstructs, impedes or delays any person in the exercise of his duties or powers under this article shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand and one hundred and sixty euro (1,160).

Part VII - Appeals Board

Board of Appeals on Eco-Contribution.

26. (1) There shall be an Appeals Board, to be known as the Eco-Contribution Appeals Board which shall have jurisdiction to hear and determine appeals from decisions of the authority as provided in this Act and in regulations made thereunder.

(2) The Eco-Contribution Appeals Board shall be appointed by the Minister, and shall be composed of:

(*a*) a chairman, and

(*b*) two other members who in the opinion of the Minister have the relevant commercial, technical, or financial experience.

(3) The Chairman and members of the Appeals Board shall be appointed for a term of three years and shall be eligible for re-appointment.

(4) The Appeals Board shall be independent in the performance of its functions.

(5) The Chairman and members of the Appeals Board may be challenged or abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with the Code of Organization and Civil Procedure. In such a case the Minister shall appoint a person, having the qualifications of the chairman or member challenged or abstaining, to sit in substitution.

Cap. 12.

(6) A member of the House of Representatives or of the European Parliament or of a local council shall be disqualified from being appointed or continuing to be the Chairman or a member of the Appeals Board for as long as he holds that office.

(7) The Chairman or member of the Appeals Board may only be removed from office by the Minister on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board. In doing so the Minister shall lay before the House of Representatives a statement giving the reasons for the removal of the said Chairman or member.

(8) The Minister shall designate a person to serve as secretary to the Appeals Board and who shall serve in such a capacity in accordance with the ethical standards appropriate to his position.

Part VIII - Miscellaneous

Confidentiality.

27. (1) Except where otherwise provided by law, a person shall not knowingly disclose information obtained by him while performing the duties of a member, officer or employee of the authority or of an adviser or consultant to the authority, unless he is duly authorised by the authority to do so.

(2) A person who contravenes this article shall be guilty of an offence against article 257 of the Criminal Code. Cap. 9.

(3) Nothing in this article shall prevent the disclosure of any information to the authority or, by or on behalf of the authority to the Minister or as may be required at law or for the purpose of prosecuting an offence under this Act or regulations made thereunder.

Amended by:
L.N. 393 of 2004;
L.N. 529 of 2004;
L.N. 533 of 2004.
Substituted by:
L.N. 28 of 2005;
L.N. 312 of 2005.
Amended by:
L.N. 341 of 2005;
IV. 2007.48;
L.N. 172 of 2007;
L.N. 229 of 2007;
L.N. 300 of 2007;
L.N. 427 of 2007;
L.N. 105 of 2008;
L.N. 7 of 2009;
II. 2009.66;
L.N. 109 of 2009;
L.N. 230 of 2009;
XIII. 2015.163;
L.N. 260 of 2015;
XVI. 2017.84.

FIRST SCHEDULE
Eco-Contribution Tariff

Deleted by Act XVI of 2017.84.

Added by:
II. 2009.68.
Amended by:
L.N. 383 of 2009;
L.N. 421 of 2010;
L.N. 174 of 2016;
III.2026.78.

SECOND SCHEDULE

(Article 3(1))

CODE NUMBER	DESCRIPTION	TIME WHEN CONTRIBUTION FALLS DUE	ECO-CONTRI-BUTION RATE
*S 201001	Accommodation, whether provided for a consideration or otherwise, provided in any premises which for the purpose of providing such service requires the license in virtue of the Malta Travel and Tourism Services Act, or any other Act which may be substituted therefor.	The time when the invoice is raised by the producer or at the time of the check-in, whichever is the earlier.	One euro and fifty cents (€1.50) per night per person who is eighteen (18) years of age or older at the start of the visit but in any case subject to a maximum of twenty-two euro and fifty cents (€22.50) per person per visit. The term "visit" shall mean an uninterrupted stay in one (1) or more premises in Malta requiring to be licensed as established in the second column hereof: Provided that where a visit includes stays of up to fifteen (15) days in premises, whether in Malta or otherwise, which do not require to be licensed in accordance with the Malta Travel and Tourism Services Act (hereinafter referred to as "interruption"), this notwithstanding, the stay shall still be considered as constituting one (1) visit for the purpose of calculating the eco-contribution due sohowever that no eco-contribution shall be charged in respect of the days of the interruption.

*in force as from the 1st June, 2016, and applicable for visits commencing on or after that date.

Amended by:
L.N. 394 of 2004;
L.N. 106 of 2006;
L.N. 427 of 2007;
L.N. 105 of 2008;
II. 2009.67;
L.N. 175 of 2016;
III.2026.79.

THIRD SCHEDULE

(Article 9)

Registration and Reporting Procedure

Registration

1. (1) Every producer must apply to the competent authority, or another authority as may be delegated by the competent authority on the prescribed registration form or on such other form approved by the competent authority, within thirty days of entry into force of the Act or within thirty days from the date on which a person becomes a producer in terms of the Act, whichever is the later or as may be prescribed by way of guidelines issued by the competent authority.

(2) Upon the coming into force of the Act, a producer may be requested to inform the competent authority of his opening stock of products as at such date as the authority may determine:

Provided that the recognised producers of products falling under HS Code Numbers 2201 to 2206 inclusive, and 2208 in the First Schedule, duly recognised by the competent authority in virtue of regulations made under the Act, must inform the authority of their opening stock as may be prescribed, as on the 4th September, 2004, and the eco-contribution thereon must be paid at such time as is provided in the regulations made under the Act:

Provided further that for the purposes of the above proviso "opening stock" shall mean the quantity of products owned by the recognised producers and physically located in the factory, warehouse, bottling plant, or other stores utilised by the recognised producers in the exercise of their business.

(3) On registration, a registration number shall be assigned to the producer.

(4) Where any person -

(*a*) applies to be registered pursuant to sub-article (1), and the authority is satisfied that that person is liable to be registered under the Act, that person shall be a registered person for the purposes of the Act with effect from such date as the Authority may determine;

(*b*) has not made an application for registration pursuant to sub-article (1), and the authority is satisfied that the person is liable to be so registered, the Authority shall proceed to so register him and that person shall be deemed a registered person for the purposes of the Act with effect from the date on which that person first became liable to be registered. In such an event, the producer's opening stock of products as at the date when he first became liable to be registered shall be determined by the authority.

(5) An application for registration purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by that person's authority, as the case may be, unless the contrary is proved.

(6) Any person who ceases to be liable to be registered may request the authority in writing to cancel that registration, and if the authority is at any time satisfied, whether upon such request or otherwise, that that person is no longer liable to pay an eco-contribution, the authority shall cancel that person's registration with effect

from the last day of the quarter during which such person ceased to be liable to be registered, or from such other date as may be determined by the authority, and shall notify that person of the date on which the cancellation of registration takes effect.

(7) The obligations and liabilities under the Act of any person in respect of anything done, or omitted to be done, by that person while that person was a registered person shall not be affected by the fact that that person ceases to be a registered person.

Returns

2. (1) A producer shall submit, to the competent authority returns in respect of products listed in the First Schedule to the Act, on a quarterly basis, containing data -

(i) on the volume of products placed on the market during the relative quarter; and

(ii) on the eco-contribution payable thereon; and

(iii) on the total number of nights per person of accommodation, during the relative period that exceeded fifteen (15) nights; and

Provided that producers shall be bound to submit the first return after the lapse of three months from entry into force of the Act.

(2) Subject to any additional or other requirements as may be imposed by the competent authority in terms of any guidelines that may be issued in this respect, a producer shall submit to the competent authority returns in respect of accommodation referred to in the Second Schedule, on a quarterly basis containing data -

(i) on the total number of nights of accommodation per person provided during the particular period covered by any return; and

(ii) on the total number of nights per person, under the age of eighteen years, of accommodation provided during the relative period; and

(iii) on the total number of nights per person of accommodation during the relative period that exceeded 10 nights; and

(iv) on the total number of nights per person of accommodation provided by another producer during the relative period and which impacts or is relevant in establishing the eco-contribution due; and

(v) on the total number of nights on which eco-contribution is due and the amount of eco-contribution payable thereon; and

(vi) such other information as may be required by the competent authority in such format as shall be established in any guidelines issued by the authority or as otherwise specifically requested by it.

(3) Without prejudice to its other powers under the Act if for any purpose, the authority requires any information or additional information or the submission of a return from any person who has not made a return or a complete return, it may, in writing, demand from such person such information, additional information or return as may be indicated in the notice.

Records and statements

3. Without prejudice to the foregoing, a producer, shall be required:

(*a*) to maintain, in respect of all product movements and services, accurate accounts and records including:

(i) the date of the product movements;

(ii) a description of the products;

(iii) the quantity of the products involved in the movements;

(iv) the eco-contribution to be paid on such movements;

(v) details of services provided per period covered in each return;

(vi) documentary evidence to the satisfaction of the competent authority confirming that accommodation, if any, was provided to persons who had not reached the age of eighteen years;

(vii) details of all amounts reported or reportable in an eco-contribution return;

(*b*) to maintain, for all products and services for which he is or is deemed to be a producer, accurate accounts and records of stock;

(*c*) to comply with all requests to monitor, check and produce for inspection any accounts, records and any stocks of products and property and amenities used in the provision of services;

(*d*) to ensure compliance with all the requirements of the Act and any regulations made thereunder and with such other requests made by the competent authority; and

(*e*) in respect of services, to issue a receipt in the form as supplied or approved by the competent authority for the eco-contribution paid to him for the particular service, and such fiscal receipt shall be issued and delivered to the person who effects the payment or to the person to whom the service is provided by not later than the time when payment is effected, to the extent covered by that payment:

Provided that for the purposes of this item, the term "product" shall include all products listed in the First Schedule to the Act, irrespective of whether they are placed on the market in Malta for the purposes of the Act and the term "service" shall mean those services listed in the Second Schedule to the Act:

Provided further that the records mentioned in this paragraph as referring to details reported or reportable in a return shall be retained for at least the period referred to in sub-article (1) of article 13A of the Act.

Provision of information

4. (1) Without prejudice to the enforcement powers that it has at law, the authority may require any person to provide it with any additional information, including financial information, that the authority considers necessary for the purpose of ensuring compliance with the provisions of, or decisions made in accordance with this Act and regulations thereunder.

(2) Any information required by the authority under sub-article (1) shall be proportionate to the performance of its functions and obligations under this Act and in requiring any information as aforesaid, the authority shall state why it requires the information requested.

(3) A person who is notified with a requirement under sub-article (1) shall comply promptly with the requirement within the timescales and according to any level of detail as may be required by the authority:

Provided that any such person shall, in complying with the provisions of this sub-article, state clearly to the authority if any information provided by him is to be considered as confidential. In doing so he shall give his reasons to the authority. It shall be the authority which shall decide whether the information indicated to it as being confidential should be so treated.

(4) Any person who fails or refuses to comply with a requirement under sub-article (1) shall commit an infringement of this Act and shall be liable to the imposition of an administrative penalty by the authority not exceeding the sum of one thousand and one hundred and sixty euro (1,160) or one hundred and fifteen euro (116) for each day during which failure to comply persists.

(5) For the purpose of ensuring the proper application of the provisions of the Act, the powers of access granted to the Commissioner in terms of article 20 of the Income Tax Management Act shall be granted *mutatis mutandis* to the competent authority in respect of any premises used by any producer for the purpose of placing on the market products or providing services on which an eco-contribution is chargeable in terms of the Act.

5. (1) Any guidelines, explanations or instructions relating to the eco-contribution to which this Act refers contained in a publication or circular published by or under the authority of the competent authority and distributed or made available to registered persons, shall be read and construed as one with the provisions of this Schedule and shall have the same effect as this Schedule to the extent that they are not in conflict with any rules prescribed, or guidelines, explanations or instructions published at a later date and to the extent that -

(*a*) they give a definition of any term or an interpretation of any provision contained in this Act;

(*b*) they determine the manner in which any provision of this Act is to be applied;

(*c*) they determine any matter which in accordance with this Act may be determined by or is subject to the approval or the discretion of the competent authority.

(2) The provisions of sub-paragraph (1) are without prejudice to any power of the competent authority to determine any matter as provided in any other provision of the Act.

FOURTH SCHEDULE

(Article 9A)

Other obligations regarding plastic bags

Added by:
II. 2009.69.
Amended by:
L.N. 141 of 2009.

(1) Any producer referred to in article 9A(1) shall be obliged to print on each side of the bag, a label, consisting of, but not limited to, the following information:

(*a*) the name of the person registered in terms of the Third Schedule,

(*b*) the business address, and

(*c*) the eco-contribution registration number as prescribed in item 1(3) of the Third Schedule.

The information above mentioned is to be provided in a character font of not less than one centimetre and in a manner clearly visible. The producer shall also print the batch number of the bag on each side of the bag.

(2) The producer, referred to in article 9A(1), shall provide, for every supply, a certificate to prove that the bag or bags with the corresponding batch number were supplied by him and that the eco-contribution was accounted for in terms of this Act.

(3) Any person who in the course of an economic activity acquires the plastic bags through an intermediary, is required to obtain a copy of the certificate issued by the producer, verifying that eco-contribution has been accounted for on the consignment with the corresponding batch number.

(4) Any person who supplies plastic bags and who is required to issue a fiscal receipt under item 2 of the Thirteenth Schedule to the Value Added Tax Act shall indicate on the fiscal receipt the price inclusive of the eco-contribution for each supplied plastic bag, one by one.