L.N. 395 of 2004

ECO-CONTRIBUTION ACT, 2004
(ACT NO. XII OF 2004)

Eco-Contribution Regulations, 2004

IN exercise of the powers conferred by article 13 of the Eco-Contribution Act, hereinafter referred to as "the Act", the Minister for Rural Affairs and the Environment with the concurrence of the Prime Minister and Minister of finance, has made the following regulations:

Citation, commencment and scope.

1. (1) The title of these regulations is the Eco-Contribution Regulations, 2004.

(2) These regulations shall come into force on the 1st September, 2004.

(3) These regulations provide additional measures, procedures and guidance for the better administration of the Act and to provide further for the procedure to be adopted by the Competent Authority in order to enforce the provisions of the Act and other related matters.

Administrative penalty for understatement in the return.

2. (1) Saving the provisions of sub-article (2) of this article, when a return, furnished by a registered person in terms of the Act for a period, contains an understatement of the eco-contribution due for that period, that person becomes liable to an administrative penalty in an amount equivalent to ten per cent of the excess of the correct amount of eco-contribution over the contribution declared in the return.

(2) Where a person corrects the understatement of contribution referred to in paragraph (1) in accordance with the provisions of regulation 6 of these regulations, that person becomes liable to an administrative penalty in an amount equivalent to five per cent of the excess of the correct amount of eco-contribution over the contribution declared in the return.

Administrative penalty for incomplete or incorrect return.

3. Where a return furnished for a period does not contain a full and correct statement of the data required to be declared by that person, in terms of item 2 of the Second Schedule to the Act and that person does not correct such return in accordance with the provisions of regulation 6 of these regulations, such person shall, unless the said person has in virtue of that default become liable to a higher administrative

penalty under the provisions of these regulations, be liable to an administrative penalty of one hundred liri.

Administrative penalty for default in furnishing a return.

4. Any registered person under the Act who, being required to furnish a return for a period, does not furnish that return by not later than the fifteenth day of the second month following the month during which the period ends, becomes liable to an administrative penalty in an amount of twenty-five liri for every month or part thereof that elapses from the date by which the return should have been furnished and the date when it is furnished to the Authority.

Administrative penalty for default in applying for registration.

5. Any person who, being required to apply for registration under the Second Schedule to the Act, does not make an application within the prescribed time limit laid down in the said Schedule, shall become liable to an administrative penalty in an amount of twenty-five liri for every month or part thereof that elapses from the date on which the application should have been made and the date on which the application for registration is furnished to the Authority.

Adjustments to returns.

6. A registered person under the Act who has made any form of incorrect statement in a return furnished to the Authority for any period may correct the said return by the delivery of a corrected return within not later than ten days from when the return containing the incorrect statement was furnished to the Authority, clearly indicating that the adjusted return replaces the return furnished earlier:

Provided that the Authority may, where circumstances so warrant and in its absolute discretion, extend the period indicated above and accept an adjusted return furnished by a person beyond the stipulated time period.

Liability for administrative penalties.

7. Any amount of administrative penalty due by a person shall not relieve that person from a higher or a further penalty to which he may have become or may become liable in terms of any provisions of the Act or regulations made thereunder.

Reporting period.

8. (1) Upon registration in terms of the Second Schedule to the Act, whether such person is deemed to have been registered or otherwise, the Authority shall allocate an eco-contribution reporting period to every person so registered.

(2) Except as may be otherwise provided, an eco-contribution reporting period shall be a period of three calendar months commencing on the first day immediately following the end of the preceding eco-contribution reporting period.

(3) The first eco-contribution reporting period shall commence on the date that person is registered or deemed to be registered in terms of the Act and shall end on such date as may be determined by the Authority.

(4) The Authority may, by means of a notice served on a registered person, vary any eco-contribution reporting period in such manner as shall be specified in the notice.

Time of payment.

9. (1) Saving as otherwise provided hereunder, the eco-contribution due on products shall be reported and paid to the Competent Authority with the return due for the period immediately following the time when the product or products, as the case may be, are first sold or transferred, or otherwise disposed of or destroyed, on the happening of any event whereby the products no longer remain in the possession or under the control of the producer.

(2) Recognised producers of products falling under HS Code Numbers 2201 to 2206, inclusive, and 2208 in the First Schedule shall report and pay to the Competent Authority the eco-contribution due on the relative refillable containers with the return due for the period immediately following the time when the product is brought into Malta:

Provided that on the coming into force of the Act, the eco-contribution on the opening stock determined in terms of the provisions of the Second Schedule to the Act due by such recognised producers shall be paid within twelve calendar months in four equal consecutive instalments commencing with the first return submitted after such date or in one instalment paid with the first return covering the full amount of eco-contribution due thereon.

(3) For the purposes of paragraph (2) of this regulation and the Second Schedule to the Act "recognised producers" shall mean bottlers of beverages that operate on a bottle-refillable basis who have applied to the Competent Authority for such recognition on a product by product basis. Recognition shall only be granted by the Authority on receipt of an application made by the producer and after satisfying the criteria stipulated by the Authority.

Administrative fee.

10. There shall be an administrative fee of twenty liri payable to the Authority on lodging an appeal before the Appeals Board in terms of article 20 of the Act.

Transitory provisions.

11. Where, in the execution of a contract made before the date of the coming into force of the Act, any products are supplied on or after such date and such products are subject to eco-contribution, that contract shall, for all the purposes of any law be interpreted as if the parties to the contract had agreed to an increase in the consideration stipulated therein to reflect the eco-contribution due.