L.N. 182 of 2004

PRODUCT SAFETY ACT, 2001
(ACT NO. V OF 2001)

The Geographical Indications and Designations Regulations, 2004

IN exercise of the powers conferred by article 39 of the Product Safety Act, 2001, the Minister for Competitiveness and Communications has, on the advice of the Malta Standards Authority, made the following regulations:

Citation and coming into force.

1. The title of these regulations is the Geographical Indications and Designations Regulations, 2004.

2. These regulations shall come into force on the 1st May 2004.

Definitions.

3. In these regulations, unless the context otherwise requires, the following definitions shall apply:

"the Authority" shall mean the Malta Standards Authority;

"designation of origin" shall have the meaning assigned to it in Article 2(1) of EEC Regulation 2081/92;

"EEC Regulation 2081/92" shall mean Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1];

"geographical indication" shall have the meaning assigned to it in Article 2(1) of EEC Regulation 2081/92;

"label" shall have the meaning assigned to it by the Labelling, Presentation and Advertising of Foodstuffs Regulations, 2002;

"Malta" shall have the meaning assigned to it by the Constitution, except where otherwise stated.

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[1] OJ L 208, 24.7.1992, p.1

Designation of the Competent Authority.

4.1 The Malta Standards Authority is hereby designated as the competent authority for the purposes of EEC Regulation 2081/92.

4.2 The Head of the Directorate responsible for foodstuffs within the Malta Standards Authority shall appoint a Standing Committee, composed of representatives of public and private organizations with an interest in geographical indications and designations, to assist and advise the Authority on all matters related to the implementation of EEC Regulation 2081/92.

4.3 The Standing Committee referred to in regulation 4.2 shall be appointed for a period of three years.

4.4 The names of the members of the Standing Committee, as well as of the organizations represented, shall be published by the Authority in the Gazette.

4.5 The Standing Committee referred to in regulation 4.2 shall regulate its own procedures.

Designations of Regions and Specific Places.

5.1 Without prejudice to regulations 5.2 to 5.4, the word 'Malta' shall appear in the designation of origin or geographical indication in respect of agricultural products or foodstuffs produced in the whole of Malta.

5.2 The word ëMaltaí may also appear in the designation of origin or geographical indication in respect of agricultural products or foodstuffs produced exclusively in the island known as Malta, or in respect of which the island known as Malta enjoys a proven, traditional and exceptional reputation and renown, provided that any such particular usage of the word 'Malta' shall be clearly stated in the application for registration pursuant to Article 5 of EEC Regulation 2081/92 and in the product specification, submitted in accordance with Article 4 of EEC Regulation 2081/92.

5.3 The words 'Gozo' or 'Għawdex' may appear in the designation of origin or geographical indication in respect of agricultural products or foodstuffs produced exclusively in the island known as Gozo, including Comino, or in respect of which the island known as Gozo, including Comino, enjoys a proven, traditional and exceptional reputation and renown.

5.4 The name of any local council, established in accordance with the provisions of the Local Councils Act, may appear in the designation of origin or geographical indication in respect of agricultural products or foodstuffs produced exclusively within the

confines of that local council, or in respect of which that locality enjoys a proven, traditional and exceptional reputation and renown.

Languages to be used in designations of origin and geographical indications.

6. Designations of origin and geographical indications in respect of agricultural products or foodstuffs produced in Malta or a part thereof shall be given either only in Maltese or in both of the official languages of Malta.

Publication of Registration Applications.

7.1 Following receipt of an application for registration in accordance with EEC Regulation 2081/92, the Authority shall check that the application is justified and shall forward the application to the European Commission in accordance with Article 5(5) of EEC Regulation 2081/92.

7.2 Prior to forwarding the application to the European Commission, the Authority shall publish in the Gazette, a summary of each application forwarded to the European Commission in accordance with Article 5(5) of EEC Regulation 2081/92. The summary shall include:

(a) the name and address of the applicant;

(b) the name of the product for which protection is sought;

(c) the main points of the application.

7.3 A period of two months from the date of publication in the Gazette shall be allowed for comments or objections prior to transmission of the application to the European Commission.

7.4 Any natural or legal person residing in Malta who can demonstrate a legitimate economic interest may submit a formal objection, in writing, to the Authority in respect of any application during the two month period referred to in regulation 7.3.

7.5 In the event of a formal objection pursuant to regulation 7.4, the Authority may, after having consulted the Standing Committee:

(a) accept the original application and reject the objection,

(b) uphold the objection and reject the application in its totality,

(c) request specific amendments to the specification or to the supporting documentation originally provided.

7.6 In the event of a revised application being submitted pursuant to regulation 7.5 (c), the two month period referred to in regulation 7.3 shall be extended by a further one month following submission of the revised application. Receipt of the revised application shall be notified by the Authority in the Gazette.

7.7 Objections to revised applications shall only be considered if they refer to points or supporting documents not contained in the original application.

Inspection Structure.

8.1 The Authority shall, by not later than 1st November 2004, establish an inspection structure in order to ensure that agricultural products and foodstuffs bearing a protected name meet the requirements laid down in the specifications.

8.2 All products produced in Malta, falling within the scope of EEC Regulation 2081/92 and granted protection in terms of that Regulation, shall be subject to inspection by the Authority.

8.3 Officials duly authorized by the Authority shall be permitted free and unhindered access to all production sites, including private dwellings where such production may be carried out, for the purpose of inspection.

8.4 The Minister may, in accordance with the provisions of the Malta Standards Authority Act, prescribe the fees or charges that may be charged in respect of:

(a) inspection of agricultural products and foodstuffs bearing a protected name,

(b) registration of producers pursuant to regulation 8.5.

8.5 A register shall be kept by the Authority for each product produced in Malta, granted recognition in accordance with EEC Regulation 2081/92 and subject to inspection by the Authority. Registration shall be compulsory for all producers of such products.

8.6 The register referred to in regulation 8.5 shall be open to all producers complying with the requirements laid down in the specification.

8.7 All persons listed in the register referred to in regulation 8.5 shall be subject to periodic and random inspection at intervals which shall be determined by the Authority, taking into account the nature of the product, its seasonality, the likelihood of deviation from the product specification, the potential risk to human health which may be posed by poor agricultural and hygienic practices, the reputation of the product and the number and distribution of producers.

8.8 The register shall contain the following details, for each producer:

(a) the name of the individual producer,

(b) a unique identification number, to be determined by the Authority,

(c) the address or location of the production or cultivation site or sites, referring to such identification systems as may be determined by the Authority,

(d) information relevant to the product, as may be determined by the Authority.

8.9 The name of the Malta Standards Authority, or a symbol which may be determined by the Authority, shall appear on the label of agricultural products or foodstuffs granted protection in terms of EEC Regulation 2081/92 and subject to inspection by the Authority, together with:

(a) the identification number of the producer, referred to in regulation 8.6 (b),

(b) the protected name of the product in Maltese and, optionally, additionally in English,

(c) one of the following designations in Maltese, immediately following the protected name of the product, according to the nature of the protection granted under EEC Regulation 2081/92:

(a) 'Denominazzjoni ta' Oriġni Protetta'

(b) 'DOP'

(c) 'Indikazzjoni Ġeografika Protetta'

(d) 'IGP'

(d) optionally, one of the following designations in English:

(a) 'Protected Designation of Origin'

(b) 'PDO'

(c) 'Protected Geographical Indication'

(d) 'PGI'

(e) optionally, the Community symbol established by Commission Regulation (EEC) No. 2037/93 [2] .

8.10 The Authority shall remove from the register any person who repeatedly refuses to cooperate with the Authority during the inspection process, or who is not producing the product in question in accordance with the specification.

Prohibition of Unauthorized Claims.

9.1 No person may use:

(a) any of the terms mentioned in regulation 8.9(c) or (d),

(b) the symbol determined by the Authority in accordance with regulation 8.9;

(c) the Community symbol established by Commission Regulation (EEC) No. 2037/93;

(d) any other term or symbol intended to give the impression that the product has been granted protection in terms of EEC Regulation 2081/92,

in the labelling, presentation or advertising of any agricultural product or foodstuff which has not been granted protection in accordance with EEC Regulation 2081/92.

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OJ L 185, 28.7.1993, p.5

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