L.N. 528 of 2004

MALTA RESOURCES AUTHORITY ACT (CAP. 423)

Use of Biofuels or Other Renewable Fuels for Transport Regulations, 2004

BY virtue of the powers conferred by article 28 of the Malta Resources Authority Act, the Minister for Resources and Infrastructure, after consultation with the Malta Resources Authority, has made the following regulations:-

Title, commencement and scope.

1. (1) The title of these regulations is the Use of Biofuels or Other Renewable Fuels for Transport Regulations, 2004.

(2) These regulations shall come into force on the 31st December, 2004.

(3) These regulations give effect to Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport.

Definitions.

2. (1) For the purposes of these regulations, and unless the context otherwise requires:

"the Act" means the Malta Resources Authority Act;

"the Authority" means the Malta Resources Authority;

"biofuels" means liquid or gaseous fuel for transport produced from biomass;

"biomass" means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, and also the biodegradable fraction of industrial and municipal waste;

"energy content" means the lower calorific value of fuel;

"final customer" means any natural or legal person purchasing biofuel for his own use;

"the Minister" means the Minister responsible for resources;

"other renewable fuels" means renewable fuels, other than biofuels, which originate from renewable energy sources as defined in the Promotion of Electricity produced from Renewable Energy Sources Regulations, 2004 and used for transport purposes;

(2) At least the products listed below shall be considered biofuels:

"biodiesel": a methyl-ester produced from vegetable or animal oil, of diesel quality, to be used as biofuel;

"biodimethylether": dimethylether produced from biomass, to be used as biofuel;

"bioethanol": ethanol produced from biomass and, or the biodegradable fraction of waste, to be used as biofuel;

"biogas": a fuel gas produced from biomass and, or from the biodegradable fraction of waste, that can be purified to natural gas quality, to be used as biofuel, or woodgas;

"biohydrogen": hydrogen produced from biomass, and, or from the biodegradable waste, to be used as biofuel;

"biomethanol": methanol produced from biomass, to be used as biofuel;

"bio-ETBE (ethyl-tertio-butyl-ether)": ETBE produced on the basis of bioethanol. The percentage volume of bio-ETBE that is calculated as biofuel is 47%;

"bio-MTBE (methyl-tertio-butyl-ether)": a fuel produced on the basis of biomethanol. The percentage by volume of bio-MTBE that is calculated as biofuel is 36%;

"pure vegetable oil": oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified, when compatible with the type of engines involved and the corresponding emission requirements;

"synthetic biofuels": synthetic hydrocarbons or mixtures of synthetic hydrocarbons, which have been produced from biomass.

(3) Biofuels may be made available in any of the following forms:

(a) as pure biofuels or at high concentrations in mineral oil derivatives, in accordance with specific quality standards for transport applications;

(b) as biofuels blended in mineral oil derivatives, in accordance with the appropriate national standard norms describing the technical specifications for transport fuels (MSA EN 228 and MSA EN 590);

(c) as liquids derived from biofuels, such as ETBE (ethyly-tertio-butyl-ether), where the percentage of biofuel is as specified in sub-regulation (2) (2).

National Indicative targets and Reporting.

3. (1) By not later than 1 April of each year, the Authority shall submit to the Minister, a report, on:

(a) the measures taken to promote the use of biofuels or other renewable fuels to replace diesel and petrol for transport purposes;

(b) the national resources allocated to the production of biomass for energy uses other than transport, and

(c) the total sales of transport fuel and the share of biofuels, pure or blended, and other renewable fuels placed on the market for the preceding year. Where appropriate, the Authority shall report on any exceptional conditions of oil products that have affected the marketing of biofuels and other renewable fuels.

(2) The national indicative target of the proportion of biofuels placed on the market and calculated on the basis of energy content, of all petrol and diesel for transport purposes by 31 December, 2005 is as established in the Schedule to these regulations.

(3) In the report referred to in sub-regulation (1) and covering the year 2006, the Authority shall submit to the Minister its recommendations for the establishment of national indicative targets of the proportion of biofuels placed on the market and calculated on the basis of energy content, of all petrol and diesel for transport purposes by 31 December, 2010.

(4) (a) A reference value for these targets shall be 2%, calculated on the basis of energy content, of all petrol and diesel placed on the national market for transport purposes by 31 December, 2005.

(b) A reference value for these targets shall be 5.75%, calculated on the basis of energy content, of all petrol and diesel placed on the national market for transport purposes by 31 December, 2010.

(5) In the reports referred to in sub-regulation 1, differentiation of the national targets, as compared to the reference values referred to in sub-regulation (4) shall be motivated and could be based on the following elements:

(a) objective factors, such as the limited national potential for production of biofuels from biomass;

(b) the amount of resources allocated to the production of biomass for energy uses other than transport and the technical or climatic characteristics of the national market for transport fuels;

(c) national policies allocating comparable resources to the production of other transport fuels based on renewable energy sources and consistent with the objectives of these regulations.

(6) The Authority shall submit to the Minister a report at least every two years unless it considers it expedient to submit such reports on a more frequent basis on the results of monitoring carried out pursuant to regulation 4.

(7) In the reports referred to in sub-regulation 1 the Authority shall consult with such other regulatory bodies as necessary and shall submit its recommendations of measures that may be taken to ensure compliance with the relevant legislation on emission standards.

(8) In drawing its reports and recommended measures, the Authority shall consider the overall climate and environmental balance of the various types of biofuels and other renewable fuels and may give priority to the promotion of those fuels showing a very good cost-effective environmental balance while also taking into account competitiveness and security of supply and other national energy policy objectives.

(9) The Minister may approve any of the reports referred to in this regulation, in whole or in part, with or without modifications or conditions, or may refer any of the reports back to the Authority. When the reports have been approved, the Authority shall publish the reports

together with a statement of the comments it has received from the Minister and the responses it has made to those comments.

Monitoring.

4. The Authority shall monitor the effect of the use of biofuels in diesel blends above 5% by non-adapted vehicles through the use of surveys and, or any other means considered appropriate by the Authority.

Reporting to the Authority.

5. (1) Any person who imports or produces petroleum or biofuels shall monitor, record and submit to the Authority in the manner and form that the Authority may request such information on the retail of petroleum products and biofuels.

(2) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Labelling and sale of Biofuels.

6. (1) No person shall sell or offer for sale to the ultimate consumer any blend of biofuels unless he provides specific labelling at the points of sale.

(2) The labelling of biofuels referred to in sub-regulation (1) shall be required for percentages of biofuels, blended in mineral oil derivatives, exceeding the limit value of 5% fatty acid methyl ester (FAME) or of bioethanol.

(3) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Measures to promote the use of Biofuels.

7. The Authority may promote the use of biofuels through implementation of those measures that it considers expedient and that are not contrary to the provisions of the Act or of these regulations.

Compliance Orders.

8. (1) When the Authority becomes aware, whether through carrying out an investigation or otherwise, that any person subject to these regulations has contravened any of the provisions contained therein, it shall issue a compliance order to the person concerned, ordering him to comply immediately with the provisions of these regulations.

(2) Any person who fails to abide by the provisions of a compliance order issued by the Authority shall, without prejudice to any other liability under these regulations, the Act or any other law, be guilty of an offence.

Offences and penalties.

9. (1) Any person who contravenes any of the provisions of these regulations or of a licence or approval issued thereunder, shall be

guilty of an offence and shall, on conviction, be liable to a fine (multa) of not more than ten thousand liri (Lm 10,000).

(2) Any person who, when information with respect to these regulations is requested by the Authority, knowingly or recklessly:

(a) gives false, inaccurate or misleading information; or

(b) supplies incomplete information; or

(c) fails, without reasonable cause, to supply the requested information within the time given; or

(d) prevents or hinders any investigation; or

(e) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material respect,

shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than one hundred liri (Lm100) and not more than one thousand liri (Lm1,000).

SCHEDULE

Regulation 3(2)

National indicative target of the proportion of biofuels placed on the market and calculated on the basis of energy content, of all petrol and diesel for road transport purposes by 31 December 2005	0.3 %