

L.N. 66 of 2007

SUPPLIES AND SERVICES ACT

(CAP. 117)

Farm Advisory Services Regulations, 2007

IN exercise of the powers conferred by article 3 of the Supplies and Services Act (Cap. 117), the Minister for Rural Affairs and the Environment has made the following regulations:-

1. (1) The title of these regulations is the Farm Advisory Services Regulations, 2007. Citation and scope.

(2) The scope of these regulations is to assist farmers and forest holders by providing professional advice on statutory management requirements, good agricultural and environmental conditions, occupational safety standards and all associated Community legislation for the improvement of the overall performance of their holding.

2. The primary objective shall be to provide support to farmers and forest holders for the use of advisory services for the improvement of the overall performance of their holding; the minimum advisory service to farmers shall cover: Objective of farm advisory services.

(a) the statutory management requirements and the good agricultural and environmental conditions provided for in Articles 4 and 5 and in Annexes III and IV to Regulation EC 1782/2003 (GAEC Measures for each EC Issue);

(b) occupational safety standards based on Community legislation;

(c) observance, by farmers, of -

(i) good farming practices,

(ii) code of good agricultural practices,

(iii) health and safety standards,

(iv) awareness and above all compliance with all Directives falling under cross compliance,

(v) developments and obligations on current and future CAP payments and rural development measures,

(vi) aid in the compilation of application forms and, or whole farm management plans of rural development measures.

Full farm advisory service obligations.

3. (1) Insofar as public access to documents is concerned, private bodies and designated authorities shall not disclose personal or individual information and data which they obtain in their advisory activity to persons other than the farmer managing the holding concerned, except where any irregularity or infringement is found during their activity, which irregularity or infringement is covered by an obligation to inform a public authority, in particular in the case of criminal offences.

(2) The identification system for agricultural parcels shall be established on the basis of maps or land registry documents or other cartographic references utilised by the IACS Department of the Ministry responsible for rural affairs. Use shall be made of computerised geographical information system techniques including, preferably, aerial or spatial orthoimagery, with an homogenous standard guaranteeing accuracy at least equivalent to cartography at a scale of 1:10 000.

(3) The farm advisory service company and, or entity shall each year provide a copy of the status report of each client to the IACS Department.

Register of farm advisory consultants and companies and, or entities.

4. The Ministry for rural affairs and the environment, hereinafter referred to as "the Ministry", shall keep and make available for public inspection at such reasonable times as it may determine, a Register of Farm Advisory Consultants and Companies, hereinafter referred to as "the Register".

Register to be divided into parts.

5. The Register shall be divided into specific parts. Each part shall list those consultants who are competent in a particular discipline, provided that where a person is competent in more than one particular discipline, such person shall be registered under both or more such disciplines.

Register to be divided into categories.

6. The Register shall also be divided into categories of farm advisory service consultants and temporary farm advisory officials, as well as farm advisory service companies and, or entities.

Issue of certificates by Farm Advisory Registration Board.

7. There shall be a board, to be known as the "Farm Advisory Registration Board", hereinafter referred to as "the Board", which shall be appointed in accordance with the provisions of these regulations, and which shall, upon request, issue a certificate of registration in the Register together with any relevant discipline in which any person so registered is competent, and it shall also note

therein all suspensions, cancellations and reinstatements of those certificates.

8. (1) No person may act as a farm advisory service official unless such person is registered in the part of the Register relating to farm advisory service consultants. Registration.

(2) No company or entity may act as a farm advisory service provider unless it is registered in the part of the Register relating to farm advisory service companies.

9. The Ministry shall refuse to accept any farm advisory statements or an agricultural consultancy-related planning statement where a person who is not registered in the Register has participated in the preparation of the relevant farm advisory statement. Ministry to refuse statements.

10. (1) The Board, as appointed by the Minister responsible for rural affairs and the environment, hereinafter referred to as "the Minister", shall also be responsible for evaluating applications for registration in the Register. Further functions of the Board.

(2) Decisions on applications for registration shall be taken by a Registration Board composed of four persons, being the Director General (Rural Affairs and Paying Agency), a representative from the Department of Agriculture, a representative from IACS and a representative from the Rural Development Department. One of these persons shall be appointed, by the Minister, chairperson of the Registration Board.

(3) The Board shall assess applications for registration and shall prepare a list of persons who, in the opinion of the Registration Board, meet the requirements for registration and are therefore to be issued with a certificate of registration. The Board shall also give reasons for its decisions.

(4) The decision of the Board to accept or to refuse an application for registration in the Register shall be notified in writing to the applicant without delay.

(5) The Board may advise the Ministry to update the Register at such regular intervals as it may deem fit by the inclusion of any other new disciplines, which may have evolved, in the Register.

11. (1) Any qualified person may apply in writing on the appropriate form to the Board to be registered in the Register. Application for registration.

(2) The application for registration shall include the following information:

(a) the name, surname, education, qualifications and office address of the applicant for registration;

(b) a list of any relevant working experience, of the applicant;

(c) a detailed *curriculum vitae* (which is to include details of the person's training, experience and knowledge in farm advisory-related matters);

(d) an indication of the particular agricultural, veterinary or environmental discipline for which the person is applying for registration.

(3) The application for registration shall be accompanied by the appropriate fee as set out in the Schedule.

Registration by
the Board.

12. (1) The Board shall register a person in the Register if it is satisfied that the said person:

(a) has the minimal appropriate qualifications consisting of a Degree from a recognized institution in any of the disciplines mentioned in regulation 11(2)(d); and

(b) has a minimum of two years' working experience in one or more relevant disciplines.

(2) Certificates issued to eligible persons shall be valid for one year but may be renewed by the Board upon payment of the relevant renewal fee according to the Schedule, except where a person has been found guilty of any of the offences referred to in regulation 14.

(3) Notwithstanding the provisions of subregulation (1), the Board may grant a temporary certificate valid for one year to any person who, in its opinion, has the appropriate qualifications but does not have sufficient experience in the relevant discipline or in all the farm advisory-related issues. Temporary certificates may only be extended for a maximum period of two years.

(4) (a) In order to be registered as farm advisory entities, companies shall have to demonstrate that their technical personnel or other consultants engaged to provide services will have experience and knowledge of current CAP policies, cross compliance, good farming practices, CoGAP, health and safety, current rural development measures and applications, and agricultural production (livestock and crop husbandry). Furthermore these companies must undertake to organize training courses in cross compliance, codes of good agricultural practices, and health and safety related issues to

their clients. All temporary farm advisory officials shall also be obliged to undertake these training courses as a pre-requisite to obtaining or confirming their registration.

(b) Companies registering as farm advisory entities shall be obliged to follow advice and recommendations given by the rural affairs and the paying agency departments; moreover, such entities are bound to ensure that correlated work shall not be rediverted to, or requested from, the rural affairs and paying agency departments.

(c) Companies registering as farm advisory entities shall present a schedule of relevant proposed fees to the Board for its approval as part of the recognition process.

(d) Companies registering as farm advisory entities shall first apply for recognition and, if such recognition is granted, shall consequently be bound to pay the registration fee.

(e) Companies registering as farm advisory entities shall also provide a declaration indicating that there is no conflict of interest with their clients. The company shall be bound to ensure that advisory officials who give advice shall not have the same evaluating status of applicants.

(f) All entity or client data, record or status changes shall be reported to the Registration Board within ten working days.

13. The certificate of registration shall contain the following information: Certificate of registration.

(a) the name, surname and identity document number or other means of identification of the consultant or company;

(b) the date when the certificate is issued; and

(c) the discipline in which the consultant is considered by the Registration Board as having an acceptable level of expertise.

14. (1) The Board may cancel any certificate granted under the provisions of these regulations when the holder of that certificate: Cancellation of certificates.

(a) is found guilty by a court of criminal jurisdiction of a crime, being a crime committed through imprudence, carelessness, unskillfulness in an art or profession, or non-observance of these regulations; or

(b) is found guilty by a court of criminal jurisdiction of any offence under the provisions of the Supplies and Services Act, hereinafter referred to as "the Act", or of any regulations made thereunder; or

(c) has, in the opinion of the Board, submitted substandard or deliberately misleading work in any farm advisory procedure;

(d) has participated in the preparation of another farm advisory procedure when such person was not registered in the Register; or

(e) was the recipient of a certificate issued under the provisions of these regulations based on information given by the applicant which is false or misleading; or

(f) fails to pay the yearly renewal fee.

(2) A person who participates in any of the processes involved in the provision of farm advisory services without being registered in the Register shall subsequently be barred from registering or participating in any action relative to farm advisory services in Malta for a period to be decided by the Board, which period shall in no case be less than three years.

15. (1) Any person or company who, for the purposes of obtaining the certificate for registration in the Register, gives any wrong information or otherwise acts in a deceitful or fraudulent manner, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand liri. Furthermore, where the offence is committed by a company, that company shall automatically become ineligible for current and future funding assistance under the European Agricultural Fund for Rural Development.

(2) (a) Any person who, not being the holder of a certificate, assumes or uses the designation 'farm advisory services consultant' or 'temporary farm advisory official' or in any manner indicates that he is entitled to be involved in a farm advisory service shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand liri.

(b) Any company that, not being the holder of a certificate, assumes or misuses the role of a farm advisory entity shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand liri; furthermore, the company shall automatically become ineligible for current and future funding

assistance under the European Agricultural Fund for Rural Development.

(3) For the purposes of subregulation (2), the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words 'farm advisory service consultant' or 'temporary farm advisory official', in relation to a name, shall be sufficient evidence that such use was made whether with or without the person's knowledge, unless the person proves that, upon becoming aware of such use, he took adequate steps to stop it.

(4) The offences and fines mentioned in this regulation shall be without prejudice to any other offences and penalties in terms of the Act or of any other law.

16. For the purposes of these regulations the term "persons" includes a person who is not a citizen of Malta but does not include a body of persons. Definition of person.

17. Registration periods shall be determined by the Board. Registration periods.

18. Applicants who do not agree with the outcome of the registration process will have the right to appeal from such decision in writing to the Board within fifteen days from the date of the communication of the decision; the result of the appeal shall be communicated within thirty days from the lodging of the appeal and the decision of the Board shall be final. Right of appeal.

19. Applicants or farm advisory entities shall undertake to allow access to members or persons authorized by the Board for the purpose of carrying out an inspection in order to verify the accuracy of any information provided or any declarations made and to ensure compliance with these regulations. Board inspections.

20. Applicants or farm advisory entities shall undertake to comply with or accept any changes to the commitments, undertaken in accordance with these regulations, that may be necessary as a result of European Union legislation, in particular Commission Regulation EC 1698/2005 on the European Agricultural Fund for Rural Development. Changes to commitments.

SCHEDULE

Regulation 11(3)

SCHEDULE OF FEES FOR REGISTRATION
FOR FARM ADVISORY SERVICES

The following fees shall apply for registration under one of the hereunder listed categories of Farm Advisory Services:

CATEGORY AND DESCRIPTION OF FEE	Lm
Temporary Advisory Official	
Recognition Fee	21.46
Upgrade to next level	10.73
Advisory Official	
Recognition Fee	25.76
Yearly Renewal Fee	10.73
Legal Entity	
Recognition Fee	42.93
Registration Fee	429.30
Yearly Renewal Fee	107.35
