VERŻJONI ELETTRONIKA

L.N. 61 of 2017

PRODUCT SAFETY ACT
(CAP. 427)

Establishment of the 'Products of Quality' National Scheme (Amendment) Regulations, 2017

IN exercise of the powers conferred by article 38 of the Product Safety Act, the Minister for Social Dialogue, Consumer Affairs and Civil Liberties in consultation with the Minister for Sustainable Development, the Environment and Climate Change, has made the following regulations:-

Citation.

1. The title of these regulations is the Establishment of the 'Products of Quality' National Scheme (Amendment) Regulations, 2017, and these regulations shall be read and construed as one with the Establishment of the 'Products of Quality' National Scheme Regulations, hereinafter referred to as "the principal regulations".

S.L. 427.90.

Amends regulation 1 of the principal regulations.

2. In sub-regulation (3) of regulation 1 of the principal regulations, immediately after the words "in these regulations" there shall be added the words "and shall establish a quality mark the primary function of which serves to indicate that the products adhere to the quality scheme established by these regulations".

Amends regulation 2 of the principal regulations.

3. Regulation 2 of the principal regulations shall be amended as follows:

(a) in the definition "actor" for the words "in an agricultural value chain" there shall e substituted the words "in a recognised agricultural value chain";

(b) the definition "agricultural value chain" shall be amended as follows:

(i) for the words "a set of people whose activities increases" there shall be substituted the words "a set of activities which collectively increase";

(ii) for the words "transport and distribution:" there shall be substituted the words "transport and distribution;"; and

(iii) the proviso thereto shall be deleted;

(c) immediately after the definition "agricultural value

VERŻJONI ELETTRONIKA

chain" there shall be added the following new definition:

"control body" means an independent inspection body which may be a public authority, approved by the Minister to perform controls on operators in relation to the obligations related to the participation in the scheme;";

(d) the definition "Director" shall be substituted by the following new definition:

"Director" means the Director responsible for Agriculture and includes, to the extent of the authority given, any officer authorized by him, in writing, to act in that behalf for any of the purposes of these regulations;";

(e) in the definition "operator", for the words "'Product of Quality' National Scheme" there shall be substituted the words "scheme and shall also mean a producer of approved traditional agro-food products in terms of the Establishment of the Register of Traditional Agro-food Products of Malta Regulations who participates in the scheme";

(f) the definition "origin label" shall be deleted;

(g) in the definition "Products of Quality National Scheme", for the words "Products of Quality National Scheme" shall be substituted the words "'Products of Quality' National Scheme"; and

(h) immediately after the definition "'Products of Quality National Scheme'" there shall be added the following new definition:

"quality mark" means a mark which identifies the products adhering to the 'Products of Quality' National Scheme;".

Amends regulation 3 of the principal regulations.

4. Regulation 3 of the principal regulations shall be amended as follows:

(a) paragraph (b) of sub-regulation (3) thereof shall be substituted by the following new paragraph:

"(b) administrative criteria required for the participation in the scheme;"; and

(b) sub-regulations (4) and (5) thereof shall be deleted.

VERŻJONI ELETTRONIKA

Adds new regulation to the principal regulations.

5. Immediately after regulation 3 of the principal regulations there shall be added the following new regulation:

"Supervision of the scheme.

3A. (1) The Director shall be responsible for the supervision of the scheme.

(2) The Director shall endeavour to consult with representatives of the recognized agricultural value chains before making the rules mentioned in regulation 3(3).

(3) The rules mentioned in regulation 3(3) shall be published in the Gazette and shall be binding on all actors who form part of a recognized agricultural value chain.".

Substituted regulation6 of the principal regulations.

6. Regulation 6 of the principal regulations shall be substituted by the following new regulation:

"Conditions for participation in the scheme.

6. In order for an actor to be able to participate in the scheme, the actor shall fulfil the administrative criteria established in the rules referred to in regulation 3(3) and shall meet the following criteria:

(a) abide by all applicable EU and national regulations in connection with the production of agro-food products and conditions of employment;

(b) follow the rules for the implementation of the scheme as established by the Director;

(c) abide by the product specifications relative to the product for which participation in the scheme is being sought;

(d) be subject to a system of controls in line with the guidelines established by the Director in the Gazette; and

(e) adopt a traceability system in line with the guidelines established by the Director in the Gazette.".

Substitutes regulation 7 of the principal regulations.

7. Regulation 7 of the principal regulations shall be substituted by the following new regulation:

"Control bodies.

7. (1) The Minister may, upon recommendation by the Director, recognise control bodies.

VERŻJONI ELETTRONIKA

(2) The Director shall make rules in order for a body to be recognised as a control body in terms of these regulations.

(3) Operators shall appoint a control body as part of their control system and shall communicate the chosen control body to the Director.".

Adds new regulation to the principal regulations.

8. Immediately after regulation 7 of the principal regulations there shall be added the following new regulation:

"Control.

8. Operators shall be under the control of a public authority or an independent inspection board designated for this purpose by the Minister in the Gazette.".

Adds new regulation to the principal regulations.

9. Immediately after regulation 8, as added, of the principal regulations there shall be added the following new regulation:

"Participation in the scheme.

9. (1) An actor who wants to participate in the scheme shall submit to the Director an application in the form established by the Director:

Provided that an actor may submit an application on behalf of a group of actors:

Provided further that the Director may, if he deems necessary, request further information from the actor.

(2) The Director shall on receipt of the application, submitted in accordance with sub-regulation (1), verify that all the requested information and documentation has been submitted and that the applicant fulfils the administrative criteria established by him to participate in the scheme. If the information is verified to be correct and the applicant fulfils the above-mentioned administrative criteria, the Director shall instruct the authority or control body established in terms of regulation 7 to perform inspections in order to establish whether the actor is in conformity with the criteria established by or through these regulations.

(3) The authority or control body referred to in sub-regulation (2) shall, following the inspection, submit a report with the findings to the Director.

VERŻJONI ELETTRONIKA

(4) The Director shall, after evaluating the report, decide whether to admit an actor to participate in the scheme or otherwise:

Provided that the Director shall not admit an actor to participate in the scheme if, from the report of the control body, it results that the actor is not in conformity with the criteria established.

(5) On admittance into the scheme, the Director shall issue a certificate of adherence to the scheme and list the operator in the register established by regulation 14.".

Adds new regulation to the principal regulations.

10. Immediately after regulation 9, as added, of the principal regulations there shall be added the following new regulation:

"Participation of approved traditional agro-food products.

10. The scheme shall also be open to producers of approved traditional agro-food products in terms of the Establishment of the Register of Traditional Agro-food Products of Malta Regulations.".

Adds new regulation to the principal regulations

11. Immediately after regulation 10, as added, of the principal regulations there shall be added the following new regulation:

"Modifications

11. An operator shall not make any modifications in areas that he was requested to submit information on in his application without the approval of the Director.".

Adds new regulation to the principal regulations

12. Immediately after regulation 11, as added, of the principal regulations there shall be added the following new regulation:

"Quality mark.

12. (1) There shall be a quality mark which shall be published in the Gazette.

(2) The quality mark shall be the property of the Ministry responsible for Agriculture.

(3) No person shall make use of the quality mark unless he has obtained a licence to do so in terms of regulation 13.".

Adds new regulation to the principal regulations

13. Immediately after regulation 12, as added, of the principal regulations there shall be added the following new regulation:

"Authorisation for the use of the quality mark.

13. (1) An operator may apply to the Director to be granted authorisation for the use of the quality mark.

VERŻJONI ELETTRONIKA

(2) The authorisation shall be granted until the 31st day of December of the year of issue and thereafter may be renewed from year to year.

(3) The Director shall make rules for the use of the quality mark, which shall include but shall not be limited to provisions on:

(a) the granting of the authorisation; and

(b) the conditions for the use of the quality mark.

(4) The Director may suspend, revoke or refuse the authorisation or its renewal of the permission for the use of the quality mark, if he deems necessary.

(5) The rules referred to in sub-regulation (3) shall be published in the Gazette and shall be binding.".

Adds new regulation to the principal regulations.

14. Immediately after regulation 13, as added, of the principal regulations there shall be added the following new regulation:

"Register of the scheme.

14. (1) There shall be a register for the scheme, which shall be kept by the Director.

(2) The register shall include:

(a) a list of all the operators;

(b) a list of products that have been approved for the use of the quality mark, along with the corresponding technical specifications and the corresponding control bodies; and

(c) the name of the licensees with a specific indication of the class of the product, along with the details of the decision to grant the use of the quality mark.

(3) The Director shall update the register regularly and all the information included in the Register shall be accessible to the public.".

Adds new regulation to the principal regulations

15. Immediately after regulation 14, as added, of the principal regulations there shall be added the following new regulation:

VERŻJONI ELETTRONIKA

"Suspension or withdrawal of participation from the scheme.

15. The Director may suspend or withdraw an operator's participation in the scheme if it results that the operator has failed to adhere to the conditions related to the participation in the scheme:

Provided that the Director may, if he deems necessary, prior to suspending or withdrawing an operator's participation in the scheme, issue a warning notifying the operator of the infringement and the obligation to take remedial action.".

Adds new regulation to the principal regulations

16. Immediately after regulation 15, as added, of the principal regulations there shall be added the following new regulation:

"Right of appeal.

16. Any person who feels aggrieved from the decision of the Director shall have a right of appeal to the Administrative Review Tribunal, within twenty days from the notification of the decision.".

Adds new regulation to the principal regulations

17. Immediately after regulation 16, as added, of the principal regulations there shall be added the following new regulation:

"Infringements and penalties.

17. In the event of infringements of the provisions of regulation 12(3), there shall be applied the provisions of article 32 of the Product Safety Act.".

Cap. 427.

Adds a new regulation to the principal regulations.

18. Immediately after regulation 17, as added, of the principal regulations, there shall be added the following new regulation:

"Official Notification to the EU Commission.

18. These regulations have been notified in terms of Directive 2015/1535 EC which consolidates Directive 98/34 EC as transposed by the Notification Procedure Regulation 2003.".

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