B 1254

L.N. 151 of 2023

SUPPLIES AND SERVICES ACT (CAP. 117)

Production of Olive Oil Regulations, 2023

IN EXERCISE of the powers conferred by article 3 of the Supplies and Services Act, the Minister responsible for trade has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Production of Olive Oil Regulations, 2023.

(2) These regulations shall come into force within two (2) months from their publication in the Gazette.

Interpretation.

2. In these regulations, unless the context otherwise requires:

Cap. 117.

"Act" means the Supplies and Services Act;

"Directorate" means the Agriculture Directorate;

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

"Malta" shall have the same meaning as assigned to it by article 124 of the Constitution of Malta;

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

"person" includes any partnership, association of persons, or a legal entity;

"olive grower" means any person who cultivates olive trees for the purpose of producing olives for the commercial production of olive oil or table olives;

"olive oil" means oil obtained solely from the fruit of olive trees;

"olive oil marketing year" means the period running from

1st July of each year to 30th June of the following year;

"olive oil producer" means a person who processes olives for olive oil production;

"olive oil production" means the processing of olives into olive oil.

Licence to produce olive oil.

3. (1) No person shall engage in the local production of olive oil without a valid licence issued by the Director.

(2) The fee to be charged upon the first issue and on any renewal shall be of twenty-five euro (€25) per year.

(3) Producers shall apply for a licence in accordance with sub-regulation (1) by not later than the 1st July of each year.

(4) Late applications submitted after 1st July of each year shall be charged a fee of one euro (€1) for each day after the aforementioned date, in addition to the fee prescribed in sub-regulation (2).

(5) Any licence issued in accordance with this regulation shall be valid up to the 30th June of the following year and shall be renewed from year to year unless such licence is cancelled or revoked in terms of the provisions of these regulations.

(6) Any licence issued in accordance with this regulation shall be issued to one specific olive oil producer and shall be tied to a specific location where such olive oil production takes place.

Application for licence.

4. (1) An application for the issue of a licence in accordance with regulation 3 shall be made by submitting to the Director a duly signed and completed of the prescribed form as provided by the Directorate and published on government online services and the official Directorate website.

(2) Annexed to the application there shall be details of the processing plants including make, engine number and processing capacity, in addition to information on how the machinery processes olive oil, issued or duly certified by the machine manufacturers.

(3) A licence may only be issued following the necessary clearance issued from the Directorate responsible for environmental health approving the premises.

(4) A licence issued in accordance with regulation 3 shall not exempt the holder thereof from compliance with any other requirement under any other law.

Refusal to issue or renew licence.

5. Where the issue or renewal of a licence has been refused, the Director shall inform the applicant of such refusal without delay. The applicant may submit an appeal therefrom to the Administrative Review Tribunal established in terms of article 5 of the Administrative Justice Act and the provisions of the said Act shall apply accordingly.

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Register of Olive Growers and Olive Oil Producers.

6. (1) The Director shall keep a Register of Olive Growers and Olive Oil Producers, hereinafter referred to as "the Register", which shall be updated periodically.

(2) Olive oil producers shall be automatically registered in the Register referred to in sub-regulation (1) upon the issuance of their licence in accordance with regulation 3, while olive growers shall automatically be registered in the said Register upon registration with the Directorate of agricultural land parcels where olive trees are cultivated as required in accordance with the Nitrates Action Programme Regulations.

S.L. 549.66.

(3) The Directorate shall publish a list of licensed olive oil producers on the official website in order to make it accessible to the public. The list shall be updated yearly after the issuing of the licences to approved olive oil producers.

(4) No person shall grow olives for olive oil production or table olives unless said person is listed in the Register as provided in sub-regulation (1) and the land where such olives are to be grown is registered with the Directorate.

(5) Persons having less than ten (10) olive trees and, or less than five hundred square metres (500m²) of land used for the production of olives are exempted from the obligation to register in accordance with sub-regulation (4), provided that such olives are not intended for commercial olive oil production or other commercial purposes.

Declaration by olive growers.

7. (1) Olive growers shall submit to the Director by the 31st December of each year a duly signed and completed harvest declaration as provided by the Directorate and published on the government online services and the official Directorate website.

(2) The said declaration ‘Harvest of Olives’ shall contain the personal details of the grower, the details of the fields which have been registered in the Register, the variety of olives, the amount of olive trees, the amount of olives harvested, and whether they are intended for table or olive oil production, the amount in kilograms sold to producers of olive oil, the amount in kilograms sold to Pitkalija, details on personal use, and any other necessary details as determined by the

Directorate.

Declaration by olive oil producers.

8. (1) Olive oil producers shall submit to the Director by the 15th January of each year a duly signed and completed olive oil production declaration as provided by the Directorate and published on the government online services and the official Directorate website.

(2) The declaration provided for in terms of sub-regulation (1) shall be accompanied by a list of olive growers from whom olives were purchased or otherwise obtained, or who delivered olives for pressing, together with copies of original receipts showing the amount of olives purchased or delivered.

Records to be kept by olive oil producers.

9. (1) An olive oil producer shall maintain records of his activity and shall provide the information to the Director when requested to do so.

(2) For each delivery of olives, the olive oil producer shall provide the person delivering the olives with a receipt indicating details of the delivery including date, details of the grower, and the amount in kilos delivered for every variety of olives. A copy of the said receipt shall be provided to the Directorate in accordance with sub-regulation (1).

(3) The Director may, at any time, request an olive oil producer to furnish him within fifteen (15) working days, with a statement showing the amount of olive oil in litres held by him on any particular day as may be specified in said request.

(4) The Directorate shall by the 31st July of every year receive from the olive oil producer an olive oil stocks declaration. The said declaration on the prescribed form issued by the Directorate and published on the government online services and the official Directorate website shall stipulate the amount of olive oil in litres held on the premises where the production of the said olive oil takes place.

Codes of good practice.

10. The Director may issue codes of good practice with respect to compliance with the provisions of these regulations and any European Union legislation providing guidance to any persons engaged in olive growing and olive oil production.

Appointment of authorised officers.

11. (1) The Minister may appoint public officers to be authorised officers for the control of the production of olive oil and olive related products.

(2) No person who is engaged directly or indirectly in any commercial enterprise related to the production of olive oil or olive related products shall act as an authorised officer, and no public officer

shall be engaged directly or indirectly in any commercial enterprise related to the production of olive oil or olive related products.

(3) An authorised officer shall have the power, at any reasonable time, to enter and inspect any premises in or at which he has reason to believe that olive oil is being produced, bottled, stored, sold or offered for sale, to examine and search such premises, to inspect any such olive oil and to take samples thereof:

Provided that an authorised officer shall not enter into any dwelling unless authorised by a Magistrate by means of an entry and search warrant.

(4) An authorised officer shall have the right of access to, and inspect documentation relating to any registers, records and notes kept in accordance with the provisions of these regulations.

(5) Any authorised officer exercising any power conferred by sub-regulation (3) may:

(a) seize and obtain any records which he has reason to believe may be required as evidence in proceedings in accordance with any of these regulations; and

(b) in the case where the records are kept by electronic means, require the person occupying and present at the searched or any other person who appears to the said officer to be in charge of the premises and who happens to be present during the search, to print the said records.

(6) Any authorised officer who discloses to any person any information obtained by him in the course of his duties with regards to any trade secret shall, unless the disclosure is made necessarily in the performance of his duty and without prejudice to any other liability under any other law, be guilty of an offence.

(7) Any person who:

(a) intentionally obstructs or causes the obstruction of any person acting in the proper exercise of his functions in accordance with these regulations; or

(b) without reasonable cause, fails to give to any person, acting in the exercise of his functions in accordance with these regulations, any assistance or information which he may be required to give in accordance with these regulations or any other law, or gives false or misleading information, shall be guilty of an offence. Criminal action for such an offence shall be

barred by the lapse of three (3) months.

Measures in case of irregularities and infringements.

12. Where an irregularity is found as regards to compliance with the requirements laid down in these regulations, the Director shall order in writing the cessation of olive oil production, until such irregularity is rectified.

Warning notice.

13. (1) In the case of any irregularity or breach in accordance with these regulations, a warning notice shall be sent by the Director by means of registered mail, setting out the conditions required to rectify the concerned person's at fault position and shall include the following information:

(a) the date when the offence was committed and the provisions of these regulations which were breached;

(b) the facts on which the warning notice was issued;

(c) the measures that, in the Director's opinion, shall be taken in order to rectify the irregularity or breach;

(d) the period within which the said measures have to be rectified as the Director deems reasonable in the circumstances.

(2) When the person to whom the warning notice is addressed does not fulfil the measures referred to in paragraph (c) of sub-regulation (1), within the period referred to in paragraph (d) of the same sub-regulation as specified in the same warning notice, the provisions established in regulation 14 shall apply:

Provided that where a person does not comply with sub-regulation (1) of regulation 3, the Director shall impose a fine (*multa*) in accordance with sub-regulation (1) of regulation 16 and consequently the provisions of regulations 13 and 14 shall not apply.

Enforcement notice.

14. (1) Where any person fails to comply with a warning notice served in accordance with regulation 13 within the time specified therein, the Director shall issue an enforcement notice in accordance with sub-regulation (2) to be served on the person at default by means of registered mail.

(2) An enforcement notice served in accordance with sub-regulation (1) shall specify:

(a) the date when the offence was committed and the provisions of these regulations which were breached;

(b) the facts on which the enforcement notice was issued;

(c) the measures that, in the Director's opinion, shall be taken in order to rectify the irregularity or breach;

(d) the period within which the said measures have to be rectified as the Director deems reasonable in the circumstances;

(e) a notice warning the person that if he remains in default, the Director shall have the power to impose a fine (*multa*) in accordance with sub-regulation (1) of regulation 16.

(3) Any enforcement notice issued by the Director shall be deemed to have been delivered and duly served if it is physically delivered or sent by registered post to the person at his place of residence, business or work as indicated by him.

Proceedings before the Court.

15. (1) In any criminal proceedings before the Court of Magistrates for an offence in accordance with these regulations, the Director or any officer, lawyer or legal procurator delegated by the Director may, notwithstanding any law to the contrary, file the charge before the Court of Magistrates, produce evidence, plead and otherwise conduct the prosecution.

(2) The sworn statement of any officer, lawyer or legal procurator to the effect that he has been delegated as provided in sub-regulation (1) shall be conclusive evidence of the fact, should proof thereof be required by the accused.

Offences and fines (*multi*).

16. (1) Any person shall be guilty of an offence in accordance with these regulations if he:

(a) fails to comply with any provision of these regulations or any lawful order given by virtue of these regulations;

(b) intentionally obstructs or causes the obstruction of any person acting in the proper exercise of his functions in accordance with these regulations and, or fails to allow an inspection authorised in accordance with these regulations;

(c) without reasonable cause, fails to give to any person, acting in the exercise of his functions in accordance with these regulations, any assistance or information which he may be required to give in accordance with these regulations or any other law, or gives false or misleading information;

(d) conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or

to fail to comply with any such provisions, including any order lawfully given in terms of any of the provisions of these regulations, or to contravene any restriction, prohibition or requirement imposed by or in accordance with the said regulations;

(e) alters, forges, counterfeits or destroys any document presented to or issued by the Director in accordance with these regulations:

Provided that the offender may enter into an out of court settlement with the Director to pay a fine (*multa*) equivalent to one third of the maximum fine (*multa*) indicated in sub-regulation (2) and to rectify the infringement in lieu of contesting in Court the charges in his regard:

Provided further that where a person on whom a fine (*multa*) mentioned in this regulation is imposed does not, within thirty (30) days from date of service, pay the fine (*multa*), the Director shall, without prior notice, have the right to institute proceedings or cause proceedings to be instituted before the Court of Magistrates in respect of the alleged offence as provided in regulation 15.

(2) Any person who is found guilty of an offence against the provisions of these regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding one thousand five hundred euro (€1,500);

(b) on a second conviction or subsequent conviction, to a fine (*multa*) of not less than one thousand five hundred euro (€1,500) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) or to a fine calculated on the profit made by the offender in contravention of these regulations, whichever is the higher:

Provided that, when the fine is so calculated, it may not exceed five times the profit made by the offender.

(3) Where any person is convicted of an offence against these regulations, the Court may, in addition to any other punishment that it may impose:

(a) sentence the offender to imprisonment for a term of not less than thirty (30) days and not exceeding two (2) years;

(b) order the forfeiture to the Government of any goods to which the offence relates, and if so forfeited any said goods shall be disposed of in such a manner as the Court may determine on the advice of the Director;

(c) order the suspension for a period not being less than one (1) month and not more than three (3) years or the withdrawal, as the Court may deem fit, of any licence or permit held by the offender and related to any trade or business to which the offence relates, and may in addition order that any said licence or permit may not be re-issued in respect of the convicted offender.

Repeal and saving. S.L. 117.34.

17. The Production of Olive Oil Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder.

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