Nru. 1263

MINISTERU GĦALL-IŻVILUPP SOSTENIBBLI, L-AMBJENT U TIBDIL FIL-KLIMA

Proposti biex tiġi emendata L.S 447.02 dwar ir-Regolamenti tal-Għaqdiet Produtturi (Ċertu Prodotti)

IL-MINISTERU għall-Iżvilupp Sostenibbli, l-Ambjent u Tibdil fil-Klima jgħarraf li qed issir proposta ta' emendi fil-Liġi Sissidjarja 447.02 dwar ir-regolamenti tal-għaqdiet produtturi (ċertu prodotti).

Il-proposti huma fl-abbozz ippublikat f'paġni 16,437 sa 16,443.

Għal kjarifikazzjonijiet u/jew kummenti il-pubbliku għandu jibgħat il-kummenti bil-miktub fuq l-*email* (kriss.debono@gov.mt) sa mhux aktar tard mill-31 ta' Jannar, 2016.

L-24 ta' Diċembru, 2015

No. 1263

MINISTRY FOR SUSTAINABLE EVELOPMENT, THE ENVIRONMENT AND CLIMATE CHANGE

Proposed Amendments in S.L 447.02 Producer Organisation Regulations

THE Ministry for Sustainable Development, the Environment and Climate Change notifies that it is publishing the proposed draft amendments to the S.L 447.02 regarding producer organisation regulations.

The proposals are as per draft publication on pages 16,444 to 16,449.

The public is hereby being invited to put forward any requests for clarifications or comments in writing via email to (kriss.debono@gov.mt) by not later than 30th January, 2016.

24th December, 2015

A.L. ___ tal- 2015

ATT DWAR L-GĦAQDIET TAL-PRODUTTURI (KAP. 447)

Regolamenti tal-2015 li jemendaw ir-Regolamenti dwar l-Għaqdiet tal-Produtturi (Ċertu Prodotti)

BIS-SAĦĦA tas-setgħat mogħtija permezz tal-artikolu 19 tal-Att dwar l-Għaqdiet tal-Produtturi, il-Ministru għall-Iżvilupp Sostenibbli, l-Ambjent u Tibdil fil-Klima, għamel dawn ir-regolamenti li ġejjin:

Titolu

1. It-titolu ta' dawn ir-regolamenti hu r-Regolamenti tal-2015 li jemendaw ir-Regolamenti dwar l-Għaqdiet tal-Produtturi (Ċertu Prodotti), u dawn ir-regolamenti għandhom jinqraw u jinftiehmu ħaġa waħda mar-Regolamenti dwar l-Għaqdiet tal-Produtturi (Ċertu Prodotti), hawn iżjed 'il quddiem imsejħa "ir-regolamenti prinċipali". L.S. 447.02

Jemenda r-regolament 2 tar-regolamenti prinċipali.

2. Is-subregolament (1) tar-regolament 2 tar-regolamenti prinċipali għandu jiġi emendat b' li ġej:

(a) it-tifsira "id-Direttur" għandha tiġi sostitwita b'dan li ġej:

"Direttur" tfisser id-Direttur tal-Agrikoltura u

tinkludi, u sa fejn tkun hekk awtorizzata, kwalunkwe persuna jew awtorità awtorizzata minnu biex taġixxi f'ismu għall-finijiet ta' dawn ir-regolamenti;

(b) minnufih wara t-tifsira "persuna" għandha tiżdied it-tifsira ġdida li ġejja:

" "pressjoni ambjentali" tfisser kwalunkwe ħaġa li tista' taffettwa is-saħħa jew il-ħajja ta' annimal, pjanta jew sistema ekoloġika in ġenerali inklużi arja, art jew ilma;".

Jemenda r-regolament 3 tar-regolamenti prinċipali.

3. Fis-subregolament (1) tar-regolament 3 tar-regolamenti prinċipali l-kliem "entità legali" għandhom jiġu sostitwiti bil-kliem "entità li għandha personalità legali separata u distinta minn dik tal-membri tagħha".

Jemenda r-regolament 4 tar-regolamenti prinċipali.

4. Ir-regolament 4 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) fir-regolament 4 tiegħu l-kliem "għaqdiet tal-produtturi" għandhom jiġu sostitwiti bil-kelma "entitajiet";

(b) il-paragrafi (a), (b) u (ċ) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (b), (ċ) u (d) rispettivament; u minnufih qabel il-paragrafu (b) tiegħu kif enumerat mill-ġdid għandu jiżdied il-paragrafu (a) kif ġej:

"(a) huma grupp ta' bdiewa rreġistrati bħala kooperattiva jew entità legali rikonnoxxuta oħra qabel ma japplikaw għar-rikonoxximent bħala għaqda tal-produtturi;".

Jissostitwixxi r-regolament 7 tar-regolamenti prinċipali.

5. Ir-regolament 7 tar-regolamenti prinċipali għandu jiġi sostitwit b'dan li ġej:

"Id-Dmirijiet tad-Direttur

7. Id-Direttur għandu:

(a) fi żmien tliet xhur minn meta jirċievi applikazzjoni għar-rikonoxximent bħala għaqda tal-produtturi, jiddeċiedi jekk jagħtix dak ir-rikonoxximent jew le;

(b) fejn iqis li huwa neċessarju, joħroġ linji gwida fir-rigward ta' proċeduri amministrattivi li għandhom jiġu segwiti b'mod mandatorju mill-applikanti li jkunu qegħdin japplikaw għall-għarfien bħala għaqda tal-produtturi u joħroġ formuli li huma neċessarjament għall-kumpilazzjoni tal-applikazzjoni għar-rikonoxximent;

(ċ) jwettaq spezzjonijiet f'intervalli regolari biex jaċċerta li għaqdiet ta' produtturi jikkonformaw mat-termini u l-kundizzjonijiet għar-rikonoxximent:

Iżda fil-każ ta' nuqqas ta' konformità, id-Direttur jista' jiddeċiedi li jirtira r-rikonoxximent bħala għaqda tal-produtturi.".

Jemenda r-regolament 8 tar-regolamenti prinċipali.

6. Ir-regolament 8 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) il-kelma "u" għandha tiġi mħassra;

(b) fil-paragrafu (ċ) il-kliem "fir-regolament 3(2)(i) sa (iv)." għandhom jiġu sostitwiti bil-kliem "fir-regolament 3(2)(i) sa (iv); u"; u

(ċ) minnufih wara fil-paragrafu (ċ) tiegħu, għandu jiżdied il-paragrafu (d) ġdid li ġej:

"(d) formuli mimlija kif suppost provduti mid-Direttur skont ir-regolament 7(b) u kwalunkwe dokumentazzjoni relattiva oħra mitluba mid-Direttur.".

Jemenda t-Taqsima III tar-regolamenti prinċipali.

7. It-Taqsima III tar-regolamenti prinċipali għandha tiġi enumerata mill-ġdid bħala it-Taqsima IV u r-regolament preżenti 9 għandu jiġi enumerat mill-ġdid bħala r-regolament 10.

Jemenda t-Taqsima IV tar-regolamenti prinċipali.

8. It-Taqsima IV tar-regolamenti prinċipali għandha tiġi emendata kif ġej:

(a) it-Taqsima IV tar-regolamenti prinċipali għandha tiġi enumerata mill-ġdid bħala t-Taqsima V;

(b) il-kliem "Irkuprar u Penalitajiet" fit-titolu tat-Taqsima V kif enumerata mill-ġdid għandhom jiġu sostitwiti bil-kliem "Sospensjoni u Irtirar tar-Rikonoxximent bħala Għaqda tal-Produtturi".

Iżid it-Taqsima III ġdida u r-regolament 9 ġdid mar-regolamenti prinċipali.

9. Minnufih wara r-regolament 8 tar-regolamenti prinċipali għandhom jiżdiedu t-Taqsima III u r-regolament 9 ġodda li ġejjin:

"TAQSIMA III

Iż-Żamma u Moniteraġġ tal-Għaqda tal-Produtturi

"Dmirijiet ta' Għaqdiet tal-Produtturi.

8. Mingħajr preġudizzju għal kwalunkwe liġi jew regolamenti oħra, l-Għaqdiet tal-Produtturi għandhom:

(a) jimplimentaw azzjonijiet proposti kif imniżżla fil-programm tal-operat;

(b) iżommu u jaġġornaw id-*database* tas-sħubija tagħhom;

(ċ) jinfurmaw lid-Direttur bil-laqgħat kollha relattivi għar-Regoli tal-Assoċjazzjoni;

(d) jikkolabboraw mad-Direttur jew kwalunkwe uffiċċjal awtorizzat minnu kull meta jsiru spezzjonijiet;

(e) jipprovdu lid-Direttur jew xi uffiċċjal awtorizzat minnu b' kull *data* mitluba;

(f) jissottomettu sa mhux aktar tard mill-31 ta' Diċembru ta' kwalunkwe sena kalendarja, rapport annwali dwar dik is-sena kalendarja li għandu jinkludi:

(i) progress fil-programmi operazzjonali implimentati matul dik is-sena kalendarja;

(ii) kwalunkwe tibdil fil-programmi operazzjonali li kienu mitluba mill-għaqda tal-produtturi u approvati mid-Direttur;

(iii) differenzi bejn l-għajnuna stamata u l-għajnuna li ġiet applikata għaliha;

(iv) sommarju tal-problemi li ltaqgħu magħhom fl-immaniġjar tal-programm u kwalunkwe miżuri meħuda sabiex jiġu assikurati l-kwalità u l-effettività tal-implimentazzjoni tal-programm;

(v) fil-każijiet fejn pressjonijiet ambjentali ġew eżerċitati, lista ta' salvagwardji effettivi li huma fis-seħħ sabiex jipproteġu l-ambjent minn dawn il-pressjonijiet.".

Jissostitwixxi r-regolamenti 10 u 11 tar-regolamenti prinċipali.

10. Ir-regolamenti 10 u 11 tar-regolamenti prinċipali għandhom jiġu enumerat mill-ġdid bħala r-regolamenti 11 u 12 u sostitwiti b'dan li ġej:

"Sospensjoni tar-Rikonoxximent bħala Għaqda tal-Produtturi

11. (1) Jekk id-Direttur jistabbilixxi li għaqda tal-produtturi skont dawn ir-regolamenti tkun naqset milli tħares xi waħda mill-kriterji ta' rikonoxximent stabbiliti mir-regolament 4 u, jew b'xort'oħra kisret xi waħda mid-disposizzjonijiet ta' dawn ir-regolamenti, huwa għandu jinnotifika b'avviż bil-miktub lil dik l-għaqda tal-produtturi skont is-subregolament (2);

(2) Avviż notifikat lil għaqda tal-produtturi skont is-subregolament (1) għandu:

(a) jindika n-nuqqas jew il-ksur identifikat;

(b) jinħtieġ li l-għaqda tal-produtturi li lilha jiġi nnofitikat bih sabiex tieħu dawk il-miżuri korrettivi neċessarji li d-Direttur jista' jiddetermina sabiex tirrimedja, jew sabiex tipprevjeni il-kontinwazzjoni jew ir-repetizzjoni ta', kwalunkwe nuqqas jew ksur li miegħu jirrelata l-avviż;

(ċ) jiddikjara l-perijodu li fih għandha tikkonforma ma' kull ħtieġa:

Iżda dak il-perijodu ma għandux ikun itwal minn erba' xhur.

(3) Mingħajr preġudizzju għal kwalunkwe liġijiet jew regolamenti oħra, in-nuqqas li jittieħdu l-miżuri korrettivi neċessarji indikati fl-avviż notifikat skont is-subregolament (1) fil-perjodu taż-żmien stipulat għandu iwassal għas-sospensjoni tar-rikonoxximent bħala għaqda tal-produtturi mid-Direttur, liema sospensjoni tieħu effett mid-data meta l-għaqda tal-produtturi tiġi notifikata bl-imsemmi avviż.

(4) Fil-każ ta' sospensjoni tar-rikonoxximent bħala għaqda tal-produtturi skont is-subregolament (3), id-Direttur għandu jinnotifika l-għaqda tal-produtturi b'tali sospensjoni u l-perjodu ta' sospensjoni.

(5) Id-Direttur għandu jinforma lil awtoritajiet li jamministraw fondi pubbliċi kif huwa jidhirlu xieraq tas-sospensjoni tar-rikonoxximent bħala għaqda tal-produtturi.

(6) L-entità li r-rikonoxximent tagħha bħala għaqda tal-produtturi ġiet sospiża skont dan ir-regolament tista' tapplika bil-miktub lid-Direttur għal konsiderazzjoni mill-ġdid tas-sospensjoni fi żmien jumejn minn meta ġiet notifikata bl-avviż ta' dik is-sospensjoni.

(7) Jekk sat-tmiem tal-perjodu tas-sospensjoni l-għaqda tal-produtturi tieħu l-miżuri korrettivi neċessarji biex tirrimedja in-nuqqas u, jew il-ksur msemmi fis-subregolament (1), id-Direttur għandu jirtira s-sospensjoni.

(8) Fil-każ li tiġi irtirata s-sospensjoni, id-Direttur għandu jinforma l-awtoritajiet imsemmija fis-subregolament (5) tal-imsemmija irtirar tas-sospensjoni.".

L-irtirar tar-rikonoxximent bħala għaqda tal-produtturi.

12. (1) Sakemm l-għaqda tal-produtturi ma tieħux il-miżuri korrettivi neċessarji indikati fl-avviż li biha ġiet notifikata mid-Direttur skont ir-regolament 11(1) sal-aħħar tal-perjodu tas-sospensjoni, ir-rikonoxximent tagħha bħala għaqda tal-produtturi għandha tiġi irtirata mid-Direttur:

Iżda jekk l-irtirar tar-rikonoxximent tidħol fis-seħħ mid-data li fiha l-kundizzjonijiet tar-rikonoxximent ma ġewx imwettqa, jew jekk mhux possibbli li d-data tiġi identifikata, mid-data meta n-nuqqas li tiġi rispettata xi waħda mill-kriterji rikonoxxuti stabbiliti mir-regolament 4 jew mid-data meta jiġi stabbilit xi ksur ieħor ta' xi dispożizzjoni ta' dawn ir-regolamenti.

(2) Id-Direttur għandu jinforma lil awtoritajiet li jamministraw fondi pubbliċi kif huwa jidhirlu xieraq bl-irtirar tar-rikonoxximent bħala għaqda tal-produtturi.".

Iżid ir-regolament 13 ġdid mar-regolamenti prinċipali.

11. Minnufih wara r-regolament 12 tar-regolamenti prinċipali kif enumerat mill-ġdid u sostitwit għandu jiżdied ir-regolament 13 ġdid li ġej:

"Dritt ta' Appell.

13. (1) Jista' jsir appell quddiem it-Tribunal Amministrattiv ta' Reviżjoni stabbilit skont l-artikolu 5(1) tal-Att dwar Ġustizzja Amministrattiva minn deċiżjoni tad-Direttur li jirtira r-rikonoxximent bħala għaqda tal-produtturi skont ir-regolament 12.

Kap. 490

(2) Appell skont is-subregolament (1) jista' jiġi ppreżentat mill-entità li r-rikonoxximent tagħha bħala għaqda tal-produtturi ġie irtirat u għandu jiġi ppreżentat fi żmien għoxrin jum minn notifikazzjoni tad-deċiżjoni tal-irtirar.

(3) Kull parti f'appell quddiem it-Tribunal Amministrattiv ta' Reviżjoni li tħoss ruħha aggravata b'deċiżjoni ta' dak it-Tribunal, li tħossha insodisfatta b'deċiżjoni ta' dak it-Tribunal, tista' fuq punt ta' liġi tappella quddiem il-Qorti tal-Appell kostitwita kif imsemmi fl-artikolu 41(6) fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili permezz ta' rikors ippreżentat fir-reġistru ta' dik il-Qorti, fi żmien għoxrin jum mid-data tad-deċiżjoni tat-Tribunal Amministrattiv ta' Reviżjoni.". Kap. 12

L.N. ___ of 2015

PRODUCER ORGANISATIONS ACT
(CAP. 447)

Producer Organisations (Certain Products) (Amendment) Regulations, 2015

IN exercise of the powers conferred by article 19 of the Producer Organisations Act, the Minister for Sustainable Development, the Environment and Climate Change has made the following regulations:

Citation.

S.L. 447.02

1. The title of these regulations is the Producer Organisations (Certain Products) (Amendment) Regulations, 2015 and they shall be read and construed as one with the Producer Organisations (Certain Products) Regulations, hereinafter referred to as "the principal regulations".

Amends regulation 2 of the principal regulations.

2. Sub-regulation (1) of regulation 2 of the the principal regulations shall be amended as follows:

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

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

(b) immediately after the new definition "Director" there shall be inserted the following new definition:

" "environmental pressure" means something that could affect the health or life of an animal, plant or ecological system in general including air, land and water;".

Amends regulation 3 of the principal regulations.

3. In sub-regulation (1) of regulation 3 of the principal regulations, for the words "legal entity" there shall be substituted the words "entity having a separate and distinct legal personality from that of its members".

Amends regulation 4 of the principal regulations.

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

(a) in regulation 4 the words "producer groups" shall be substituted by the word "entities"; and

(b) paragraphs (a), (b) and (c) shall be renumbered as paragraphs (b), (c) and (d) respectively; and immediately before paragraph (b) as renumbered there shall be added the following new paragraph (a):

"(a) they are a group of farmers registered as a cooperative or other recognised legal entity prior to applying for recognition as a producer organisation;".

Substitutes regulation 7 of the principal regulations.

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

"Duties of the Director.

7. The Director shall:

(a) within three months from receiving an application for recognition as a producer organisation, decide whether to grant such recognition or not;

(b) where he deems necessary, issue guidelines with regards to the administrative procedures which are to be followed mandatorily by applicants applying for recognition as a producer organisation and issue forms which are necessary for the compilation of the application for recognition;

(c) carry our inspections at regular intervals to ascertain that producer organisations comply with the terms and conditions for recognition:

Provided that in the event of non-compliance, the Director may decide to withdraw recognition as a producer organisation.".

Amends regulation 8 of the principal regulations.

6. Regulation 8 of the principal regulations shall be amended as follows:

(a) in paragraph (b) thereof the word "and" shall be deleted;

(b) in paragraph (c) thereof the words "regulation 3(2)(i) to (iv)." shall be substituted by the words "regulation 3(2)(i) to (iv); and"; and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph (d);

"(d) duly filled in forms provided by the Director in terms of regulation 7(b) and any other relevant documentation requested by the Director.".

Amends Part III of the principal regulations.

7. Part III of the principal regulations shall be renumbered as Part IV and the present regulation 9 shall be renumbered as regulation 10.

Amends Part IV of the principal regulations.

8. Part IV of the principal regulations shall be amended as follows:

(a) Part IV of the principal regulations shall be renumbered as Part V;

(b) the words "Recovery and Penalties" in the title of Part V as renumbered shall be substituted by the words "Suspension and Withdrawal of Recognition as a Producer Organisation".

Adds new Part III and new regulation 9 to the principal regulations.

9. Immediately after regulation 8 of the principal regulations there shall be inserted the following new Part III and new regulation 9:

"PART III
Maintaining and Monitoring Producer Organisations

"Duties of Producer Organisations.

9. Without prejudice to any other law or regulations, Producer Organisations shall:

(a) implement proposed actions stated in the operational programme;

(b) maintain and update their membership database;

(c) inform the Director of all meetings relative to their Rules of Association;

(d) collaborate with the Director or any officer authorised by him whenever inspections are carried out;

(e) provide the Director or any officer authorised by him with any data requested;

(f) submit by not later than the 31st December of any calendar year, an annual report relating to that calendar year which shall include:

(i) progress on the operational programmes implemented during that calendar year;

(ii) any changes to the operational programmes which were requested by the producer organisation and approved by the Director;

(iii) variances between estimated aid and aid applied for;

(iv) summary of problems encountered in managing the programme and any measures taken to ensure the quality and effectiveness of programme implementation;

(v) in cases where environmental pressures have been exerted, a list of the effective safeguards which are in place in order to protect the environment from these pressures.".

Substitutes regulations 10 and 11 of the principal regulations.

10. Regulations 10 and 11 of the principal regulations shall be renumbered as regulations 11 and 12 respectively and substituted by the following:

"Suspension of recognition as a producer organisation

11. (1) If the Director establishes that a producer organisation in terms of these regulations has failed to respect any one of the recognition criteria established by regulation 4 and, or has otherwise breached any of the provisions of these regulations, he shall serve a notice in writing on such producer organisation in accordance with sub-regulation (2);

(2) A notice served upon a producer organisation in terms of sub-regulation (1) shall:

(a) indicate the failure or breach identified;

(b) require the producer organisation upon whom it is served to take the necessary corrective measures as the Director may determine in order to remedy, or to prevent the continuation or repetition of, any failure or breach to which the notice relates;

(c) state the period within which any such requirement is to be complied with:

Provided that such period shall not be longer than four months.

(3) Without prejudice to any other laws or regulations, a failure to take the necessary corrective measures indicated in the notice served in terms of sub-regulation (1) within the stipulated time period shall lead to the suspension of recognition as a producer organisation by the Director, which suspension shall take effect from the date when the producer organisation is served with the said notice.

(4) In case of suspension of recognition as a producer organisation in terms of sub-regulation (3), the Director shall notify the producer organisation of such suspension and of the period of suspension.

(5) The Director shall inform authorities managing public funds which he deems fit of the suspension of recognition as a producer organisation.

(6) The entity whose recognition as a producer organisation has been suspended in terms of this regulation may apply in writing to the Director for reconsideration of the suspension within two days from when it is notified with notice of such suspension.

(7) If by the end of the period of suspension the producer organisation takes the necessary corrective measures to remedy the failure and/or breach mentioned in sub-regulation (1), the Director shall lift the suspension.

(8) In case of lifting of the suspension, the Director shall inform the authorities mentioned in sub-regulation (5) of the said lifting of the suspension.".

Withdrawal of recognition as a producer organisation.

12. (1) Unless the producer organisation takes the necessary corrective measures indicated in the notice served on it by the Director in terms of regulation 11(1) by the end of the period of suspension, its recognition as a producer organisation shall be withdrawn by the Director:

Provided that the withdrawal of recognition shall take effect from the date on which the conditions for recognition were not fulfilled or, if it is not possible to identify that date, from the date when the failure to respect any one of the recognition criteria established by regulation 4, or by the date on which the breach of any of the provisions of these regulations was established.

(2) The Director shall inform authorities managing public funds which he deems fit in case of withdrawal of recognition as a producer organisation.".

Adds new regulation 13 to the principal regulations.

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

"Right of appeal

Cap. 490.

13. (1) An appeal shall lie to the Administrative Review Tribunal as established by article 5(1) of the Administrative Justice Act from a decision of the Director to withdraw recognition as a producer organisation in terms of regulation 12.

(2) An appeal in terms of sub-regulation (1) may be filed by the entity whose recognition as a producer organisation has been withdrawn and shall be filed within twenty days from notification of the decision of withdrawal.

(3) Any party to an appeal to the Administrative Review Tribunal who feels aggrieved by a decision of the Administrative Review Tribunal, who feels dissatisfied with the decision of the Administrative Review Tribunal, may on a question of law appeal to the Court of Appeal as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court, within twenty days from the date of the Administrative Review Tribunal's decision.". Cap. 12.