A.L. tal-2015

ATT DWAR L-AMBJENT U L-IPPJANAR TAL-IŻVILUPP (KAP. 504)

Regolamenti tal-2015 dwar it-Tqegħid fuq is-Suq ta' Injam u Prodotti tal-Injam

BIS-SAĦĦA tas-setgħat mogħtija bl-artikoli 61 u 62 tal-Att dwar l-Ambjent u l-Ippjanar tal-Iżvilupp, il-Ministru għall-Iżvilupp Sostenibbli, l-Ambjent u Tibdil fil-Klima u s-Segretarju Parlamentari għall-Ippjanar u Simplifikazzjoni ta' Proċessi Amministrattivi, wara konsultazzjoni mal-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar, għamlu dan l-Ordni li ġej:-

Titolu.

1. It-titolu ta' dawn ir-regolamenti hu Regolamenti tal-2015 dwar it-Tqegħid fuq is-Suq ta' Injam u Prodotti tal-Injam.

Skop.

2. Dawn ir-regolamenti jimplimentaw id-dispożizzjonijiet tar-Regolament (UE) Nru 995/2010 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ottubru 2010 li jistabbilixxi l-obbligi tal-operaturi li jqiegħdu injam u prodotti tal-injam fis-suq kif stabbilit fl-Anness għal dan ir-Regolament, kif jista' jiġi emendat minn żmien għall-ieħor, hawn iżjed 'il quddiem imsejjaħ "ir-Regolament (UE) Nru 995/2010".

Tifsir.

3. (1) F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra:

"avviż ta' azzjonijiet ta' rimedju" tfisser id-dokument ta' notifika maħruġ lill-operatur skont ir-regolament 7;

"awtorità kompetenti" tfisser id-Direttorat tal-Agrikoltura;

"Direttur" tfisser id-Direttur tal-Agrikoltura u, sal-limitu tal-funzjonijiet mogħtija, tinkludi kull uffiċjal pubbliku awtorizzat minnu bil-miktub, sabiex jaġixxi f'ismu għal xi wieħed mill-għanijiet ta' dawn ir-regolamenti;

"injam" tfisser injam u prodotti tal-injam;

"operatur" tfisser kull persuna naturali jew legali li tqiegħed injam jew prodotti tal-injam fis-suq Ewropew għall-ewwel darba;

"persuna" tfisser kull persuna, sew naturali jew ġuridika, korporata jew mhix korporata, u tinkludi kull persuna li taġixxi f'isimha jew taħt xi istruzzjonijiet ta' kwalunkwe mgħallem, sid jew min iħaddem;

"ir-Regolament Implimentattiv" tfisser ir-Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru 607/2012 tas-6 ta' Lulju 2012 dwar regoli dettaljati li jikkonċernaw is-sistema ta' diliġenza dovuta u l-frekwenza u n-natura tal-kontrolli fuq l-organizzazzjonijiet ta' monitoraġġ kif stipulat fir-Regolament (UE) Nru 995/2010 tal-Parlament Ewropew u tal-Kunsill li jistabbilixxi l-obbligi tal-operaturi li jqiegħdu fis-suq injam u prodotti tal-injam;

"suq intern" tfisser is-suq intern tal-Unjoni Ewropea;

"uffiċjal awtorizzat" tfisser persuna li jkollha l-awtorizzazzjoni mid-Direttur sabiex twettaq spezzjonijiet u funzjonijiet oħra relatati mal-infurzar u l-implimentazzjoni tad-dispożizzjonijiet ta' dawn ir-regolamenti.

(2) Kemm-il darba l-kuntest ma jkunx jeħtieġ xort'oħra, kliem u espressjonijiet użati f'dawn ir-regolamenti għandu jkollhom l-istess tifsira mogħtija lilhom fl-Artikolu 2 tar-Regolament (UE) Nru 995/2010.

(3) Fil-każ ta' nuqqas ta' qbil bejn dawn ir-regolamenti u d-dispożizzjonijiet tar-Regolament (UE) Nru 995/2010, dan tal-aħħar jipprevali.

Awtorità Kompetenti.

4. Id-Direttorat tal-Agrikoltura għandu jkun l-awtorità kompetenti għall-finijiet:

(a) tar-Regolament (UE) Nru 995/2010;

(b) tar-Regolament Implimentattiv; u

(ċ) tar-Regolament ta' Delega tal-Kummissjoni (UE) Nru 363/2012 tat-23 ta' Frar 2012 dwar regoli proċedurali għar-rikonoxximent u l-irtirar tar-rikonoxximent ta' organizzazzjonijiet ta' monitoraġġ kif stipulat fir-Regolament (UE) Nru 995/2010 tal-Parlament Ewropew u tal-Kunsill li jistabbilixxi l-obbligi tal-operaturi li jqiegħdu fis-suq injam u prodotti tal-injam.

Spezzjonijiet.

5. (1) Operatur għandu jippermetti lil kull uffiċjal awtorizzat, fil-ħinijiet raġonevoli kollha, għall-finijiet tat-twettiq tal-funzjonijiet tiegħu taħt dawn ir-regolamenti u wara li juri dokument ta' identifikazzjoni:

(a) li jidħol f'kull post wara li jagħti preavviż:

Iżda r-rekwiżit ta' preavviż ma japplikax f'każijiet meta diversi tentattivi sabiex jingħata appuntament ma jirnexxux, jew meta tali preavviż jmur kontra l-iskop tad-dħul, jew meta jkun hemm suspett raġonevoli li jkun sar reat kontra dawn ir-regolamenti;

(b) jwaqqaf u, jew jitla' abbord kull vettura jew bastiment li l-uffiċjal ikollu tabilħaqq għaliex jifhem li qed iġorr l-injam;

(ċ) jispezzjona l-post, kull impjant, makkinarju jew apparat, kontejners u njam li jkun jinstab fuq is-sit;

(d) jkollu aċċess għal, jispezzjona u jikkopja kull dokumentazzjoni, reġistri u informazzjoni oħra li għalihom japplikaw dawn ir-regolamenti, fi kwalunkwe forma li jkunu miżmuma, u jeħodhom sabiex jagħmel kopja jew ikun jeħtieġ li rekords b'format diġitali jiġu prodotti permezz ta' mezz ieħor sabiex ikun hemm aċċess faċli għalihomi u jkunu jistgħu jittieħdu mill-uffiċjal;

(e) jieħu kampjun tal-injam;

(f) jwettaq kull analiżi, investigazzjoni, jew test; u

(g) jieħu ritratti fotografiċi, qisien jew reġistrazzjonijiet.

(2) Operatur għandu jipprovdi kull għajnuna raġonevoli lil kull uffiċjal awtorizzat li jkun qed jaġixxi skont is-subregolament (1), u b'mod partikolari għandu:

(a) jipproduċi għall-ispezzjoni dak id-dokument jew rekord skont kif jista' jkun meħtieġ minn dak l-uffiċjal awtorizzat;

(b) jqiegħed kull injam kif meħtieġ disponibbli għall-analiżi.

Assistenza.

6. Għall-fini tal-infurzar tad-dispożizzjonijiet ta' dawn ir-regolamenti, id-Direttur jista' jitlob l-assistenza minn membri tal-Korp tal-Pulizija u mill-Komptrollur tad-Dwana.

Avviż ta' azzjonijiet ta' rimedju.

7. (1) Meta d-Direttur jkollu tabilħaqq għaliex jifhem li xi persuna kisret jew naqset milli tikkonforma ruħha ma xi dispożizzjoni tal-Artikoli 4 u 5 tar-Regolament (UE) Nru 995/2010 u Artikolu 5 tar-Regolament Implimentattiv, id-Direttur jista' jinnotifika bil-miktub avviż ta' azzjonijiet ta' rimedju lil dik il-persuna skont is-subregolament (2).

(2) Avviż ta' azzjonijiet ta' rimedju notifikat skont is-subregolament (1) għandu jispeċifika:

(a) ix-xorta tar-reat;

(b) sommarju tal-fatti li fuqhom tkun imsejsa l-allegazzjoni li jkun twettaq reat;

(ċ) il-miżuri li, fl-opinjoni tad-Direttur, għandhom jittieħdu sabiex tinkiseb konformità;

(d) il-perijodu li fih għandhom jittieħdu tali miżuri, kif raġonevoli fiċ-ċirkostanzi.

(3) Flimkien mal-avviż ta' azzjonijiet ta' rimedju id-Direttur jista', bħala miżura provviżorja, jipprojbixxi t-tqegħid fuq is-suq tal-injam sakemm ma jittieħdu l-azzjonijiet ta' rimedju msemmija fl-avviż:

Iżda r-raġunijiet li abbażi tagħhom ittieħdu dawn il-miżuri għandhom ikunu speċifikati fl-avviż:

Iżda wkoll uffiċjal awtorizzat jista' jimmarka, bi kwalunkwe mod, l-injam li huwa suġġett tal-avviż ta' azzjonijiet ta' rimedju, għall-finijiet ta' identifikazzjoni.

(4) Kull avviż ta' azzjonijiet ta' rimedju mibgħut mid-Direttur għandu jitqies li jkun sar u li ġie debitament notifikat jekk dan jitwassal fiżikament jew inkella jintbgħat bil-posta reġistrata lill-persuna indirizzata fil-post ta' residenza jew fejn ikollha n-negozju, jew fl-indirizz postali tagħha.

Pieni amministrattivi.

8. (1) Meta persuna tonqos milli tikkonforma ma' avviż mogħti skont ir-regolament 7 fiż-żmien speċifikat fih, id-Direttur jista' jinnotifika lil dik il-persuna b'avviż bil-miktub skont is-subregolament (2).

(2) Avviż taħt is-subregolament (1) għandu jispeċifika;

(a) id-data u x-xorta tar-reat;

(b) sommarju tal-fatti li fuqhom tkun imsejsa l-allegazzjoni li jkun twettaq reat (li jkun sunt suffiċjenti biex b'mod komplet u ġust jgħarraf lill-persuna bl-allegazzjoni kontriha);

(ċ) kull kwistjoni oħra (li ma tkunx dwar xi sejbien ta' ħtija preċedenti) li d-Direttur jikkunsidra rilevanti biex tkun tista' tingħata piena; u

(d) l-ammont ta' piena dovuta, u meta l-piena dovuta tkun tiddependi fuq xi sejbien ta' ħtija preċedenti, id-data ta' dak is-sejbien ta' ħtija,

u dan it-tagħrif għandu jkun kontrofirmat fuq dikjarazzjoni li ssemmi d-dispożizzjonijiet ta' dan ir-regolament.

(3) Kull min jiġi notifikat b'avviż taħt is-subregolament (1) jista', fi żmien tletin ġurnata minn dik in-notifika, b'avviż bil-miktub li jiġi notifikat lid-Direttur, jitlob li l-proċeduri għar-rigward tar-reat allegat isiru quddiem il-Qorti, f'liema każ għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) ma jittieħdu ebda proċeduri oħra taħt dan ir-regolament mid-Direttur; u

(b) ebda ħaġa f'dan ir-regolament ma għandha tiftiehem bħala li tipprevjeni l-istituzzjoni ta' proċeduri għar-rigward tar-reat allegat jew tas-sejbien ta' ħtija tal-persuna għar-reat mill-Qorti jew l-impożizzjoni ta' xi piena jew konfiska taħt dawn ir-regolamenti meta persuna tinstab hekk ħatja.

(4) Kull min ikun ingħatalu avviż taħt is-subregolament (1) u ma jkunx jixtieq li l-proċedimenti għar-rigward tar-reat allegat isiru quddiem il-Qorti jista' b'notifika bil-miktub, indirizzata lid-Direttur, fi żmien tletin ġurnata minn meta jirċievi l-avviż:

(a) jammetti r-reat;

(b) jħallas l-ammont tal-piena lid-Direttur fi żmien tletin ġurnata wara li jkun ġie lilu notifikat l-avviż tal-piena jew wara kull perjodu sussegwenti hekk kif id-Direttur jista' jispeċifika; u

(ċ) jieħu l-passi rimedjali neċessarji sabiex tkun żgurata konformità ma' dawn ir-regolamenti.

(5) Meta taħt dan ir-regolament persuna tammetti reat, id-Direttur jimponi fuq dik il-persuna piena ta' flus għar-rigward tar-reat li tkun tammonta għal terz tal-ogħla piena li dik il-persuna kienet teħel li kieku nstabet ħatja tar-reat mill-Qorti.

(6) Il-piena imposta taħt is-subregolament (5) għandha tkun dovuta bħala dejn ċivili eżegwibbli mill-Qorti ta' ġurisdizzjoni ċivili kompetenti favur il-Gvern u d-dikjarazzjoni mill-persuna li tkun weħlet il-piena li tkun tammetti l-akkuża għandha tikkostitwixxi titolu eżekuttiv għall-finijiet tal-artikolu 253 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili bl-istess mod bħallikieku kienet sentenza tal-Qorti ta' ġurisdizzjoni ċivili kompetenti.

Kap. 12.

(7) Minkejja kull dispożizzjoni oħra ta' dawn ir-regolamenti jew ta' kull liġi oħra, meta tkun saret l-ammissjoni ta' reat taħt dan ir-regolament, ma tista' ssir ebda akkuża għar-rigward ta' dak ir-reat kontra min ikun għamel dik l-ammissjoni.

(8) Meta persuna li lilha jkun ġie notifikat avviż taħt is-subregolament (1) ma tammettix ir-reat fi żmien tletin ġurnata wara li tkun ġiet notifikata bl-avviż, id-Direttur għandu jibda proċeduri jew jara li jinbdew proċeduri quddiem il-Qorti għar-rigward tar-reat allegat.

Reati u pieni.

9. (1) Persuna għandha tinstab ħatja ta' reat taħt dawn ir-regolamenti jekk:

(a) tonqos milli tikkonforma mal-projbizzjoni tat-tqegħid ta' injam li ġie maqtugħ b'mod illegali fuq is-suq skont l-Artikolu 4(1) tar-Regolament (UE) Nru 995/2010;

(b) tonqos milli tikkonforma mal-obbligu li teżerċita d-diliġenza dovuta u żżomm u tevalwa b'mod regolari is-sistema ta' diliġenza dovuta skont l-Artikoli 4(2) u (3) tar-Regolament (UE) Nru 995/2010;

(ċ) tonqos milli tikkonforma mal-obbligi ta' traċċabiltà skont l-Artikolu 5 tar-Regolament (UE) Nru 995/2010;

(d) tonqos milli tikkonforma mal-obbligi dwar iż-żamma ta' dokumentazzjoni skont l-Artikolu 5 tar-Regolament Implimentattiv;

(e) tonqos milli tikkonforma jew tikser xi dispożizzjoni ta' dawn ir-regolamenti, jew xi ordni mogħtija leġittimament skont xi dispożizzjoni tar-Regolament (UE) Nru 995/2010, tar-Regolament Implimentattiv jew ta' dawn ir-regolamenti;

(f) tikkonfoffa jew tipprova, jew tgħin, jew tħajjar, lil xi persuna oħra bi kwalunkwe mezz, inkluż ir-reklamar, l-għoti ta' pariri jew ġegħil biex tikser id-dispożizzjonijiet ta' dawn ir-regolamenti jew biex tonqos milli tikkonforma ruħha ma' xi dispożizzjonijiet simili, inkluża xi ordni mogħtija legalment skont xi dispożizzjoni ta' dawn ir-regolamenti, jew biex tikser xi restrizzjoni, projbizzjoni jew ħtieġa imposta minn jew taħt dawn ir-regolamenti msemmija;

(g) b'intenzjoni tostakola jew tikkawża ostakolu lil xi persuna li qiegħda taġixxi fl-eżerċizzju proprju tal-funzjonijiet tagħha taħt dawn ir-regolamenti u, jew tonqos milli tħalli li ssir spezzjoni awtorizzata taħt dawn ir-regolamenti;

(h) mingħajr raġuni valida, tonqos milli tagħti lil xi persuna li qiegħda taġixxi fl-eżerċizzju proprju tal-funzjonijiet tagħha taħt dawn ir-regolamenti, kull assistenza jew informazzjoni li tista' teħtieġ li tingħata skont dawn ir-regolamenti jew xi liġi oħra, jew tagħti informazzjoni falza jew qarrieqa;

(i) tibdel, tiffalsifika bi kwalunkwe mod, tħassar jew teqred xi dokument mogħti lil jew maħruġ mid-Direttur skont dawn ir-regolamenti.

(2) Persuna li twettaq reat kontra d-dispożizzjonijiet ta' dawn ir-regolamenti teħel, meta tinstab ħatja:

(a) għall-ewwel reat kontra is-subregolament (1)(a), (g) u (h), multa ta' mhux inqas minn elfejn u ħames mitt euro (€2,500), iżda mhux aktar minn ħamsa u għoxrin elf euro (€25,000);

(b) għall-ewwel reat kontra s-subregolamenti (1)(b), (ċ), (d), (e), (f) u (i), multa ta' mhux inqas minn elf u ħames mitt euro (€1,500), iżda mhux aktar minn ħamest elef euro (€5,000)

(ċ) meta tinstab ħatja għat-tieni darba jew aktar, multa ta' mhux inqas minn elfejn u ħames mitt euro (€2,500), iżda mhux aktar minn ħamsin elf euro (€50,000).

(3) Meta persuna tkun instabet ħatja ta' xi reat kontra dawn ir-regolamenti, il-Qorti tista' b'żjieda ma' xi piena oħra li tkun imponiet:

(a) tordna l-konfiska ta' kull injam u beni jew ħwejjeġ oħra relatati mar-reat favur il-Gvern u jekk hekk konfiskati għandhom isir disponiment minnhom b'tali mod kif determinat mill-Qorti fuq parir tad-Direttur;

(b) tissospendi għal perijodu ta' mhux inqas minn xahar, kif jidher xieraq lill-Qorti, kwalunkwe liċenza jew permess miżmuma minn min instab ħati u relatati ma' kull kummerċ jew negozju li għalihom jirreferi r-reat;

(ċ) timponi multa addizzjonali ekwivalenti għall-benefiċċju ekonomiku stmat li l-persuna ħatja tkun akkwistat mill-għemil tar-reat jew li setgħet akkwistat li kieku r-reat baqa' mistur; u

(d) tikkundanna l-ħati għal perijodu ta' priġunerija ta' mhux inqas minn tletin ġurnata iżda mhux aktar minn sentejn.

(4) Fir-rigward ta' proċedimenti għal reati kontra dawn ir-regolamenti, il-Qorti tista' fid-deċiżjoni tagħha tagħti favur il-Gvern dawk l-ispejjeż imġarrba fir-rigward ta' dawn il-proċedimenti kif jidhrilha xieraq.

Fuq min taqa' l-prova.

10. F'dawk il-proċedimenti dwar reat li jiġi kommess taħt dawn ir-regolamenti, li jkun jikkonsisti minn nuqqas ta' konformità mal-Artikoli 4 u 5 tar-Regolament (UE) Nru 995/2010 u Artikolu 5 tar-Regolament Implimentattiv, għandu jaqa' fuq l-akkużat li jipprova (skont ma jkun il-każ) illi d-diliġenza dovuta neċessarja fil-fatt saret sabiex iwettaq id-dmir jew il-ħtieġa, jew li ma kienx hemm mezzi prattiċi aħjar minn dawk li fil-fatt intużaw sabiex iwettaq id-dmir jew il-ħtieġa.

Applikabilità tal-Kodiċi Kriminali. Kap. 9.

11. (1) Id-dispożizzjonijiet tal-artikoli 23 u 30(1) tal-Kodiċi Kriminali għandhom, *mutatis mutandis*, japplikaw għal proċedimenti fir-rigward ta' reati kontra dawn ir-regolamenti, b'dan illi l-iskwalifika miż-żamma jew il-ksib ta' xi *warrant*, liċenza, permess jew awtorità ma għandha f'ebda każ tkun għal anqas minn sena.

Kap. 9.

(2) Minkejja d-dispożizzjonijiet tal-artikolu 370 tal-Kodiċi Kriminali, proċeduri għal xi reat kontra dawn ir-regolamenti għandhom jittieħdu mill-Qorti tal-Maġistrati (Malta) jew mill-Qorti tal-Maġistrati (Għawdex), skont il-każ, u għandhom isiru skont id-dispożizzjonijiet tal-Kodiċi Kriminali li jirregolaw il-proċedura quddiem dawk il-qrati bħala qrati ta' ġudikatura kriminali.

L.N. of 2015

ENVIRONMENT AND DEVELOPMENT PLANNING ACT (CAP. 504)

Timber and Timber Products (Placing on the Market) Regulations, 2015

IN EXERCISE of the powers conferred by articles 61 and 62 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change and the Parliamentary Secretary for Planning and Simplification of Administrative Processes, after consultation with the Malta Environment and Planning Authority have made the following regulations:-

Citation.

1. The title of these regulations is the Timber and Timber Products (Placing on the Market) Regulations, 2015.

Scope.

2. (1) These regulations provide for the implementation of the provisions of Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market as set out in the Annex thereof, as may be amended from time to time, hereinafter referred to as "Regulation (EU) No 995/2010".

Interpretation.

3. (1) In these regulations, unless the context otherwise requires:

"authorized officer" means a person duly authorized by the Director to carry out inspections and other functions related to the enforcement and implementation of any provision of these regulations;

"competent authority" means the Directorate of Agriculture;

"Director" means the Director of 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;

"the Implementing Regulation" means Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organizations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market;

"internal market" means the internal market of the European Union;

"notice of remedial actions" means a notice served upon an operator in accordance with regulation 7;

"operator" means any natural or legal person that places timber or timber products on the EU market for the first time;

"person" means any person, whether natural or legal, corporate or incorporate, and includes any person acting on his own behalf or under the instructions of any employer, master or owner;

"timber" means timber and timber products.

(2) Unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in Article 2 of Regulation (EU) No 995/2010.

(3) In the event that any of these regulations conflict with the provisions of Regulation (EU) No 995/2010, the latter shall prevail.

Competent authority.

4. The Directorate of Agriculture shall be the competent authority for the purposes of:

(a) Regulation (EU) No 995/2010;

(b) the Implementing Regulation; and

(c) Commission Delegated Regulation (EU) No 363/2012 of 23 February 2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organizations as provided for in the Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.

Inspections.

5. (1) An operator shall permit any authorized officer, at all reasonable times, for the purposes of carrying out his functions under these regulations and upon production of identification:

(a) to enter into premises after giving prior notice:

Provided that the requirement to give prior notice does not apply in cases when efforts to arrange an appointment have failed, or when such notice would defeat the purpose of the entry, or where there is reasonable suspicion that an offence against these regulations has been committed;

(b) stop and, or board any vehicle or vessel that the officer has reasonable grounds to believe is transporting timber;

(c) inspect the premises, any plant, machinery or equipment, containers and timber found on the premises;

(d) have access to, examine and copy any documentation, records or other information to which these regulations may apply, in whatever form they are held, and remove them to enable them to be copied or require computer records to be produced in a form in which they may be easily accessed and taken away by the officer;

(e) take samples of any timber;

(f) carry out any examination, investigation or test; and

(g) take photographs, measurements or recordings.

(2) An operator shall provide all reasonable assistance to any authorized officer acting in terms of sub-regulation (1) and in particular shall:

(a) produce for inspection such document or record as may be required by such authorized officer;

(b) make available for examination any timber as may be required.

Assistance.

6. For the purposes of enforcing the provisions of these regulations, the Director may request the assistance of members of the Police Force and of the Comptroller of Customs.

Notice of remedial actions.

7. (1) Where the Director has reasonable cause to believe that any person has contravened or failed to comply with any provision of Articles 4 and 5 of Regulation (EU) No 995/2010 and Article 5 of the Implementing Regulation, the Director may serve in writing a notice of remedial actions, on such person in accordance with sub-regulation (2).

(2) A notice of remedial actions served in terms of sub-regulation (1) shall specify:

(a) the nature of the offence;

(b) the facts upon which the allegation that an offence has been committed is based;

(c) the measures that, in the Director's opinion, must be taken in order to ensure compliance;

(d) the period within which any such measures must be taken, as is reasonable in the circumstances.

(3) In addition to the notice of remedial actions, the Director may, as an interim measure, prohibit the placing on the market of the timber until the remedial actions as specified in the notice are carried out:

Provided that the grounds for taking such measures shall be specified in the notice:

Provided further that an authorized officer may mark the timber subject to the notice of remedial actions in any way for identification purposes.

(4) Any notice of remedial actions sent by the Director shall be deemed to have been delivered and duly notified if it is physically delivered or sent by registered post to the person at his place of residence or business or place of work or postal address of such person.

Administrative penalties.

8. (1) Where any person fails to comply with a notice served in accordance with regulation 7 within the time specified therein, the Director may cause a notice in writing in accordance with sub-regulation (2) to be served on that person.

(2) A notice under sub-regulation (1) shall specify:

(a) the date and nature of the offence;

(b) a summary of the facts upon which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him);

(c) any other matter (not being previous convictions) that the Director considers relevant to the imposition of a penalty; and

(d) the amount of the penalty due and, where the penalty due depends on a previous conviction, the date of such conviction,

and shall be endorsed on a statement setting out the provisions of this regulation.

(3) Any person on whom a notice under sub-regulation (1) is served may, within thirty days after such service, by notice in writing served on the Director, require that proceedings in respect of the alleged offence shall be dealt with by the Court, in which case the following provisions shall apply:

(a) no further proceedings shall be taken under this regulation by the Director; and

(b) nothing in this regulation shall be construed as preventing the institution of any proceedings in respect of the alleged offence or the conviction of the person for the offence by the Court or the imposition of any penalty or forfeiture under these regulations upon such conviction.

(4) Any person on whom a notice under sub-regulation (1) is served who does not wish that proceedings in respect of the alleged offence be dealt with by the Court may, within thirty days after such service, by notice in writing served on the Director:

(a) admit the offence;

(b) pay the amount of the penalty to the Director within thirty days after the penalty notice is served or after such subsequent period as the Director may determine; and

(c) take the necessary remedial actions to ensure conformity with these regulations.

(5) Where under this regulation a person admits an offence, the Director shall impose a monetary penalty on that person in respect of the offence amounting to one-third of the maximum penalty to which the person would be liable if he were convicted of the offence by the Court.

(6) The penalty imposed under sub-regulation (5) shall be due as civil debt enforceable by the competent Court of civil jurisdiction in favour of the Government and the declaration by the person on whom the penalty is imposed that he admits the charge shall constitute an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure in the same manner as if it were a judgement of the competent Court of civil jurisdiction.

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(7) Notwithstanding any other provision of these regulations or of any other enactment, where an offence has been admitted under this article no charge may be laid in respect of the offence against any person by whom it has been admitted.

(8) Where a person on whom a notice under sub-regulation (1) is served does not, within thirty days after the notice is served on him, admit the offence, the Director shall institute proceedings or cause proceedings to be instituted before the Court in respect of the alleged offence.

Offences and penalties.

9. (1) Any person shall be guilty of an offence under these regulations if he:

(a) fails to comply with the prohibition on placing illegally harvested timber on the market in accordance with Article 4(1) of Regulation (EU) No 995/2010;

(b) fails to comply with the obligation to exercise due diligence and maintain and regularly evaluate the due diligence system in accordance with Articles 4(2) and (3) of Regulation (EU) No 995/2010;

(c) fails to comply with the obligation of traceability in terms of Article 5 of Regulation (EU) No 995/2010;

(d) fails to comply with the record-keeping obligation in accordance with Article 5 of the Implementing Regulation;

(e) fails to comply or contravenes any provision of these regulations or fails to comply with any order lawfully given in terms of any provision of Regulation (EU) No 995/ 2010, the Implementing Regulation or these regulations;

(f) 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 under the said regulations;

(g) intentionally obstructs or causes the obstruction of any person acting in the proper exercise of his functions under these regulations and, or fails to allow an inspection authorized under these regulations;

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

(i) alters, forges, counterfeits or destroys any document presented to or issued by the Director under these regulations.

(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 relating to sub-regulation (1)(a), (g) and (h), to a fine (*multa*) of not less than two thousand and five hundred euro (€2,500) but not exceeding twenty-five thousand euro (€25,000);

(b) on a first conviction relating to sub-regulation (1)(b), (c), (d), (e), (f) and (i), to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not exceeding five thousand euro (€5,000);

(c) on a second or subsequent convictions, to a fine (*multa*) of not less than two thousand and five hundred euro (€2,500) but not exceeding fifty thousand euro (€50,000).

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

(a) order that the timber and any other goods or things to which the offence relates be forfeited to the Government and if so forfeited shall be disposed of in such a manner as the Court may determine on the advice of the Director;

(b) suspend for a period as the Court may deem proper, not being less than one month, any licence or permit held by the offender and related to any trade or business to which the offence relates;

(c) impose an additional fine equivalent to the estimated economic benefit which the convicted person derived from the commission of the offence or would have derived had the offence remained undetected; and

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

(4) In respect of proceedings for any offence charged against these regulations, the Court may award in favour of the Government such costs and expenses incurred in relation to these proceedings as it may deem proper.

10. In any proceedings for an offence under these regulations consisting of a failure to comply with Articles 4 and 5 of Regulation (EU) No 995/2010 and Article 5 of the Implementing Regulation, it shall be for the accused to prove (as the case may be) that all the necessary due diligence was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement. Onus of proof.

11. (1) The provisions of articles 23 and 30(1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a warrant, licence, permit or authority shall in no case be less than one year. Applicability of the Criminal Code. Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature. Cap. 9.