**No. 930**

**MINISTRY FOR AGRICULTURE, FISHERIES AND ANIMAL RIGHTS**

**Explanatory Notes[1]**

**1. Introduction**

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| **Title of Regulations** | Production of Olive Oil Regulations, 2023 (hereinafter referred to as "the regulations") |
| **Activity to be regulated** | The Production of Olive Oil Regulations provide a legal framework for the licensing of persons engaged in the local production of olive oil and the registration of such licensed olive oil producers and growers of olives. |
| **Responsible entity** | The Agriculture Directorate |

The Production of Olive Oil Regulations provide a legal framework for the licensing of persons engaged in the local production of olive oil and the registration of such licensed olive oil producers and growers of olives. The Agriculture Directorate is the designated authority responsible for the setting up of this legislation and for relative controls pertinent to olive growers and olive oil producers.

The Production of Olive Oil Regulations (S.L 117.34) are being repealed and substituted by these new regulations following consultation with internal and external stakeholders namely the MCCAA which is complimentary to the purpose of this legal framework. The current Production of Olive Oil Regulations (S.L 117.34) regulations were enacted to implement the following European Union Regulations which refer to the production of olive oil and the authenticity of the process pertinent to its marketing standards:

Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil; and

Commission Regulation (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis.

The above-mentioned European Union Regulations were encapsulated in the current Production of Olive Oil Regulations (S.L 117.34) to be managed by a single competent authority – the Agriculture Directorate.

In this regard, the need for an improvement to the regulatory framework was identified to designate different competent authorities to serve as the entities responsible for the different implementation stages of these European Union Regulations by means of an altogether new set of regulations.

[1]These Explanatory Notes are for the purpose of and in accordance with article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

**2. Summary and background**

(a) Delineation of roles between Competent Authorities allowing the different departments to be more focused on the services given between different parties within the food value chain:

There was the need for the different authorities to delineate the roles and objectives governing the production and marketing of olive oil. In this regard, the Olive Oil (Marketing Standards) (Implementing) Regulations (S.L. 427.101) were published for the implementation of marketing standards pertinent to olive oil.

Nevertheless, there was the need to establish a separate regulatory framework for the registration of olive groves and monitoring of olive oil production as well as to establish clear functions and roles and responsibilities of the competent authority.

(b) More Transparent and fair monitoring system:

The scope of the regulations is to substitute the current Production of Olive Oil Regulations (S.L 117.34) with a view to introduce a fairer monitoring mechanism whereby the operator is informed of any non-compliances and a clearer systematic enforcement procedure. These provisions allow for the relevant stakeholders to be informed of any shortcomings identified by the Competent Authority and hence, provide a monitoring mechanism that would allow stakeholders to be aligned.

(c) Reduction in payment for olive oil licence:

The present fee for a licence to produce olive oil is that of one hundred and ten euro (€110), and by virtue of these regulations it is to be reduced to twenty-five euro (€ 25), thus making it more competitive for the local sector.

**3. Overview of the structure of the instrument**

The regulations consist of seventeen (17) new regulations and contain the following:

Regulation 1: Citation and commencement
Regulation 2: Interpretation
Regulation 3: Licence to produce olive oil
Regulation 4: Application for licence
Regulation 5: Refusal to issue or renew licence
Regulation 6: Register of Olive Growers and Olive Oil Producers
Regulation 7: Declaration by olive growers
Regulation 8: Declaration by olive oil producers
Regulation 9: Records to be kept by olive oil producers
Regulation 10: Codes of good practice
Regulation 11: Appointment of authorised officers
Regulation 12: Measures in case of irregularities and infringements

Regulation 13: Warning notice
Regulation 14: Enforcement notice
Regulation 15: Proceedings before the Court
Regulation 16: Offences and fines (multi)
Regulation 17: Repeal and saving

**4. Commentary on parts and articles**

The current Production of Olive Oil Regulations (S.L 117.34) are to be repealed and substituted by these regulations mainly to ensure clarity in the segregation between entities when it comes to the different parts of the food chain in the production of olive oil.

The regulations aim to establish a clear regulatory framework in the primary stages of production starting from the field upon arrival to the processor. In this regard, these regulations ensure an effective monitoring mechanism pertinent to data on olive groves, harvest and processing of olives for olive oil that is to enter the market.

The regulatory framework concerning the quality, labelling and standardisation of olive oil is then to be implemented through a separate legal framework managed by a different competent authority (i.e MCCAA).

Regulations 1-2: Contain the title and commencement of the regulations and the definitions thereof.

Regulation 3: Stipulates that no person shall engage in the local production of olive oil without a licence and goes on to establish the fee of twenty-five euro (€25) to be charged upon the first issue and on any renewal.

Regulation 4: Explains the application process with respect to the issuance of a licence.

Regulation 5: Explains what happens in the case of refusal of the issuance of a licence and specifically indicates that an applicant can submit an appeal in terms of the Administrative Justice Act (Chapter 490 of the Laws of Malta).

Regulation 6: Stipulates that a register of olive growers and olive oil producers shall be kept and that a list of licensed producers is to be accessible to the public on the official website of the Agriculture Directorate.

Regulations 7-8: Lay down the obligation for olive growers and olive oil producers to submit to the Director the declarations provided by the Agriculture Directorate.

Regulation 9: Emphasises that olive oil producers shall keep records of their activities and indicates what type of records and details need to be maintained.

Regulation 10: Provides that the Director may issue codes best practice as regards compliance with the provisions of the regulations.

Regulation 11: Gives the Minister the power to designate public officers to be authorised officers for the control of the production of olive oil. Furthermore, the powers which the said officers may exercise are provided for.

Regulation 12: Ensures that where an irregularity is found the Director shall order in writing for the cessation of the production of olive oil.

Regulation 13: Introduces the warning notice procedure which is to be applied when any irregularity or breach in accordance with these regulations occur. This regulation, however, also stipulates that when a person breaches regulation 3(1), the Director shall impose a fine without a warning or enforcement notice.

Regulation 14: Deals with the enforcement notice which shall be issued when an operator fails to comply with the instructions/conditions of the warning notice.

Regulation 15: In the proceedings before the Court of Magistrates the Director or any officer, lawyer or legal procurator designated by the Director may, notwithstanding any law to the contrary, lay the charge before the Court, produce evidence, plead and otherwise conduct the prosecution..

Regulation 16: Introduces a comprehensive list of offences and stipulates the fines. The regulation continues to explain that an offender may enter into an out of court settlement with the Director if he pays the fine (multa). However, if within thirty (30) days from the date of service, he does not pay the fine (multa), the Director shall institute proceedings before the Court.

Regulation 17: Provides for the repeal of the Production of Olive Oil Regulations (S.L. 117.34).

**5. Conclusion**

These regulations will be published by means of a Legal Notice in the Government Gazette and shall come into force within two (2) months from their publication and this in accordance with article 3(2)(b) of the Small Business Act (Chapter 512 of the Laws of Malta).

**For further information please contact:**

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**N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement thereto. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.**

7th July, 2023