

**L.N. 115 of 2015****ENVIRONMENT AND DEVELOPMENT PLANNING ACT  
(CAP. 504)****Forest Law Enforcement, Governance and Trade Licensing  
Scheme Regulations, 2015**

IN EXERCISE of the powers conferred by article 61 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change and 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 Forest Law Enforcement, Governance and Trade Licensing Scheme Regulations, 2015.

Scope. **2.** These regulations provide for the implementation of the provisions of:

(a) Council Regulation (EC) No. 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community as amended by Regulation (EU) No. 657/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No. 2173/2005 as regards the delegated and implementing powers to be conferred on the Commission, hereinafter referred to as "Regulation (EC) No. 2173/2005"; and

(b) Commission Regulation (EC) No. 1024/2008 laying down detailed measures for the implementation of Council Regulation (EC) No. 2173/2005, as may be amended from time to time, hereinafter referred to as "the Implementing Regulation".

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

"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;

"economic operator" means a person who, in the course of his or her business, is involved in activities covered by the customs legislation;

"partner country" means a country listed in Annex I of Regulation (EC) No. 2173/2005, as may be amended from time to 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 as listed in Annex II and III of Regulation (EC) No. 2173/2005, as may be amended from time to time.

(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 (EC) No. 2173/2005.

(3) In the event that any of these regulations conflict with the provisions of Regulation (EC) No. 2173/2005, the latter shall prevail.

**4.** (1) The Directorate of Agriculture is the competent authority for the purposes of these regulations, Regulation (EC) No. 2173/2005 and the Implementing Regulation. Competent authority.

(2) Without prejudice to the provisions of these regulations, the competent authority shall be responsible for the implementation of Regulation (EC) No. 2173/2005 and for communicating with the Commission in terms of the said Regulation.

**5.** (1) Any person seeking to import timber from a partner country shall submit a FLEGT licence, covering the shipment, to the competent authority prior to the arrival of the shipment and in sufficient time to allow for its validation. FLEGT licence.

(2) A FLEGT licence presented to the competent authority must be made available in the English language.

**6.** (1) The Director may, for the purposes of these regulations, appoint officers who will have such functions as the Director may deem necessary for the enforcement and implementation of any provision of these regulations, Regulation (EC) No. 2173/2005 and the Implementing Regulation, and shall have Functions of officers.

the right to:

(a) enter into premises at all reasonable times, after giving prior notice and upon production of identification:

Provided that the requirement to give prior notice shall 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, vessel, aircraft or other means of transport 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 economic 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.

**7.** 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.

Offences and penalties.

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

(a) fails to comply with the prohibition on timber

imports from partner countries unless covered by a FLEGT licence in accordance with Article 4(1) of Regulation (EC) No. 2173/2005;

(b) use a false, falsified, invalid or expired licence or one altered without authorization for any purpose in connection with these regulations;

(c) makes no import notification or a false import notification;

(d) makes use of a licence for any other timber shipments other than the one for which it was issued;

(e) fails to submit the FLEGT licence to the competent authority in accordance with regulation 5;

(f) fails to comply with, or contravenes, any provision of these regulations, Regulation (EC) No. 2173/2005 or the Implementing Regulation or fails to comply with any order lawfully given in terms of any provision of Regulation (EC) No. 2173/2005, the Implementing Regulation or these regulations;

(g) alters, forges, counterfeits or destroys any licence or document presented to or issued by the Director under these regulations;

(h) 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;

(i) 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;

(j) 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.

(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 one thousand and five hundred euro (€1,500) but not exceeding twenty five thousand euro (€25,000);

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

(4) Any person who has been found guilty of committing an offence against these regulations shall also pay for the expenses incurred for the storage, removal, transport and disposal of the imported goods and any other expenses incurred in relation to these proceedings.

Applicability of  
the Criminal  
Code.  
Cap. 9.

9. (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.

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.

