

*Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,665, 16 ta' Lulju, 2021*

*Taqsimha B*

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**L.N. 304 of 2021**

**PLANT QUARANTINE ACT  
(CAP. 433)**

**Protective Measures Against Pests of Plants and Related Official  
Controls and Official Activities Regulations, 2021**

IN EXERCISE of the powers conferred by article 32 of the Plant Quarantine Act, the Minister responsible for Agriculture, Fisheries, Food and Animal Rights has made the following regulations:-

1. The title of these regulations is the Protective Measures Title.  
Against Pests of Plants and Related Official Controls and Other  
Official Activities Regulations, 2021.

2. The scope of these regulations is to provide provisions in Scope.  
relation to:

(a) Regulation (EU) 2016/2031 of the European Parliament and of the Council of the 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC;

(b) Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation); and

(c) the implementing and delegated acts that have been

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and shall be issued under the above mentioned regulations and which deal with plant health matters.

Definitions. **3.** (1) In these regulations, unless the context otherwise requires, the following definitions shall apply:

Cap. 433. "Act" means the Plant Quarantine Act;

"Directorate" means the Directorate or Department responsible for plant health;

"Director" means the Director responsible for the Directorate;

"Official Controls Regulation" means the Regulation (EU) 2017/625 of the European Parliament and of the Council of 15<sup>th</sup> March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;

"Plant Health Regulation" means the Regulation (EU) 2016/2031 of the European Parliament and of the Council of the 26<sup>th</sup> October 2016 on protective measures against pests of plants.

(2) Other definitions according to Article 3 of the Official Controls Regulation and Article 2 of the Plant Health Regulation shall apply.

Designation of the national competent authority. **4.** The national competent authority as referred to in the Official Controls Regulation (with respect to plant health) and the Plant Health Regulation is the Plant Protection Directorate.

Designation of Official Plant Health Officer and Certifying Officer. Cap. 433. **5.** (1) The "Official Plant Health Officer" as referred to in definition (33) of Article 3 of the Official Controls Regulation shall be the "inspector" appointed under article 26 of the Act.

(2) The "Certifying Officer" as referred to in definition (26) of the Official Controls Regulation and in Article 88 of the same Regulation shall be the Official Plant Health Officer or an authorised officer as defined under article 2 (1) of the Act capable to perform the required duties.

Official registration of professional operators. **6.** (1) Professional operators that carry out any of the following activities shall be registered in the Malta Official Register (MOR), established and held by the Directorate, under the provisions of these regulations, the Plant Health Regulation and the Official Controls Regulation:

(a) introducing into, or moving within the Union, plants, plant products and other objects for which a phytosanitary certificate or a plant passport is required on the basis of the implementing acts adopted pursuant to Article 72(1), Article 73, Article 74(1), Article 79(1) and Article 80(1) of the Plant Health Regulation;

(b) are authorised to issue plant passports in accordance with Article 89 of the Plant Health Regulation;

(c) requesting the Directorate to issue the certificates referred to in Articles 100 (Phytosanitary certificate for export from the Union), 101 (Phytosanitary certificate for re-export from the Union) and 102 (Pre-export certificates) of the Plant Health Regulation;

(d) in the context of the Plant Health Regulation, are authorised to apply the mark on wood packaging material referred to in Article 98, authorised to issue the attestations other than the mark on wood packaging material referred to in Article 99, providing information to travellers and clients of postal services in accordance with Articles 45 or 55 (providing information to travellers and clients of postal services as regards protected zones), introducing plants, plant products or other objects to frontier zones in accordance with Article 46(1) or Article 56, or carrying out activities concerning the relevant plants in demarcated areas, unless those operators are listed in another official register which is accessible to the competent authorities; and, or

(e) carry out activities other than the ones referred to in sub-paragraphs (a) to (d) of this sub-regulation, if so required by implementing acts adopted pursuant to Article 28(1), Article 30(1), Article 41(2), Article 49(1), Article 53(2) or Article 54(2) of the Plant Health Regulation;

(f) are involved in one of the below activities:

(i) management of collective warehouses or dispatching centers of tubers of *Solanum tuberosum* L., other than seed potatoes;

(ii) management of collective warehouses or dispatching centers of fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf. and their hybrids; and, or

(iii) production of plants of *Palmae*, intended for

planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf;

(g) production and marketing of plant reproductive material.

(2) The Director may apply exemptions from registration of a professional operator as per point 3 of Article 65 of the Plant Health Regulation.

Procedure of registration.

7. (1) Professional operators falling within the scope of regulation 6 shall submit an application for registration in the MOR to the Directorate in such form, in such manner and during such time as Director may establish in the Government Gazette. The application for registration shall include the following elements:

(a) the name, legal form, address in the territory of Malta, legally valid identification document number and contact details of the professional operator;

(b) a statement concerning the intention of the professional operator to exercise one or more of the activities referred to in Article 65(1) of the Plant Health Regulation concerning plants, plant products and other objects, including activities undertaken by means of distance communication;

(c) a statement concerning the intention of the professional operator to carry out, as applicable, one or more of the following activities:

(i) issuing of plant passports for plants, plant products and other objects pursuant to Article 84(1) of the Plant Health Regulation;

(ii) placing of the mark on wood packaging material referred to in Article 96(1) of the Plant Health Regulation;

(iii) issuing of any other attestation referred to in Article 99(1) of the Plant Health Regulation;

(d) address of the premises and, where applicable, the location of land plots used by the professional operator in the territory of Malta to carry out the activities referred to in Article

65(1) of the Plant Health Regulation, for the purpose of the registration;

(e) the commodity types, families, genera or species of the plants and plant products and, where appropriate, the nature of other objects concerned by the activities of the professional operator, as referred to in Article 65(1) of the Plant Health Regulation;

(f) the person who will be effectively managing or controlling the activity or activities, hereinafter in these regulations referred to as the authorised person;

(g) the stage of growth at which plants and plant products are marketed;

(h) such other information as the Directorate may require.

(2) On receiving an application for registration, the Directorate shall evaluate such application and shall ascertain that the application form for registration contains the elements set out in sub-regulation (1). For such purpose, the Directorate may request other information and the production of any documents when required:

(a) by way of derogation from sub-regulation (1) the Directorate shall register a professional operator without the submission of an application for registration if that operator is registered in accordance with regulations 6 and 7 of Plant Quarantine (Harmful Organisms) Regulations and if all elements set out in sub-regulation (1) are available to the Directorate. Where relevant, the professional operator concerned shall submit an update of those elements in such form, in such manner and during such time as Director may establish in the Gazette; S.L. 433.03

(b) the Directorate may grant or refuse an application for registration and in case of refusal, the Directorate shall inform the applicant in writing stating the reasons for such refusal;

(c) the Directorate shall issue a certificate with the respective registration number.

(3) (a) Registered operators shall, where relevant, submit annually an update concerning any changes to the statements referred to in paragraphs (b) and (c) of sub-regulation (1) and in the data referred to in paragraphs (d) and (e) of sub-regulation (1). That

submission shall take place by 30 April of each year with regards to the updating of the data of the preceding year.

(b) In case of an indefinite or temporary closure or a definite closure of an activity the professional operator shall inform the Directorate in writing by filling the appropriate form, where necessary requesting de-registration from the Malta Official Register, in such form, in such manner and during such time as Director may establish in the Gazette.

(c) Any registered operator shall notify the Directorate, by submitting an application for updating the data referred in paragraph (a) of sub-regulation (1) of regulation 7 and paragraph (b) of sub-regulation 3 of regulation 7 no later than 30 days after the change in those data.

(4) Where the Directorate becomes aware that the registered operator no longer carries out the activities referred to in Article 65(1) of the Plant Health Regulation and Article 15(5) of the Official Controls Regulation and that the elements included in the application submitted by the registered operator in accordance with sub-regulation (1) are no longer correct, it shall request that operator to correct those elements immediately and within a specified period of time.

(5) Where the registered operator does not correct those elements within the period of time set by the Directorate, the Directorate shall, as appropriate amend or revoke the registration of that operator to correct those elements immediately and within another specified period of time.

(6) The authorised person as referred to in paragraph (f) of sub-regulation (1) shall follow obligatory bi-annual training organised by the Directorate on plant health, official controls and other related matters. Provided that if the authorised person does not follow such training, the Directorate may revoke the MOR compliance certificate or refuse to issue such certificate as the case may be.

Traceability.

**8. (1)** A professional operator to whom plants, plant products or other objects are supplied and that are subject to requirements or conditions pursuant to points (a) to (d) of the first sub-paragraph of Article 28(1), Article 28(2) and (3), Article 30(1), (3) and (4), Article 37(2), Article 41(2) and (3), Article 46(1) and (3), Article 48(1) and (2), Article 49(1), Article 54(2) and (3), Articles 56, 57 and 58 and Article 79(1) of the Plant Health Regulation shall keep a record allowing that operator to identify, for each trade unit of plant,

plant product or other object supplied, the professional operator/s who supplied it.

(2) A professional operator supplying plants, plant products or other objects that are subject to requirements or conditions pursuant to points (a) to (d) of the first sub-paragraph of Article 28(1), Article 28(2), and (3), Article 30(1), (3) and (4), Article 37(2), Article 41(2) and (3), Article 46(1) and (3), Article 47(1), Article 48(1) and (2), Article 49(1), Article 54(2) and (3), Articles 56, 57 and 58 and Article 79(1) of the Plant Health Regulation shall keep a record allowing that operator to identify, for each trade unit of plant, plant product or other object it supplied, the professional operator/s to whom it was supplied.

(3) When an authorised operator issues a plant passport pursuant to Article 84(1) and when the competent authority issues a plant passport pursuant to Article 84(2) for a registered operator under the Plant Health Regulation, that operator shall ensure, for the purpose of ensuring traceability pursuant to sub-regulations (1) and (2) that the following information is recorded as regards that plant passport:

(a) where applicable, the professional operator who supplied the trade unit concerned;

(b) the professional operator/s to whom the trade unit concerned was supplied; and

(c) relevant information relating to the plant passport.

(4) Professional operators shall keep the records referred to in sub-regulations (1), (2) and (3) for at least three (3) years after the date on which the plant, plant product or other object concerned was supplied to or by them.

(5) On request, the professional operators referred to in sub-regulation (4) shall communicate the information in the records referred to in regulations (1), (2) and (3) to the Directorate.

(6) The regulations (1), (2), (3), (4) and (5) shall not apply to the professional operators referred to in paragraphs (c) and (d) of regulation 6(1), the exempted from registration of professional operators.

Movements of plants, plant products and other objects within and between the premises of the professional operator.

**9. (1)** The professional operators who are supplied with, or supply, the plants, plant products or other objects referred to in Article 69(1) and (2) of the Plant Health Regulation shall have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.

This sub-regulation shall not apply to the professional operators referred to in paragraphs (c) and (d) of regulation 6(1), the exempted from registration of professional operators.

(2) The information identified by the systems or procedures referred to in sub-regulation (1) on the movement of the plants, plant products and other objects within and between the premises of the professional operators referred to in that regulation shall be made available to the Directorate on request.

Official business hours of the Directorate.

**10.** For the purposes of the regulations and other services related to Plant Health Regulation and the Official Controls Regulation, the official business hours of the Directorate shall be as follows:

- From 1<sup>st</sup> October to the 15<sup>th</sup> June:  
Monday to Fridays (except public holidays):  
from 7.30 a.m. to 12:30pm and from 1:00pm to 3.30 p.m.;
- From 16<sup>th</sup> June to 30<sup>th</sup> September:  
Monday to Fridays (except public holidays):  
from 7.30 a.m. to 1.00 p.m.

Enforcement.

**12. (1)** It shall be the duty of the Directorate to ensure compliance with the provisions of these regulations, the Official Controls Regulation and the Plant Health Regulation in Malta and for such purposes, it shall perform investigations, checks, verifications, inspections, follow-ups and other activities during such time or times as may be necessary. For the purposes of the foregoing provisions, the Directorate shall have access to all premises where a regulated activity is being carried out and shall have access to all relevant information and records. Furthermore, collection of samples of plants, plant products and other objects, laboratory testing and other relevant checks thereon may be also carried out by the Directorate.

(2) Without prejudice to the provisions of these regulations, the Directorate may by notice in the Government Gazette publish guidelines establishing the minimum measures to be taken to rectify breaches or to take action on recommendations by the Directorate.

(3) Where it is established, through official controls and other

official activities carried out in accordance with these regulations, the Official Controls Regulation and the Plant Health Regulation, that plants, plant products or other objects present a risk of spreading harmful organisms, they shall be the subject of any measures deemed appropriate to ensure compliance to Article 138 of the Official Controls Regulation.

(4) In those cases where the Directorate has reasonable belief that an offence against these regulations, the Official Control Regulation and the Plant Health Regulation has been committed by any person and it results that such person has not previously committed an offence against the Act, the Director may serve an enforcement notice on such person in accordance with sub-paragraph (b) below:

(5) An enforcement notice served upon a person in terms of sub-regulation (4) shall:

(a) require the person upon whom it is served to carry out such works or to take such steps as the Director may determine in order to remedy or to prevent the continuation or repetition of, any contravention to which the enforcement notice relates; and

(b) state the time period within which any such requirement is to be complied with.

(6) The time period stated in the enforcement notice for compliance with any such requirement shall be such period as is reasonable in the particular circumstances.

(7) The Director may at any time:

(a) withdraw the enforcement notice;

(b) extend the time period for compliance with any remedies specified in the enforcement notice; or

(c) modify the remedies of the enforcement notice.

(8) The Directorate may, when deemed appropriate, issue guidelines, measures or operative procedures for the implementation of these regulations, the Official Controls Regulation and the Plant Health Regulation.

(9) Without prejudice to the generality of sub-regulation (8), the Director may by notice published in the Gazette lay down the minimum measures to be taken to control and prevent the spread of

harmful organisms.

(10) Any person found guilty of an offence against any provision of these regulations, the Official Controls Regulation and the Plant Health Regulation shall, on conviction, be liable to penalties established under the Act.

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