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L.N. 506 of 2021**SUPPLIES AND SERVICES ACT
(CAP. 117)****Marketing of Agricultural Produce and Agricultural Marketing
Centres Regulations, 2021**

IN EXERCISE of the powers conferred by article 3 of the Supplies and Services Act, the Minister for the Economy and Industry after consultation with the Minister for Agriculture, Fisheries, Food and Animal Rights, has made the following regulations:-

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**PART I
Preliminary**

Citation and commencement.

1. (1) The title of these regulations is Marketing of Agricultural Produce and Agricultural Marketing Centres Regulations, 2021.

(2) These regulations shall come into force within two months from their publication in the Gazette.

Interpretation.

2. In these regulations, unless the context otherwise requires:

S.L. 595.39.

"Agency" means the Malta Food Agency established by the Malta Food Agency (Establishment) Order and which shall deliver a public service in relation to food from farming and fisheries;

"agricultural retailer" means a person who sells agricultural produce by retail from a shop or by hawking;

"farmer" means a natural or legal person, or a group of natural or legal persons responsible for a holding and who exercises an agricultural activity;

"local agricultural produce" means any produce which is

cultivated or grown locally by a farmer or is derived from local animal husbandry;

"marketing centres" means the agricultural marketing centres established by these regulations;

"person" means a natural person, body of persons whether corporate or unincorporate, or an association;

"place of business" means any shop or other premises, truck or other vehicle, and any other place or device in or from which sales of agricultural produce is effected;

"purchase" means the acquisition, by any onerous title, of any local agricultural produce;

"sale" means any disposal under any onerous title whatsoever of local agricultural produce, and "sell" shall be construed accordingly;

"sales agent" means a person, including a body corporate, whether corporate, unincorporate or association, who has been authorised to sell local agricultural produce at the marketing centres by the Agency;

"society" means a co-operative society among farmers, duly registered under the Co-operative Societies Act; Cap. 442.

"trader" means any person who deals or is concerned in, or performs any act of trade relating to the importation, sale by retail from a shop or hawking, exchange or disposal of agricultural produce, but does not include a farmer or livestock breeder.

3. The Agency may, in writing, authorise any public officer or public service employee to exercise any or all of the powers of the Agency under these regulations either concurrently with the Agency or in its absence, subject to such conditions as the Agency may stipulate in the authorisation. Power to delegate.

4. (1) The Agency may, in matters dealing with agriculture and from time to time, appoint officers for the purposes of these regulations, or of any orders made thereunder. Appointment and duties of officers.

(2) In order to ensure compliance with these regulations, officers appointed in terms of sub-regulation (1), shall have the power, at reasonable times, but without giving prior notice and upon production of proof of their identity:

(a) to enter and inspect any stall located at an agricultural

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marketing centre where trade in local agricultural produce, is carried out;

(b) to inspect and copy any documents, records or any 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 or, and seize any article, commodity connected with or which may be used as evidence that an offence has been committed.

PART II

Agricultural Marketing Centres: Administration, Commercial Activity and Restrictions

Establishment of agricultural marketing centres.

5. There shall be a marketing centre for the collection and sale of local agricultural produce, to be known as the Agricultural Marketing Centre at Ta' Qali, in the limits of Attard.

Hours of opening of marketing centres.

6. (1) Any marketing centre shall be kept open on any day during such hours as the Agency may fix from time to time by virtue of a notice in the Gazette.

(2) The Agency may also determine the hours during which farmers may take their local agricultural produce to any of the marketing centres, as well as the hours during which such local agricultural produce may be sold.

Admittance to agricultural marketing centres.

7. (1) No person may enter the marketing centre unless he is provided with a pass issued by the Agency.

(2) Any person who is within the marketing centre shall produce, on being so requested by authorised officials, the said pass.

Restrictions on sale of agricultural produce.

8. No person other than a sales agent, a farmer, or a society authorised by the Agency shall sell or otherwise dispose of local agricultural produce to an agricultural retailer within the marketing centres.

Deliveries of agricultural produce.

9. No farmer shall deliver for sale in the marketing centre, local agricultural produce unless the produce exhibited at the top is a fair sample of the entire contents delivered.

Rules applicable to marketing centres.

10. (1) No person shall purchase or sell local agricultural produce from the marketing centre otherwise than by a sales method as approved by the Agency.

(2) No person purchasing local agricultural produce from the

marketing centre shall remove such produce or cause it to be removed from the place at which the sale is held before he has obtained the relative purchase delivery note issued through a system authorised by the Agency.

(3) No person shall sell or keep for sale within the limits of any marketing centre any imported fruits or vegetables or any other product not related to local production.

(4) The Agency may issue standards and shall also determine:

(a) which standardised containers have been approved for use in the marketing centre;

(b) which local agricultural produce entering or leaving the marketing centre shall be carried in the said standardised containers;

(c) the weights and measures to be used; and

(d) the exact times when sales of local agricultural produce may be held which shall be notified by the Agency periodically.

(5) The Agency may impose a service fee on farmers who deliver produce which fee shall be deducted from the payment due to him and as published by virtue of a notice in the Gazette.

11. No agricultural retailer shall sell to a sales agent, a farmer or society agricultural produce other than local agricultural produce produced by the agricultural retailer himself.

Restriction of commercial activities of agricultural retailers.

12. The provisions of regulation 11 shall apply to local eggs in the same manner as they apply to local agricultural produce.

Applicability of these regulations to local eggs.

13. Every sales agent, society or farmer shall keep a record of all sales transactions in the form and media, as directed and approved by the Agency. Such records shall be made available to the Agency as required.

Sales records that shall be kept by a sales agent, society or farmer.

14. No live animals of any kind shall be allowed into or be kept within the marketing centres.

Animals.

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PART III
Trade Matters

Interpretation.

15. In this Part:

"agricultural produce" shall also mean imported fruit, imported vegetables and fodder;

"Director" means the Director of Trade.

Maximum
prices in respect
of agricultural
produce.

16. (1) The Director may from time to time, by order in the Gazette, fix the minimum and maximum price at which any agricultural produce may be sold.

(2) Prices may be so fixed by the Director by using one or more of the following methods:

- (a) fixing stated maximum prices;
- (b) fixing maximum margins of profit;
- (c) fixing maximum percentages of profit.

Cap. 117.

(3) Any trader shall, if so required by the Director or by any member of the Executive Police or by any person appointed under article 4 of the Supplies and Services Act, or by any member of a body of persons so appointed, produce on demand for examination any book and document in his possession and to furnish him with all such information in such form and within such time as may be specified in the request.

(4) The Director may, in respect of any agricultural produce, impose any such condition as he may deem fit with regards to its sale, prohibition of sale or limitation of sale.

Exhibition of
different kinds
of agricultural
produce for sale
and of price
thereof.

17. (1) Every trader shall conspicuously exhibit in his place of business, every kind of agricultural produce held by him:

Provided that, he may, in respect of one or more kinds, exhibit only a sample thereof.

(2) The agricultural produce or sample thereof which shall be exhibited shall bear a label showing the price at which that kind of agricultural produce is being offered for sale and the unit of weight or quantity to which the price refers.

(3) Where any kind of agricultural produce is kept in baskets or other containers, the label shall be placed on each such basket or container.

(4) The Director may, at his discretion, exempt one or more traders or one or more classes of traders generally or in respect of one or more kinds of agricultural produce specified by him, from the obligations imposed by sub-regulations (1) and (2).

18. When a maximum selling price has been fixed under regulation 17, the price shown on the label mentioned in regulation 18 shall not exceed the price so fixed.

Prices marked shall not exceed maximum prices fixed.

19. A trader in possession of stocks of any agricultural produce which he does not expose for sale in his place of business or does not store therein in sufficient quantities to meet daily demands, shall be deemed to be hoarding or refusing to sell, and shall be guilty of an offence.

Hoarding of agricultural produce.

20. No trader shall purchase any agricultural produce from any unknown person.

Prohibition of purchasing from unknown person.

21. No trader selling agricultural produce by wholesale shall, without reasonable cause, refuse to sell in reasonable quantities, to any person trading by retail any agricultural produce required in connection with his business, and no person trading in retail shall without reasonable cause refuse to sell to any consumer any agricultural produce in quantities reasonably required for the normal use and consumption of the consumer or his household or his establishment:

Prohibition of refusal to sell without reasonable cause.

Provided that nothing in this regulation shall prevent any consumer from making direct purchases from a trader selling by wholesale.

22. No trader shall, in selling or in offering for sale any agricultural produce, impose any conditions in connection with such sale other than the charging of the proper price.

Prohibition of conditions additional to price.

23. (1) No person shall mark, offer for sale or sell or attempt to sell any agricultural produce at an unreasonable price where no maximum price is fixed or above the maximum price fixed in respect of such agricultural produce.

Sale at unreasonable prices.

(2) Any profit exceeding the margin or percentage of profit allowed under or for the purposes of these regulations shall be conclusively deemed to make the price charged excessive.

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PART IV
Offences and Penalties

Review of
decisions.

Cap. 490.

Penalties.

24. Any decision of the Agency shall be subject to review by the Administrative Review Tribunal established under article 5(1) of the Administrative Justice Act.

25. (1) Any person who contravenes or fails to comply with any of the provisions of these regulations shall be guilty of an offence and shall be liable:

(a) on a first conviction, to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding one thousand and two hundred euro (€1,200);

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) or a fine (*multa*) calculated on the profit made by the offender in connection with the transaction in contravention to these regulations, whichever is the higher:

Provided that when the fine (*multa*) is so calculated, it may not exceed five times the profit made by the offender.

(2) In addition to the penalties laid down in sub-regulation (1), the court shall on the demand of the prosecution, order:

(a) the suspension of the offender's permit, pass, or licence, for a period of not less than one (1) month but not exceeding six (6) months, or the cancellation of any licence held by the offender and relating to any trade or business to which the offence relates, and shall order that any such cancelled licence may not be re-issued in respect of the convicted offender;

(b) the forfeiture of the articles to which the offence relates, and such articles shall be forfeited to the Government;

(c) the offender to a sentence of imprisonment for a term of not less than thirty (30) days but not exceeding two (2) years.

(3) Offences against these regulations shall be deemed to be a contraventions but proceedings in respect thereof may be commenced at any time within one (1) year of the commission of the offence.

(4) The suspension of any licence ordered by the Court shall have effect as from such date within twelve (12) days from the

judgment as the Director may specify in writing to the Registrar of Courts or orally during the proceedings:

Provided that in the case of an appeal against the judgment of the Court of first instance, where the Court of Appeal orders or confirms the suspension of a licence, such suspension shall have effect as from such date as the Court of Appeal may determine.

(5) Proceedings in respect of an offence against these regulations shall be taken before the Courts of Magistrates (Malta) or the Court of Magistrates (Gozo), and the provisions of the Criminal Code relating to criminal proceedings before such court shall, subject to the preceding sub-regulations of this regulation, apply in respect of proceedings for offences against these regulations. Cap. 9.

26. Any licence, permit or pass granted for the purpose of these regulations may be suspended or revoked at any time by the authority or person empowered to grant it. Suspension or revocation of any licence, permit or pass.

27. The provisions of the Probation Act shall not be applicable in respect of any offence against the provisions of these regulations. Probation Act shall not be applicable. Cap. 446.

28. The court, by which a person is found guilty of selling agricultural produce at an unreasonable price or at a price higher than the maximum price of such agricultural produce, may order the offender to refund to the person to whom such agricultural produce was sold either the overcharged portion of the price or such amount as was in excess of the maximum price fixed by the Director: Refunds.

Provided that the refund shall be given within one (1) month from the court's order;

Provided further that a daily penalty of not less than four euro and sixty-six cents (€4.66) shall be incurred for each day of default from the court's order:

Provided further that the person to whom the refund is due may recover the amount through civil proceedings before the competent Civil Court and without prejudice to any right of appeal, any order by the court to refund such amount shall constitute an executive title and may be enforced by the creditor after two (2) days of service on the debtor of a demand for payment made by a judicial act.

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Acting in the name, or on behalf or in the interest of.

Cap. 249.

Cap. 117.

29. When an offence against these regulations is committed by an individual acting in the name, or on behalf or in the interest of a partnership or an association or other body or group of persons, or when action is taken against an individual by virtue of his liability as a director, manager, secretary or other similar officer of such body, association or group as provided in article 13 of the Interpretation Act, or by virtue of any liability under article 10 of the Supplies and Services Act, and it results that an act or omission amounting to an offence against these regulations has occurred, the provisions of regulation 26 relating to the suspension or revocation of any licence held by the offender or other person as aforesaid shall apply also to any licence held by or in the name, or on behalf or in the interest of the partnership, association or other body or group of persons of which the offender or other person as aforesaid is a director, manager, secretary or other officer or in whose name or interest or on whose behalf such person was acting, and such licence shall equally be suspended or cancelled accordingly.

Trader shall be responsible for offences by employees, etc.

30. Every trader as referred to in Part III shall take all such steps as are required to ensure full compliance with all the provisions of these regulations, and even when any offence against or non-compliance with any provision of these regulations may be attributed to any person in the employment of such trader or in the exercise of any act or function authorised or permitted by the trader, such trader shall also be guilty of that offence unless he proves that he took all reasonable steps to prevent the commission of the offence.

Repeal and saving.
S.L. 117.04.
S.L. 117.20.

31. The Marketing of Agricultural Produce Regulations and the Agricultural Marketing Centres Regulations are hereby repealed and any references in any law to the repealed regulations shall be construed as references to these regulations:

Provided that any orders and measures taken by virtue of the repealed regulations shall remain in force as if made under these regulations.