

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

13th August, 2004

ACT No. XII of 2004

An Act to make provision for the imposition of an eco-contribution on products which result in waste and to provide for matters ancillary or incidental thereto

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Part I Preliminary

Short title and commencement.

1. (1) This Act may be cited as the Eco-Contribution Act 2004.

(2) This Act shall come into force on such date as the Minister, in concurrence with the Minister responsible for finance, may by notice in the Gazette appoint and different dates may be so appointed for different provisions or different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires -

“Competent Authority” means the authority designated by the Minister under Article 10 of this Act;

“eco-contribution” or “contribution” means the contribution chargeable under Article 3 of this Act;

“the Minister” means the Minister responsible for waste management and includes, to the extent of the authority given,

any person authorised in that behalf for any purpose of this Act;

“placed on the market” means when a product is transferred from the manufacturing stage with the intention of distribution on the market in Malta, or when a product is brought into Malta with the intention of distribution on the market;

“producer” means a person who, for the purpose of trade or otherwise in the course of business, manufactures or brings into Malta products on which the eco-contribution shall be payable in terms of this Act;

“products” means products which result in waste and on which an eco-contribution is chargeable;

“recovery of waste” means the re-use, recycling or reclamation of waste or any other process aiming to extract secondary raw materials or energy from such waste;

“Schedule” means a schedule to this Act;

“waste” means any thing, substance, product or object, in whatever form, whether hazardous or otherwise, which is discarded or intended to be discarded or is required to be kept in order to be discarded and includes such other thing, substance or object as the Minister may prescribe.

Part II Imposition of eco-contribution

3. (1) There shall be charged and levied by the Competent Authority, on account of the Government, an eco-contribution at the rates shown in the Third Column of the First Schedule payable on products described in the First and Second Columns of the said Schedule, which are placed on the market.

Imposition of eco-contribution.

(2) The First Schedule shall be published in the English language only:

Provided that the Minister may, from time to time, order the publication of the said First Schedule in the Maltese language and in any such case, if there is any conflict between the Maltese and English texts of the said First Schedule, the English text shall prevail.

Time when contribution shall fall due.

4. (1) The eco-contribution shall be due at the time at which the products are placed on the market:

Provided that where products are placed under a customs procedure on entry into Malta, placing on the market shall be deemed to take place when they leave the customs procedure.

(2) The conditions on which the contribution shall be chargeable and the rate of the contributions to be adopted shall be those in force on the date on which the products are placed on the market.

Recovery of waste.

5. In cases of recovery of waste from products on which eco-contribution is paid in terms of this Act, the producers of those products may, in accordance with regulations made under articles 12 and 13, be granted a credit of the contribution paid thereon, or part thereof, against eco-contributions which may fall due in future.

Savings.

6. The contribution due in terms of this Act shall be without prejudice to any other obligations, of whatever nature, imposed by or under any other law in respect of the products on which the contribution shall fall due.

Part III Payment of eco-contribution

Liability for payment of eco-contribution.

7. (1) The liability for the payment of the eco-contribution shall lie with the producer.

(2) Where two or more persons are liable for the payment of the contribution, their liability under the Act shall be joint and several.

Time of payment of eco-contribution.

8. The eco-contribution shall be payable on a quarterly basis in arrears on submission of the return relative to the preceding quarter:

Provided that the Minister may by regulations prescribe in respect of such class or classes of producers as may be specified in those regulations, a period of time longer or shorter than a quarter for the payment in arrears of the eco-contribution and for the submission of the relative return.

Registration and reporting procedure.

9. The registration and reporting procedure to be adhered to by all producers liable to the payment of an eco-contribution is laid down in the Second Schedule to this Act.

Part IV The Competent Authority

10. (1) The Minister shall by order in the Gazette designate a person or body to be the Competent Authority for the purposes of this Act to carry out the functions laid down in the Act and in the regulations made by the Minister under the Act and such other functions as the Minister may consider appropriate in relation to the operation of the Act. Such person or body shall be designated for an indefinite period:

Nomination of competent authority.

Provided that the Minister shall have the power at any time to terminate such nomination by order in the Gazette:

Provided further that the Minister may in the regulations provide that a person or authority other than the competent authority shall be responsible for the performance of certain functions specified in the regulations.

11. Save where otherwise provided in any regulations made under this Act, the Competent Authority shall be responsible for the administration of this Act and for any regulations made thereunder. The Competent Authority shall also have the function of advising the Minister on the following matters:

Functions of the competent authority.

- (a) the products on which an eco-contribution should be charged and the applicable rate of contribution;
- (b) the issue of any regulations under this Act; and
- (c) any matter as may be necessary for the better carrying out of the provisions of this Act or of any regulations made thereunder.

Part V Powers of the Minister

12. (1) The Minister may, with the concurrence of the Minister responsible for finance and in accordance with regulations made under the provisions of article 13:

Power to exempt payment of eco-contribution.

- (a) exempt any producer from the payment of the eco-contribution, in whole or in part, which would otherwise have been payable on products produced by him, or

(b) grant any producer a credit of the contribution paid on such products, in whole or in part, against eco-contributions which may fall due in future,

if the producer provides or participates in a scheme, approved as provided in the regulations, for the recovery of waste from those products.

(2) The Minister, shall, by not later than the second week of each month publish in the Gazette a list of the exemptions which may have been allowed in terms of subarticle (1) of this article.

Power to make regulations.

13. (1) The Minister, with the concurrence of the Minister of finance, may make regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for any of the following:

(a) the time or times within which, the place where, and the manner in which, the contribution due under this Act is to be paid;

(b) the circumstances under which products not fit for consumption or which are unmarketable are destroyed with or without payment of the eco-contribution, or with or without a refund of the contribution paid;

(c) amend or revoke, in whole or in part, any Schedule issued under this Act;

(d) to provide for any powers which may be required in order to enforce the provisions of this Act and the regulations thereunder;

(e) the giving of a guarantee or other form of security by producers in order to ensure the payment of the eco-contribution due in terms of this Act, and the manner in which such guarantee or other security may be enforced;

(f) for the procedure for producers to be exempted from the payment of the eco-contribution as provided in article 12;

(g) providing for schemes which encourage persons other than producers to undertake the recovery of waste from products in agreement with producers; and

(h) anything that may be prescribed in accordance with the provisions of this Act.

Part VI Enforcement and Sanctions

14. (1) The Authority may impose an administrative penalty upon any person who: Administrative infringements

(a) infringes any provision of this Act or of regulations made thereunder;

(b) fails to comply with any request or decision given by the Authority under this Act or the regulations made thereunder:

Provided that in all cases where the Authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

(2) An administrative penalty imposed under subarticle (1) of this article shall not, unless provided otherwise by or under this Act exceed five thousand liri for each infringement or failure to comply and one hundred liri for each day of infringement or non-compliance, as the case may be.

(3) In determining the amount of an administrative penalty, regard shall be had, in particular, to the nature and extent of the infringement and its duration.

(4) The Minister may, by regulations made under this Act establish administrative penalties that may be imposed by the Authority for breaches of the said regulations:

Provided that the amount of the penalties that may be so prescribed shall not exceed the maximum amounts prescribed under subarticle (2) of this article.

(5) Notwithstanding the provisions of any law, no precautionary warrant or order shall be issued by any court restraining the Authority from the exercise of any of the powers conferred upon it by or under this article.

15. Where an administrative infringement of any provision of this Act is committed by a body corporate and is proved to have been committed with the consent or involvement of or to be attributable to any gross negligence on the part of a person being a director, manager, secretary or other officer however so described of the body corporate or a person who was purporting to act in any Administrative infringements by bodies corporate.

such capacity, both that person and the body corporate shall be liable for the said infringement.

Criminal proceedings.

16. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of regulations made thereunder shall be guilty of an offence, and shall be liable, on conviction, to a fine (*multa*) not exceeding ten thousand liri or an amount equal to three times the amount of the eco-contribution payable on the products in respect of which the offence is committed, whichever shall be higher.

(2) Article 21 of the Criminal Code and the provisions of the Probation Act shall not apply to any conviction under this Act.

Prescription for offences and administrative infringements.

17. The prosecution of a criminal offence or the initiation of proceedings to impose an administrative penalty under this Act shall be prescribed by the lapse of five years from the date on which the offence or administrative infringement is committed.

Imposition of administrative penalty.

18. (1) Any person subject to an administrative penalty shall be notified in writing of the amount of the penalty due and of the nature of the infringement.

(2) The notice referred to in subarticle (1) of this article shall, without prejudice to the right of appeal under article 20 of this Act, upon the service of a copy thereof by judicial act on the person indicated in the notice, constitute an executive title for all effects and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

(3) Notwithstanding the provisions of subarticle (2) of article 256 of the Code of Organization and Civil Procedure, the executive title referred to in subarticle (2) of this article shall not be enforceable before the lapse of thirty days from the service of the judicial act therein referred to:

Provided that where an appeal against an administrative penalty in accordance with article 20 of this Act has been filed, the provisions of article 20 shall apply.

Reasonable excuse.

19. Notwithstanding the provisions of articles 14 and 15 of this Act, no administrative penalty shall be imposed by the Authority for any default if that person shows to the satisfaction of the Authority that there is a reasonable excuse for the default:

Provided that:

(a) an insufficiency of funds to pay an eco-contribution due; or

(b) when reliance is placed on any other person to perform any task, the fact of that reliance or any dilatoriness or inaccuracies on the part of the person relied upon,

shall not constitute a reasonable excuse for the purposes of this article.

20. (1) The procedure to be followed in relation to appeals against administrative penalties imposed by the Authority shall be regulated by the provisions of this article. Appeals from administrative penalties.

(2) A person who is notified with a judicial act referred to in subarticle (2) of article 18 of this Act may within thirty days from the date of such notification lodge an appeal before the Appeals Board objecting to the administrative penalties so fixed:

Provided that an appeal shall not be valid unless:

(a) the return for the period in respect of which the penalty has been imposed, or a copy thereof, has been submitted to the Competent Authority<

(b) the amount of the eco-contribution which is not in dispute, if any, due by the appellant, has been paid< and

(c) a payment of such administrative fees as may be prescribed has been made.

(3) The Appeals Board shall not annul an administrative penalty as aforesaid unless such penalty cannot at law be imposed in the circumstances of the case, or cannot at law be fixed in the amount established by the Authority due account being given to the principle of proportionality.

(4) The Appeals Board shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than sixty days from the date of the service of the appeal on the Authority.

(5) The appeal, and the notification of the date fixed for hearing, shall be notified to the Authority without delay, and the

Authority shall file its reply thereto within thirty days from the date of the notification of the appeal.

(6) The decision of the Appeals Board upon an appeal referred to in subarticle (2) of this article, confirming the imposition of a penalty established by the Authority or reducing any such penalty, shall upon becoming *res judicata* be deemed to be a decision of the Appeals Board equivalent to a decision of the First Hall of the Civil Court ordering payment by the appellant of the administrative penalty as confirmed or reduced.

(7) There shall be a right of appeal to the Court of Appeal to any of the parties to the proceedings before the Appeals Board in accordance with article 23 of this Act.

Decisions of Appeals Board.

21. (1) In determining an appeal, the Appeals Board shall take into account the merits of the appeal, and may in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

(2) Subject to the provisions of article 23 the decisions of the Appeals Board shall be final and binding.

Procedure of the Appeals Board.

22. (1) In the exercise of its functions, the Appeals Board may summon any person to appear before it and give evidence and produce documents, and the Chairman of the Appeals Board shall have the power to administer the oath.

(2) The Appeals Board shall endeavour to determine an appeal within one hundred and eighty days from the lapse of the period by when the Authority may file its reply to the aforesaid appeal and in any case shall deliver its final decision not later than thirty days from when the parties declare that they have concluded with their evidence and made their final submissions.

(3) The Appeals Board in order to assist it in the exercise of its functions may appoint independent and impartial experts to advise it on any issue that may be relevant to any appeal lodged before it. In such cases the Appeals Board shall be entitled to make both provisional and final orders in respect of the payment of the costs and fees of such experts by any of the parties to the appeal.

(4) The Appeals Board in the exercise of its functions shall have the same powers as are competent to the First Hall, Civil Court according to law.

(5) The Minister may subject to the provisions of this Act, by regulations prescribe the procedure to be followed before the Appeals Board, and subject thereto and to any other provisions of this Act, the Appeals Board may regulate its own procedure.

(6) The Minister may, with the concurrence of the Minister responsible for finance by regulation, establish any such fees as are considered to be necessary in relation to any proceedings before the Appeals Board.

(7) The Minister may by regulation amend any of the periods stated in subarticle (2) of this article.

23. (1) Any party to an appeal to the Appeals Board, including the Authority, who feels aggrieved by a decision of the Appeals Board, may on a question of law appeal to the Court of Appeal (Inferior Jurisdiction) as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within thirty days from the date of the decision of the Appeals Board.

Appeal to the
Court of Appeal.

(2) The Minister responsible for Justice may by regulation under this subarticle establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals under this article:

Provided that until such fees are so established, the fees in Schedule A to the Code of Organization and Civil Procedure shall apply.

(3) The Board established under article 29 of the Code of Organization and Civil Procedure may make Rules of Court governing appeals to the Court of Appeal under this article.

24. (1) Where a notice however so described is required to be given by the Authority to any person under this Act or any regulations made thereunder, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

Service of notices.

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or carries on business,

(c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business, or

(d) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address.

Right of access and inspection.

25. (1) The Authority, or any person appointed by it for such purpose, shall, upon the production of his written authority and at all reasonable times, have the right to enter upon any land, building or place for the purposes of inspecting any stocks, books, records or documents, in order to ensure compliance with the provisions of the Act and the regulations thereunder and may inspect any such stocks, books, records or documents and may, without fee or reward, make extracts or copies of any such books, records or documents.

(2) If access is required in virtue of subarticle (1) of this article to any premises occupied in whole or in part for the purpose of habitation, such access shall require the prior warrant issued by a Magistrate sitting in the Court of Magistrates in its civil jurisdiction.

(3) In the course of the exercise of the powers under this article, the Authority may request the assistance of the Police.

(4) Any person who wilfully or maliciously refrains from giving his assistance, or wilfully obstructs, impedes or delays any person in the exercise of his duties or powers under this article shall be liable, on conviction, to a fine (*multa*) not exceeding five hundred liri.

Part VII Appeals Board

Board of Appeals on Eco-Contribution.

26. (1) There shall be an Appeals Board, to be known as the Eco-Contribution Appeals Board which shall have jurisdiction to hear and determine appeals from decisions of the Authority as provided in this Act and in regulations made thereunder.

(2) The Eco-Contribution Appeals Board shall be appointed by the Minister, and shall be composed of:

(a) a chairman, and

(b) two other members who in the opinion of the Minister have the relevant commercial, technical, or financial experience.

(3) The Chairman and members of the Appeals Board shall be appointed for a term of three years and shall be eligible for re-appointment.

(4) The Appeals Board shall be independent in the performance of its functions.

(5) The Chairman and members of the Appeals Board may be challenged or abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with the Code of Organization and Civil Procedure. In such a case the Minister shall appoint a person, having the qualifications of the chairman or member challenged or abstaining, to sit in substitution.

(6) A member of the House of Representatives or of the European Parliament or of a local council shall be disqualified from being appointed or continuing to be the Chairman or a member of the Appeals Board for as long as he holds that office.

(7) The Chairman or member of the Appeals Board may only be removed from office by the Minister on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board. In doing so the Minister shall lay before the House of Representatives a statement giving the reasons for the removal of the said Chairman or member.

(8) The Minister shall designate a person to serve as secretary to the Appeals Board and who shall serve in such a capacity in accordance with the ethical standards appropriate to his position.

Part VIII Miscellaneous

27. (1) Except where otherwise provided by law, a person shall not knowingly disclose information obtained by him while performing the duties of a member, officer or employee of the Authority or of an adviser or consultant to the Authority, unless he is duly authorised by the Authority to do so. Confidentiality.

(2) A person who contravenes this article shall be guilty of an offence against article 257 of the Criminal Code.

(3) Nothing in this article shall prevent the disclosure of any information to the Authority or, by or on behalf of the Authority to the Minister or as may be required at law or for the purpose of prosecuting an offence under this Act or regulations made thereunder.

FIRST SCHEDULE

Eco-Contribution Tariff

General Notes and Rules for Interpretation

(1) The nomenclature of the Tariff is based on the nomenclature for the classification of goods in the Harmonized Commodity Description and Coding System 1983 (hereinafter referred to as the Harmonized System) and shall be interpreted in accordance with the Explanatory Notes to the Harmonized System, published by the Customs Co-Operation Council, Brussels.

(2) Except where the applicable unit of measurement is specified in litres, the rates indicated under Eco-Contribution in this schedule apply for each unit of the specified product.

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
CARBUOYS, BOTTLES, FLASKS, JARS, AND OTHER CONTAINERS MADE OF PLASTIC, GLASS OR METAL, CONTAINING ANY OF THE FOLLOWING BEVERAGES:		
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow	Lm0.01
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	Lm0.01
2203	Beer made from malt	Lm0.01
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009	Lm0.05
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	Lm0.05
2206	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included	Lm0.05
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:	Lm0.05
EMPTY CARBUOYS, BOTTLES, FLASKS, JARS, AND OTHER CONTAINERS MADE OF PLASTIC, GLASS OR METAL, UNDER THE FOLLOWING HEADINGS:		
3923	Articles for the conveyance or packing of beverages	Lm0.01
7010	Articles for the conveyance or packing of beverages	Lm0.01
7612	Cans of aluminium for the conveyance or packing of beverages	Lm0.01
TOILETRIES AND WASHING PREPARATIONS, UNDER THE FOLLOWING HEADINGS:		
3303	Perfumes and toilet waters	Lm0.05
3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations	Lm0.05
3307	Pre-shave, shaving or aftershave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties	Lm0.05
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401, not including preparations of heading 340220 or of heading 340290	Lm0.05
TYRES FOR MOTOR AND COMMERCIAL VEHICLES, UNDER THE FOLLOWING HEADINGS:		
4011	New pneumatic tyres, of rubber, not including tyres of heading 401150	Lm2.00
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber	Lm2.00
BATTERIES AND ACCUMULATORS, UNDER THE FOLLOWING HEADINGS:		
8506	Primary cells and primary batteries	Lm0.025
8507	Electric accumulators, including separators therefor, whether or not rectangular (including square)	Lm0.70

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
PETROLEUM OILS, UNDER THE FOLLOWING HEADINGS:		
Lubricating oils; other oils:		
27101971	For undergoing a specific process	Lm0.10 per litre
27101975	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 19 71	Lm0.10 per litre
For other purposes:		
27101981	Motor oils, compressor lube oils, turbine lube oils	Lm0.10 per litre
27101983	Liquids for hydraulic purposes	Lm0.10 per litre
27101985	White oils, liquid paraffin	Lm0.10 per litre
27101987	Gear oils and reductor oils	Lm0.10 per litre
27101991	Metal-working compounds, mould release oils, anti-corrosion oils	Lm0.10 per litre
27101993	Electrical insulating oils	Lm0.10 per litre
27101999	Other lubricating oils and other oils	Lm0.10 per litre
OIL FILTERS, UNDER THE FOLLOWING HEADING:		
842123	Oil or petrol filters for internal combustion engines	Lm0.05
WHITE GOODS, UNDER THE FOLLOWING HEADINGS:		
Cooling and refrigerating equipment		
8415	Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	Lm12.00
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other but excluding refrigeration apparatus under heading 841850; heat pumps other than air-conditioning machines of heading 8415	Lm10.00
841850	Other refrigerating or freezing chests, cabinets, display counters, showcases and similar refrigerating or freezing furniture	Lm30.00
Water Heaters		
85161011	Instantaneous water heaters	Lm3.00
85161019	Other electric water heaters	Lm3.00
84191100	Instantaneous gas water heaters	Lm3.00
84191900	Other water heaters, non-electric	Lm3.00

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
Monitors and TV equipment		
8528	Reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors; not including colour television apparatus with integral tube with a diagonal measurement of the screen exceeding 52 cm	Lm5.00
85281256	Colour TV receivers with integral tube, screen width/height ratio less than 1.5, diagonal screen measurement exceeding 52cm but not exceeding 72 cm	Lm15.00
85281258	Colour TV receivers with integral tube, screen width/height ratio less than 1.5, diagonal screen measurement exceeding 72cm	Lm15.00
84716090	Computer monitor	Lm5.00
Telecommunications equipment		
85252091	Mobile telephones (For cellular networks)	Lm2.50
8517	Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; not including parts thereof	Lm2.50
Appliances used for washing and cooking		
84221100	Dishwashing machines of the household type	Lm10.00
8450	Household or laundry-type washing machines, including machines which both wash and dry	Lm10.00
85165000	Microwave ovens	Lm10.00
851660	Other ovens; cookers, cooking plates, boiling rings; grillers and roasters	Lm10.00

SECOND SCHEDULE

(Article 9)

Registration and Reporting Procedure

Registration

1. (1) Every producer must apply to the Competent Authority on the prescribed registration form or on such other form approved by the Competent Authority, within thirty days of entry into force of the Act or within thirty days from the date on which a person becomes a producer in terms of the Act, whichever is the later.

(2) On registration, the producer must inform the Competent Authority of his opening stock of products as at the date of registration.

(3) On registration, a registration number shall be assigned to the producer.

(4) Where any person:

(a) applies to be registered pursuant to subarticle (1) of this article, and the Authority is satisfied that that person is liable to be registered under the Act, that person shall be a registered person for the purposes of the Act with effect from such date as the Authority may determine;

(b) has not made an application for registration pursuant to subarticle (1) of this article, and the Authority is satisfied that that person is liable to be so registered, that person shall be a registered person for the purposes of the Act with effect from the date on which that person first became liable to be registered. In such an event, the producer's opening stock of products as at the date when he first became liable to be registered shall be determined by the Authority.

(5) An application for registration purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by that person's authority, as the case may be, unless the contrary is proved.

(6) Any person who ceases to be liable to be registered may request the Authority in writing to cancel that registration, and if the Authority is at any time satisfied, whether upon such request or otherwise, that that person is no longer liable to pay an eco-contribution, the Authority shall cancel that person's registration with effect from the last day of the quarter during which such person ceased to be liable to be registered, or from such other date as may be determined by the

Authority, and shall notify that person of the date on which the cancellation of registration takes effect.

(7) The obligations and liabilities under the Act of any person in respect of anything done, or omitted to be done, by that person while that person was a registered person shall not be affected by the fact that that person ceases to be a registered person.

Returns

2. (1) A producer shall submit to the Competent Authority returns, on a quarterly basis, containing data

(i) on the volume of products placed on the market during the relative quarter; and

(ii) on the eco-contribution payable thereon; and

(iii) such other information as may be required by the Competent Authority in such format as shall be established by the Authority:

Provided that producers shall be bound to submit the first return after the lapse of three months from entry into force of the Act.

(2) Without prejudice to its other powers under the Act if for any purpose, the Authority requires any information or additional information or the submission of a return from any person who has not made a return or a complete return, it may, in writing, demand from such person such information, additional information or return as may be indicated in the notice.

Records and statements

3. Without prejudice to the foregoing, a producer, shall be required to:

(a) maintain, for all products of which he is or is deemed to be a producer, accurate accounts and records of stock and product movements;

(b) comply with all requests to monitor, check and produce for inspection any accounts, records and any stocks of products; and

(c) ensure compliance with all requirements of the Act and any regulations made thereunder and with such other requests made by the Competent Authority.

Provision of information

4. (1) Without prejudice to the enforcement powers that it has at law, the Authority may require any person to provide it with any additional information, including financial information, that the Authority considers necessary for the purpose of ensuring compliance with the provisions of, or decisions made in accordance with this Act and regulations thereunder.

Any information required by the Authority under subarticle (1) of this article shall be proportionate to the performance of its functions and obligations under this Act and in requiring any information as aforesaid, the Authority shall state why it requires the information requested.

(3) A person who is notified with a requirement under subarticle (1) of this article shall comply promptly with the requirement within the timescales and according to any level of detail as may be required by the Authority:

Provided that any such person shall, in complying with the provisions of this subarticle, state clearly to the Authority if any information provided by him is to be considered as confidential. In doing so he shall give his reasons to the Authority. It shall be the Authority which shall decide whether the information indicated to it as being confidential should be so treated.

(4) Any person who fails or refuses to comply with a requirement under subarticle (1) of this article shall commit an infringement of this Act and shall be liable to the imposition of an administrative penalty by the Authority not exceeding the sum of five hundred liri or fifty liri for each day during which failure to comply persists.

Passed by the House of Representatives at Sitting No. 163 of the 27th July, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives