

**- REVIEWED -
JUSTICE UNIT,
PARLIAMENTARY
SECRETARIAT FOR
JUSTICE**

.....
Prim Ministru

.....
Ministru għall-Ekonomija,
Investiment u Intraprizi Żgħar

.....
Ministru għall-Iżvilupp
Sostenibbli, l-Ambjent
u Tibdil fil-Klima

A.L. tal-2014

**ATT DWAR IL-PROVISTI U S-SERVIZZI
(KAP. 117)**

**Regolamenti tal-2014 dwar l-Istandards għat-Tqegħid fis-Suq
tal-Frott u l-Ħxejjex**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 3 tal-Att dwar il-Provvisti u s-Servizzi, il-Ministru għall-Ekonomija, Investiment u Intraprizi Żgħar, wara konsultazzjoni mal-Ministru għall-Iżvilupp Sostenibbli, l-Ambjent u Tibdil fil-Klima, għamel dawn ir-regolamenti li ġejjin:-

1. (1) It-titolu ta' dawn ir-regolamenti huwa r- Titolu u għan.
Regolamenti tal-2014 dwar l-Istandards għat-Tqegħid fis-Suq tal-Frott u l-Ħxejjex.

(2) L-iskop ta' dawn ir-regolamenti huwa li jiġu implimentati d-dispożizzjonijiet relevanti tar-Regolament tal-Kunsill (KE) 1234/2007 tat-22 ta' Ottubru 2007 li jistabbilixxi organizzazzjoni komuni ta' swieq agrikoli u dwar dispożizzjonijiet speċifiċi għal ċerti prodotti agrikoli (ir-Regolament Waħdieni dwar l-OSK) u r-Regolament tal-Kummissjoni (KE) 543/2011 tas-7 ta' Ġunju 2011 li jistabbilixxi r-regoli dettaljati għall-applikazzjoni tar-Regolament tal-Kunsill (KE) No. 1234/2007 fir-rigward tas-setturi tal-frott u l-ħxejjex.

Tifsir. **2.** Għall-finijiet ta' dawn ir-regolamenti u sakemm il-kuntest ma jitlobx mod ieħor:

Kap. 117. "Att" tfisser l-Att dwar il-Provvisti u s-Servizzi;

"awtorità kompetenti" tfisser id-Direttorat tal-Agricoltura;

"awtorità tad-dwana" tfisser id-Dipartiment tad-Dwana;

"azjenda" tfisser bini mhux kummerċjali fejn jinżammu l-frott u l-ħxejjex bl-iskop li dawn jinbiegħu direttament lill-konsumatur;

"Direttur" tfisser id-Direttur responsabbli mill-Agricoltura;

Kap. 249. "Malta" għandu jkollha l-istess tifsira bħal dik mogħtija lilha bl-artikolu 3 tal-Att dwar l-Interpretazzjoni;

"Ministru" tfisser il-Ministru responsabbli għall-Agricoltura;

"min ikabbar il-prodotti" tfisser persuna li tikkultiva l-frott u l-ħxejjex;

"min ikollu f'idejh il-prodotti" tfisser kwalunkwe persuna fizika jew ġuridika li għandha fil-pussess tagħha, fizikament, il-prodotti kkonċernati;

"negozjant" tfisser kwalunkwe persuna fizika jew ġuridika li:

(a) jkollha frott u ħaxix sugġett għall-*standards* tat-tqegħid fis-suq bil-ħsieb li:

(i) turih jew toffrih għall-bejgħ,

(ii) tbigħu, jew

(b) tqiegħdu fis-suq bi kwalunkwe mod ieħor, jew twettaq realment kwalunkwe waħda mill-attivitajiet msemmija fil-paragrafu (a) rigward il-frott u l-ħaxix sugġett għall-*standards* tat-tqegħid fis-suq.

L-attivitajiet msemmija fil-paragrafu (a) għandhom jinkludu:

(a) il-bejgħ mill-bogħod kemm jekk isir bl-internet kif ukoll jekk isir xort'oħra,

(b) it-tali attivitajiet imwettqa mill-persuna fizika jew ġuridika għaliha nnifisha jew f'isem parti terza, u

(ċ) it-tali attivitajiet imwettqa fl-Unjoni Ewropea u/

jew permezz tal-esportazzjoni lejn pajjiżi terzi u/jew permezz tal-importazzjoni minn pajjiżi terzi;

"prodott" tfisser il-frott u l-ħxejjex elenkati fil-Parti IX tal-Anness I tar-Regolament tal-KE Nru. 1234/2007;

"sejba ta' nuqqas ta' konformità" tfisser dikjarazzjoni maħruġa mill-awtorità kompetenti skont ir-regolament 13, li jiddikjara li l-prodotti inkwistjoni mhumiex konformi mal-*istandards* rilevanti tat-tqegħid fis-suq;

"*standards* ġenerali tat-tqegħid fis-suq" tfisser dawk l-*istandards* li huma elenkati fil-Parti A tal-Anness I tar-Regolament tal-KE Nru. 543/2011 jew kwalunkwe legislazzjoni sussegwenti;

"*standards* speċifiċi tat-tqegħid fis-suq" tfisser dawk l-*istandards* elenkati fil-Parti B tal-Anness I tar-Regolament tal-KE Nru. 543/2011 jew kwalunkwe legislazzjoni sussegwenti;

"is-Suq tal-Bdiewa" tfisser suq stabbilit skont ir-regolament 3 tar-Regolamenti tas-Swieq tal-Bdiewa;

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"*Unit* tal-Ispettorat" tfisser il-*Unit* tal-Ispettorat fi ħdan it-Taqsima Regulatorja tad-Direttorat tal-Agrikoltura.

3. (1) L-ebda negozjant ma jista' jbigħ prodotti f'Malta jekk tali prodotti ma jkunux konformi mal-*istandards* ġenerali tat-tqegħid fis-suq jew mal-*istandards* speċifiċi tat-tqegħid fis-suq meħtieġa skont dawn ir-regolamenti.

Standards
kummerċjali.

(2) Dawn il-prodotti li ġejjin għandhom ikunu konformi mal-*istandards* speċifiċi tat-tqegħid fis-suq:

- (a) it-tuffieħ,
- (b) il-frott taċ-ċitru,
- (ċ) il-frott tal-kiwi,
- (d) il-ħass u l-indivja bil-weraq mibrum u bil-weraq wiesa',
- (e) il-ħawħ u n-nuċiprisk,
- (f) il-langas,
- (g) il-frawli,
- (h) il-bżar ħelu,

- (i) l-għeneb tal-mejda,
- (j) it-tadam.

(3) L-*istandard* tat-tqegħid fis-suq li japplika għall-faqqiegħ ikkultivat għandu jkun kif stabbilit fl-Anness tar-Regolament (KE) Nru. 1863/2004 u kwalunkwe Regolamenti sussegwenti.

(4) L-*istandard* tat-tqegħid fis-suq li japplika għall-banana u li jaqa' taħt il-Kodiċi NM 080300, għandu jkun kif stabbilit fl-Anness 1 tar-Regolament (UE) Nru 1333/2011 u kwalunkwe Regolament sussegwenti.

(5) Dawk il-prodotti li mhumiex meħtieġa li jkunu konformi mal-*istandards* speċifiċi tat-tqegħid fis-suq għandhom ikunu konformi mal-*istandards* generali tat-tqegħid fis-suq:

Iżda, meta min ikollu f'idejh il-prodotti jkun f'qagħda li juri li dawn huma konformi mal-*istandards* applikabbli adottati mill-Kummissjoni Ekonomika għall-Ewropa tan-Nazzjonijiet Uniti (in-NU/KEE), il-prodott għandu jitqies li huwa konformi mal-*istandard* generali tat-tqegħid fis-suq.

(6) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, għall-*istandards* speċifiċi tat-tqegħid fis-suq, fl-istadji ta' wara l-bgħit, il-frott u l-ħaxix, minbarra dak tal-Klassi "Extra", jista' juri tnaqqis żgħir fil-freskezza u fid-dehra u kemm kemm taħsir minħabba l-iżvilupp tiegħu u minħabba t-tendenza tiegħu li jehzjen.

Eżċezzjonijiet u ezenzjonijiet mill-applikazzjoni tal-*istandards* tat-tqegħid fis-suq.

4. (1) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, il-prodotti li ġejjin m'għandhomx ikunu meħtieġa jikkonformaw mal-*istandards* tat-tqegħid fis-suq:

(a) dejjem jekk ikunu immarkati b'mod ċar bil-kliem 'maħsubin għall-ipproċessar' jew 'għall-għalf tal-annimali' jew bi kwalunkwe frażi ekwivalenti oħra, il-prodotti:

(i) maħsubin għall-ipproċessar industrijali, jew

(ii) maħsubin għall-għalf tal-annimali jew għal użu ieħor iżda mhux għall-ikel;

(b) il-prodotti ttrasferiti mill-produttur fl-azjenda tiegħu lill-konsumaturi għall-użu personali tagħhom;

(ċ) il-prodotti rrikonnoxxuti f'Deċizzjoni tal-Kummissjoni mehuda fuq talba ta' Stat Membru skont il-proċedura msemmija fl-Artikolu 195(2) tar-Regolament (KE)

Nru 1234/2007 bhala prodotti ta' regjun partikolari li jinbieghu bl-imnut min-negozju tar-regjun għall-konsum lokali tradizzjonali stabbilit sew;

(d) prodotti li jkunu ġew mirquma jew inqatgħu biex ikunu 'lesti għall-ikel' jew 'lesti għall-keċina';

(e) prodotti mqieghda fis-suq bhala rimjiet li jittieklu, wara li tinbet iż-żerriegħa tal-pjanti kklassifikati bhala frott u ħaxix skont l-Artikolu 1(1)(i) u l-Parti IX tal-Anness I għar-Regolament (KE) Nru 1234/2007.

(2) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, il-prodotti li ġejjin m'għandhomx ikunu meħtieġa jikkonformaw mal-*standards* tat-tqegħid fis-suq f'żona partikolari tal-produzzjoni:

(a) prodotti mibjugħa jew ikkonsejnjati minn min ikabbarhom lil stazzjonijiet tal-preparazzjoni jew tal-imballaġġ jew lil faċilitajiet tal-ħżin, jew ittrasportati mill-azjenda tiegħu lejn dawn l-istazzjonijiet; u

(b) prodotti ttrasportati mill-faċilitajiet tal-ħżin lejn l-istazzjonijiet tal-preparazzjoni u tal-imballaġġ.

(3) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, l-awtorità kompetenti tista' teżenta mill-*standards* speċifiċi tat-tqegħid fis-suq prodotti pprezentati għall-bejgħ bl-imnut lill-konsumaturi għall-użu personali tagħhom u ttikkettati bhala 'prodotti maħsubin għall-ipproċessar' jew bi kwalunkwe frażi ekwivalenti oħra u maħsubin għall-ipproċessar, minbarra dawk imsemmija fis-subregolament (1)(a)(i).

(4) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, l-awtorità kompetenti tista' teżenta mill-*standards* tat-tqegħid fis-suq prodotti mibjugħin direttament minn min ikabbar il-prodott lill-konsumatur aħħari għall-użu personali, fi swieq riservati biss għall-produtturi f'żona speċifika tal-produzzjoni definita mill-Istati Membri.

(5) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, fir-rigward ta' *standards* speċifiċi tat-tqegħid fis-suq, il-frott u l-ħaxix, minbarra dak tal-Klassi 'Extra', fl-istadji ta' wara l-bgħit, jista' juri tnaqqis żgħir fil-freskezza u fid-dehra u kemm kemm taħsir minħabba l-iżvilupp tiegħu u minħabba t-tendenza tiegħu li jehżien.

(6) B'deroga mill-Artikolu 113a(3) tar-Regolament (KE) Nru 1234/2007, il-prodotti li ġejjin m'għandhomx ikunu meħtieġa jikkonformaw mal-*istandard* generali tat-tqegħid fis-suq:

- (a) il-faqqieġ mhux ikkultivat tal-kodiċi NM 0709 59,
- (b) il-kappar tal-kodiċi NM 0709 90 40,
- (ċ) il-lewż morr tal-kodiċi NM 0802 11 10,
- (d) il-lewż imqaxxar tal-kodiċi NM 0802 12,
- (e) il-ġellewż imqaxxar tal-kodiċi NM 0802 22,
- (f) il-ġewż imqaxxar tal-kodiċi NM 0802 32,
- (g) il-ġewż tal-arżnu [taż-żnuber] tal-kodiċi NM 0802 90 50,
- (h) il-pistaċċi tal-kodiċi NM 0802 50 00,
- (i) il-ġewż tal-Macadamia tal-kodiċi NM 0802 60 00,
- (j) il-ġewż Amerikan tal-kodiċi NM 0802 90 20,
- (k) ġewż ieħor tal-kodiċi NM 0802 90 85,
- (l) il-pjantaġġini mnixxfin tal-kodiċi NM 0803 00 90,
- (m) il-frott taċ-ċitru mnixxef tal-kodiċi NM 0805,
- (n) it-taħlit ta' ġewż tropikali tal-kodiċi NM 0813 50 31,
- (o) it-taħlit ta' ġewż ieħor tal-kodiċi NM 0813 50 39,
- (p) iż-żagħfran tal-kodiċi NM 0910 20,
- (q) il-pjantaġġini, il-banana mqadda u banana intiza għall-ipproċessar li ma taqax taħt il-kodiċi NM 080300.

Lill-awtorità kompetenti għandhom jingħatawliha provi li l-prodotti koperti minn dan is-subregolament u s-subregolamenti (1) sa (5) jissodisfaw il-kundizzjonijiet stabbiliti, b'mod partikulari f'dak li jirrigwarda l-użu maħsub għalihom.

(7) Prodotti mibjugħa direttament minn min ikabbar il-prodott lill-konsumatur finali għall-użu personali rappreżentati fis-'Suq tal-

Bdiewa' ikunu eżentati mill-applikazzjoni ta' *standards* tat-tqegħid fis-suq:

Iżda f'każ li dawk li jkabbru l-prodotti jbiegħu fis-Suq tal-Bdiewa jiddeċiedu li japplikaw l-*istandards* tat-tqegħid fis-suq, il-frott u l-ħxejjex relattivi jsiru suġġetti għad-dispożizzjonijiet kollha ta' dawn ir-regolamenti. In-negozjanti li jagħzlu li jiġu inklużi fil-bażi tad-dejta għandhom jinfurmaw lill-awtorità kompetenti dwar dan.

(8) Il-prodotti li jinbiegħu minn min ikabbar il-prodott mill-bini personali tiegħu, kemm jekk garaxx jew razzett ikunu eżentati mill-applikazzjoni ta' *standards* tat-tqegħid fis-suq.

(9) L-operazzjonijiet li ma jeċċedux limitu ta' valur ta' produzzjoni tas-suq ta' erbgħa u tletin elf euro (€34,000) kull sena jkunu eżentati mill-applikazzjoni ta' *standards* tat-tqegħid fis-suq.

(10) L-importazzjonijiet minn pajjiżi terzi msemmija fl-Anness IV tar-Regolament tal-Implimentazzjoni tal-Kummissjoni (UE) Nru 543/2011, li huma konformi mal-Artikolu 15 tal-imsemmi Regolament, ikunu eżentati mill-applikazzjoni ta' *standards* tat-tqegħid fis-suq.

(11) Il-prodotti li huma soġġetti għal *standards* speċifiċi tat-tqegħid fis-suq ipprezentati għall-bejgħ bl-innut lill-konsumaturi għall-użu personali tagħhom u ttikkettati bħala "prodotti maħsubin għall-ipproċessar" jew bi kwalunkwe frażi ekwivalenti oħra u maħsubin għall-ipproċessar minbarra dawk imsemmija fis-subregolament (1)(a)(i) m'għandhomx ikunu meħtieġa jikkonformaw mal-*istandards* speċifiċi tat-tqegħid fis-suq.

(12) Il-prodotti rikonoxxuti f'Deċiżjoni tal-Kummissjoni meħuda fuq talba ta' Stat Membru skont il-proċedura msemmija fl-Artikolu 195(2) tar-Regolament (KE) Nru 1234/2007 bħala prodott ta' reġjun partikolari li jinbiegħu bl-innut min-negozju tar-reġjun għall-konsum lokali tradizzjonali stabbilit sew m'għandhomx ikunu meħtieġa jikkonformaw mal-*istandards* speċifiċi tat-tqegħid fis-suq.

(13) L-awtorità kompetenti tista', fejn tara li jkun relevanti, titlob evidenza sabiex tittraċċa l-użu maħsub tal-prodott.

5. (1) Id-dettalji tat-tagħrif meħtieġa mill-*istandards* generali tat-tqegħid fis-suq u mill-*istandards* speċifiċi tat-tqegħid fis-suq għandhom jidhru b'mod li jkunu jistgħu jinqraw u ċari fuq ġenb wiehed tal-imballaġ, jew billi jkunu stampati b'mod li ma jithassax direttament fuq il-pakkett jew fuq tikketta li tkun parti integrali minnu jew li tkun imwahnha sewwa miegħu.

Dettalji tat-tagħrif.

(2) Għal oġġetti trasportati fi kwantitajiet kbar u mgħobbija direttament fuq tat-trasport, id-dettalji tat-tagħrif imsemmija fis-subregolament (1) għandhom jingħataw f'dokument li jakkompanja l-oġġetti jew jintwerew fuq *notice board* imqiegħda f'pożizzjoni ovvja għewwa l-mezz tat-trasport.

(3) Fil-każ ta' kuntratti mill-bogħad skont l-Artikolu 2(1) tad-Direttiva 97/7/KE tal-Parlament Ewropew u tal-Kunsill, il-konformità mal-*istandards* tat-tqegħid fis-suq għandha teħtieġ li d-dettalji tat-tagħrif ikunu disponibbli qabel ma jiġi konkluż ix-xiri.

(4) Il-fatturi u d-dokumenti ta' akkumpanjament, minbarra l-irċevuti għall-konsumaturi, għandhom jindikaw l-isem u l-pajjiż tal-orijini tal-prodotti u, fejn ikun xieraq, il-klassi, il-varjetà jew it-tip kummerċjali tal-prodotti, f'każ li dan ikun meħtieġ, minn *standard* speċifiku tat-tqegħid fis-suq, jew il-fatt li dawn il-prodotti jkunu maħsubin għall-ipproċessar.

Dettalji tat-tagħrif fl-istadju tal-bejgħ bl-imnut.

6. (1) Fl-istadju tal-bejgħ bl-imnut, id-dettalji tat-tagħrif meħtieġa mill-*istandards* ġenerali tat-tqegħid fis-suq u mill-*istandards* speċifiċi tat-tqegħid fis-suq għandhom jiġu murija b'mod li jkunu jistgħu jinqraw u b'mod li jidher.

(2) Il-prodotti jistgħu jiġu ppreżentati għall-bejgħ sakemm il-bejjieġh bl-imnut juri, bi prominenza, hdejn il-prodotti u b'mod li jkun jista' jinqara, id-dettalji tat-tagħrif dwar il-pajjiż tal-orijini kif ukoll, fejn xieraq, il-klassi u l-varjetà jew it-tip kummerċjali tal-prodotti b'tali mod li ma jqarraqx bil-konsumaturi.

(3) Għall-prodotti ppakkjati minn qabel skont it-tifsira tad-Direttiva 2000/13/KE tal-Parlament Ewropew u tal-Kunsill, il-piż nett għandu jkun indikat, flimkien mat-tagħrif kollu li dwaru hemm dispożizzjoni fl-*istandards* tat-tqegħid fis-suq:

Izda, fil-każ ta' prodotti mibjugħin skont l-għadd, m'għandux japplika r-rekwizit li jkun indikat il-piż nett jekk l-għadd tal-oġġetti jista' jidher b'mod ċar u dawn ikunu jistgħu jingħaddu faċilment minn barra, jew jekk l-għadd ikun indikat fuq it-tikketta.

Taħlitiet.

7. (1) Għandu jithalla jsir it-tqegħid fis-suq ta' pakketti ta' prodotti b'piż nett ta' 5 kilogrammi jew anqas li jkun fihom taħlitiet ta' tipi differenti ta' frott u haxix, dejjem jekk:

(a) il-prodotti jkunu tal-istess kwalità u kull prodott ikkonċernat ikun jikkonforma mal-*istandard* speċifiku rilevanti t-tqegħid fis-suq jew mal-*istandard* ġenerali t-tqegħid fis-suq, jekk ma jkunx hemm *standard* speċifiku t-tqegħid fis-suq għal prodott partikulari;

(b) il-pakkett ikun ittikkettat kif suppost, skont l-*standards* ġenerali tat-tqegħid fis-suq u l-*standards* speċifiċi tat-tqegħid fis-suq; u

(ċ) it-taħlita ma tkunx waħda li tqarraq bil-konsumatur.

(2) Ir-rekwiziti tas-subregolament (1)(a) m'għandhomx japplikaw għall-prodotti inklużi f'taħlita li ma jkunux prodotti tas-settur tal-frott u l-ħaxix imsemmija fl-Artikolu 1(1)(i) tar-Regolament (KE) Nru 1234/2007.

(3) Jekk il-frott u l-ħaxix f'taħlita jkun ġej minn aktar minn Stat Membru jew pajjiż terz wiehed, l-ismijiet shaħ tal-pajjiżi tal-origini jistgħu jinbidlu b'waħda mill-frazzjiet li ġejjin, skont kif ikun xieraq:

- (a) "taħlita ta' frott u ħaxix mill-UE",
- (b) "taħlita ta' frott u ħaxix li mhux mill-UE",
- (ċ) "taħlita ta' frott u ħaxix mill-UE u mhux mill-UE".

8. (1) L-awtorità kompetenti għandha tkun responsabbli għall-implimentazzjoni u l-infurzar ta' dawn ir-regolamenti, inkluż l-istabbiliment tal-kuntatti u l-mekkaniżmi ta' koordinazzjoni neċessarji li għandhom x'jaqsmu mal-*standards* tat-tqegħid fis-suq.

Dmirijiet tal-awtorità kompetenti.

(2) Il-*Unit* tal-Ispettorat għandu jkun responsabbli biex iwettaq verifiki tal-konformità f'kull stadju tat-tqegħid fis-suq. Il-*Unit* tal-Ispettorat għandu jirrapporta s-sejbiet kollha tiegħu lill-awtorità kompetenti.

9. (1) L-awtorità kompetenti għandha tistabbilixxi bażi tad-dejta dwar in-negozjanti tal-frott u l-ħaxix, li għandha telenka, skont il-kundizzjonijiet stabbiliti fl-Artikolu 10 tar-Regolament tal-Implimentazzjoni tal-Kummissjoni (UE) Nru 543/2011, in-negozjanti involuti fit-tqegħid fis-suq tal-frott u l-ħaxix li għalih ġew stabbiliti *standards* skont l-Artikolu 113 tar-Regolament (KE) Nru 1234/2007.

Baži tad-dejta dwar in-negozjanti.

(2) In-negozjanti li ġejjin mhumiex meħtieġa li jkunu inklużi fil-baži tad-dejta:

(a) persuni fiżiċi jew ġuridiċi li l-attivitajiet tagħhom fis-settur tal-frott u l-ħxejjex huma limitati jew għat-trasport tal-oġġetti, jew għall-bejgħ fl-istadju tal-bejgħ bl-imnut;

(b) persuni fiżiċi jew ġuridiċi li l-attivitajiet tagħhom

fis-settur tal-frott u l-ħxejjex huma limitati għall-ipproċessar.

(3) In-negożjanti għandhom jipprovdu t-tagħrif li l-awtorità kompetenti tqis li huwa meħtieġ biex tiġi stabbilita u aġġornata l-bażi tad-dejta. Ir-rekwiżiti minimi tal-bażi tad-dejta tan-negożjanti għandhom jinkludu:

(a) in-numru tar-registrazzjoni, l-isem u l-indirizz;

(b) it-tagħrif meħtieġ għall-klassifikazzjoni tan-negożjant f'wahda mill-kategoriji tar-riskju msemmija fl-Artikolu 11(2) tar-Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru 543/2011, b'mod partikulari, il-pożizzjoni fil-katina tat-tqegħid fis-suq u tagħrif dwar kemm hi importanti l-kumpanija;

(ċ) tagħrif dwar is-sejbiet minn verifiki li jkunu saru qabel fuq kull negożjant;

(d) kwalunkwe tagħrif ieħor meqjus bhala tagħrif meħtieġ għall-verifiki bħat-tagħrif dwar l-eżistenza ta' sistema għall-iżgurar tal-kwalità jew ta' sistema ta' verifika tan-negożjant fuq nnifsu dwar il-konformità mal-*standards* tat-tqegħid fis-suq.

(4) L-awtorità kompetenti tista', jekk tħoss li huwa meħtieġ, titlob mingħand awtoritajiet oħra tagħrif li jaqa' taħt l-iskop ta' dawn ir-regolamenti, sabiex b'hekk tkun tista' tikkompila l-bażi tad-dejta.

(5) L-aġġornament tal-bażi tad-dejta għandu jitwettaq b'mod partikulari billi jintuza t-tagħrif miġbur matul il-verifiki tal-konformità.

(6) Dawn ir-regolamenti għandhom ikunu applikabbli wkoll għan-negożjanti li mhumiex stabbiliti f'Malta, imma jagħmlu n-negożju f'Malta.

Verfiki tal-konformità.

10. (1) Il-*Unit* tal-Ispettorat għandu jagħmel verifiki tal-konformità li għandhom jitwettqu b'mod selettiv, abbażi ta' analizi tar-riskju, u bi frekwenza xierqa, sabiex tkun żgurata l-konformità mal-*standards* tat-tqegħid fis-suq u mad-dispożizzjonijiet l-oħra ta' dawn ir-regolamenti.

(2) F'kazijiet fejn il-verifiki tal-konformità li jkunu saru skont is-subregolament (1) juru irregolaritajiet sinjifikanti, id-Direttur għandu jordna li tiżdied il-frekwenza tal-verifiki marbutin man-negożjanti, il-prodotti, l-origini, jew il-parametri l-oħrajn ikkonċernati.

(3) In-negozjanti għandhom jipprovdu lill-awtorità kompetenti u lill-*Unit* tal-Ispettorat it-tagħrif kollu li dawn l-entitajiet iqisu li huwa meħtieġ sabiex jiġu organizzati u jitwettqu l-verifiki tal-konformità.

(4) L-awtorità kompetenti għandha tippubblika minn qabel il-kriterji biex jiġi vvalutat ir-riskju tan-nuqqas ta' konformità tal-lottijiet, abbażi ta' analiżi tar-riskju għal kull kategorija tar-riskju. L-awtorità kompetenti għandha tippubblika minn qabel dawn il-kriterji permezz ta' avviż fil-Gazzetta.

(5) Il-kampjun tar-rata minima ta' verifiki fuq il-post għandu jittiehed parzjalment fuq il-bażi tal-analiżi tar-riskju u parzjalment b'mod aleatorju. L-awtorità kompetenti għandha tistabbilixxi l-fatturi tar-riskju. Sabiex tiġi żgurata analiżi tar-riskju relevanti u effiċjenti, l-effettività tal-analiżi tar-riskju għandha tiġi assessjata u aġġornata fuq bażi annwali billi tinghata kunsiderazzjoni lir-relevanza ta' kull fattur tar-riskju, jitqabblu r-riżultati ta' kampjuni magħzula kemm b'mod aleatorju kif ukoll dawk ibbażati fuq ir-riskju kif ukoll is-sitwazzjoni speċifika tal-kategorija tar-riskju.

(6) Ir-rata minima ta' kontroll fir-rigward tal-obbligi tal-*standards* tat-tqegħid fis-suq hija stabbilita skont id-dispożizzjonijiet ta' dan ir-regolament. F'dan ir-rigward, ir-rata ta' kontroll għandha tkun stabbilita għal minimu ta' 10% tan-negozjanti li hemm fil-bażi tad-dejta tan-negozjanti u li huma suġġetti għall-*standards* tat-tqegħid fis-suq.

(7) Il-kampjuni tal-verifiki fuq il-post għall-*standards* tat-tqegħid fis-suq għandhom jieħdu f'kunsiderazzjoni l-partecipazzjoni ta' dawn in-negozjanti fis-sistemi ta' ċertifikazzjonijiet relevanti. Madanakollu, meta tittiehed f'kunsiderazzjoni din il-partecipazzjoni, għandu jiġi spjegat illi n-negozjanti li jippartecipaw f'dawn l-iskemi jirrapprezentaw inqas riskju min-negozjanti li ma jippartecipawx f'dawk l-iskemi.

(8) (a) Kampjuni għall-kontroll għal verifiki fuq il-post taħt dan ir-regolament għandhom jiġu magħzula mill-awtorità kompetenti fuq il-bażi ta' analiżi tar-riskju, skont id-dejta għad-dispożizzjoni fil-bażi tad-dejta dwar in-negozjanti.

Għażla ta' kampjuni għall-kontroll.

(b) Sabiex tipprovdi l-element ta' rappreżentanza, l-awtorità kompetenti għandha tisselezzjona b'mod aleatorju 20% tan-numru minimu ta' negozjanti li jkunu soġġetti għal verifiki fuq il-post:

Minn 100%

20% B'mod aleatorju

- 20% b'mod aleatorju

80% Riskju

- 20% l-akbar ammont ta' qligh
- 20% l-akbar varjetà ta' frott u hxejjex soġġetti għal standards speċifiċi tat-tqegħid fis-suq
- 40% każijiet preċedenti fuq nuqqas ta' konformità

L-effettività tal-analiżi tar-riskju għandha tigi vvalutata u aġġornata fuq bażi annwali:

(a) billi tigi stabbilita ir-rilevanza ta' kull fattur ta' riskju

(b) billi jiġu mqabbla r-riżultati tar-riskju bbażat fuq kampjun selezzjonat b'mod aleatorju

(ċ) billi tittieħed f'konsiderazzjoni s-sitwazzjoni speċifika.

L-awtorità kompetenti għandha żżomm rekords tar-raġunijiet għall-għazla ta' kull bidwi għal għal verifika fuq il-post. L-ispettur li jwettaq il-verifika fuq il-post għandu jiġi infurmat skont il-każ qabel ma tinbeda l-verifika fuq il-post.

Accetazzjoni
tad-
dikjarazzjoni.

11. (1) L-awtorità tad-dwana tista' taċċetta biss dikjarazzjonijiet ta' esport jew/u dikjarazzjonijiet għar-rilaxx għaċ-ċirkolazzjoni libera għal prodotti soġġetti għal *standards* speċifiċi tat-tqegħid fis-suq, jekk:

(a) il-prodotti jkollhom magħhom ċertifikat ta' konformità maħruġ skont ir-regolament 12; jew

(b) l-awtorità kompetenti tkun għarrfet lill-awtorità doganali li l-lottijiet konċernati jkun inħarġilhom ċertifikat tal-konformità skont ir-regolament 12; jew

(ċ) l-awtorità kompetenti tkun għarrfet lill-awtorità doganali li hija ma ħarġitx ċertifikat ta' konformità għall-lottijiet ikkonċernati, għaliex dawn ma kellhomx bżonn jiġu vverifikati fid-dawl tal-valutazzjoni tar-riskju msemmija fir-regolament 10(1).

(2) Id-disposizzjonijiet tas-subregolament (1) għandhom jiġu

infurzati mingħajr hsara għal kwalunkwe verifiki tal-konformità li l-*Unit* tal-Ispettorat jista' jwettaq skont ir-regolament 10.

(3) Is-subregolament (1) għandu japplika wkoll għall-prodotti li huma suġġetti għall-*istandards* ġenerali tat-tqegħid fis-suq u prodotti msemmija fir-regolament 4(1)(a) jekk id-Direttur iqis li dan huwa meħtieġ fid-dawl tal-analizi tar-riskju msemmija fir-regolament 10(1) kif ukoll l-Artikolu 11(1) tar-Regolament tal-Kummissjoni 543/2011.

12. Iċ-ċertifikati tal-konformità li jikkonfermaw li l-prodotti jikkonformaw mal-*istandard* rilevanti tat-tqegħid fis-suq għandhom jinħarġu mill-awtorità kompetenti, skont l-Artikolu 14 tar-Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru. 543/2011.

Ċertifikat tal-konformità.

13. (1) L-awtorità kompetenti għandha tippublika bil-quddiem linji gwida għall-arrangamenti speċifiċi għall-verifika tal-konformità fil-punt tal-bejgħ bl-imnut lill-konsumatur aħħari.

Metodu ta' spezzjoni.

(2) Il-*Unit* tal-Ispettorat jista', fi kwalunkwe ħin, u mingħajr ma jagħti ebda avviż minn qabel, minbarra f'każijiet ta' importazzjoni u esportazzjoni, jidhol fi kwalunkwe bini għall-għan ta' spezzjoni u sabiex jiġi assigurat it-tweqqiq tad-dispożizzjonijiet ta' dawn ir-regolamenti jew ta' kwalunkwe liġi oħra li għandha x'taqsam mal-bejgħ tal-frott u ħaxix frisk. Għal dan il-għan il-*Unit* tal-Ispettorat jista' jitlob l-assistenza tal-membri tal-Korp tal-Pulizija.

(3) Meta l-*Unit* tal-Ispettorat isib li l-prodotti huma konformi mal-*istandards* tat-tqegħid fis-suq, il-*Unit* tal-Ispettorat għandu jagħmel ir-rakkomandazzjonijiet tiegħu lill-awtorità kompetenti. L-awtorità kompetenti għandha imbagħad toħroġ ċertifikat ta' konformità skont ir-regolament 12 fuq il-formula li tinsab fl-Anness III tar-Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru. 543/2011.

(4) (a) Meta l-prodotti ma jikkonformawx mal-*istandards*, l-awtorità kompetenti għandha toħroġ riżultat ta' nuqqas ta' konformità lin-negozjanti jew lir-rappreżentanti tagħhom.

(b) Il-prodotti li għalihom ikun inhareġ riżultat ta' nuqqas ta' konformità ma jistgħux jiġu mċaqalqin mingħajr l-awtorizzazzjoni tal-awtorità kompetenti li tkun ħarġet dak ir-riżultat. Din l-awtorizzazzjoni tista' tkun suġġetta għat-tħaris tal-kundizzjonijiet stabbiliti mill-awtorità kompetenti.

(5) In-negozjanti jistgħu jiddeciedu li jgħibu konformi l-prodotti kollha jew uħud minnhom. Il-prodotti miġjuba konformi ma

jistgħux jitqieghdu fis-suq qabel ma l-awtorità kompetenti tkun żgurat li l-prodotti jkunu fil-fatt ingiebu konformi.

(6) L-awtorità kompetenti għandha tohroġ, fejn applikabbli, ċertifikat tal-konformità kif ipprovdut fl-Anness III tar-Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru. 543/2011 għal-lott jew għal parti minnu, biss ladarba l-prodotti jkunu ngiebu konformi.

(7) (a) Jekk l-awtorità kompetenti taċċetta x-xewqa ta' negozjant li jgħib l-oġġetti konformi fi Stat Membru ieħor minbarra dak fejn tkun saret il-verifika li wasslet għar-riżultat ta' nuqqas ta' konformità, in-negozjant għandu jgħarraf lill-awtorità kompetenti tal-Istat Membru destinatariju dwar il-lott li mhux konformi.

(b) L-awtorità kompetenti li tohroġ ir-riżultat tan-nuqqas ta' konformità għandha tibgħat kopja ta' dan ir-riżultat lill-Istati Membri l-oħra kkonċernati, inkluż lill-Istat Membru destinatariju tal-lott li mhux konformi.

(8) Fil-każ ta' prodotti li la jkunu jistgħu jingiebu konformi u lanqas ma jkunu jistgħu jintbagħtu bhala għalf għall-annimali, għall-ipproċessar industrijali jew għal kwalunkwe użu ieħor iżda mhux għall-ikel, l-awtorità kompetenti tista', jekk ikun hemm bżonn, titlob lin-negozjanti jieħdu l-miżuri xierqa sabiex jiżguraw li l-prodotti kkonċernati ma jitqieghdux fis-suq.

Reati u pjeni.

14. (1) Kull persuna li tikser jew li tonqos li tosserva xi waħda mid-disposizzjonijiet ta' dawn ir-regolamenti tkun hatja ta' reat u tehel -

(a) meta tinsab hatja l-ewwel darba, multa ta' mhux anqas minn ħames mitt euro (€500) iżda mhux iżjed minn elf u mitejn euro (€1,200);

(b) meta tinsab hatja t-tieni darba jew wara, multa ta' mhux anqas minn elf u mitejn euro (€1,200) iżda mhux iżjed minn elfejn, tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (€2,329.37), u s-sospensjoni ta' kull permess, *pass* jew liċenza, għal perjodu ta' mhux anqas minn xahar iżda mhux iżjed minn sitt xhur.

(2) F'kull każ li persuna tinsab hatja ta' reat kontra dawn ir-regolamenti, il-Qorti tista' tordna l-konfiska tal-oġġetti li għalihom jirreferi r-reat u dawk l-oġġetti għandhom jiġu konfiskati favur il-Gvern.

(3) Reati kontra dawn ir-regolamenti għandhom jitqiesu bhala kontravvenzjonijiet iżda proċedimenti dwarhom jistgħu jinbdew sa

zmien sena mill-egħmil tar-reat.

(4) Proċedimenti dwar reat kontra dawn ir-regolamenti għandhom isiru quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex), u d-disposizzjonijiet tal-Kodiċi Kriminali dwar proċedimenti kriminali quddiem dik il-Qorti għandhom, bla ħsara għas-subregolamenti ta' qabel ta' dan ir-regolament, japplikaw dwar proċedimenti għal reati kontra dawn ir-regolamenti. Kap. 9.

15. (1) Meta d-Direttur jkollu tabilhaqq għaliex jifhem li - Pieni amministrattivi.

(a) jkun sar xi reat kontra dawn ir-regolamenti minn xi persuna; u

(b) filwaqt li jqis il-kondotta preċedenti tal-persuna inkwistjoni, ikun iktar xieraq li tingħata piena taħt dan ir-regolament,

huwa jista' jara li jiġi notifikat avviz bil-miktub, skont ma hemm fis-subregolament (2), lil dik il-persuna.

(2) Avviz taħt is-subregolament (1) għandu jispeċifika -

(a) id-data u x-xorta tar-reat;

(b) sommarju tal-fatti li fuqhom tkun imsejsa l-allegazzjoni li jkun sar reat (li jkun sommarju suffiċjenti biex b'mod komplet u ġust jgħarraf lill-persuna bl-allegazzjoni kontriha);

(ċ) kull haġa oħra (li ma tkunx dwar xi sejbien ta' htija preċedenti) li d-Direttur jikkunsidra rilevanti biex tkun tista' tingħata piena; u

(d) l-ammont ta' piena dovut u, meta l-piena dovuta tkun tiddependi fuq xi sejbien ta' htija preċedenti, d-data ta' dak is-sejbien ta' htija u dan it-tagħrif għandu jkun kontrofirmat fuq dikjarazzjoni li ssemmi d-disposizzjonijiet ta' dan ir-regolament.

(3) Kull min jiġi notifikat b'avviz taħt is-subregolament (1) jista', fi zmien tletin ġurnata minn meta jirċievi l-avviz, b'avviz bil-miktub f'għamla xierqa li jiġi notifikat lid-Direttur, jitlob li l-proċedimenti għar-rigward tar-reat allegat isiru quddiem il-Qorti, f'liema każ għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) ma jittiehdu ebda proċedimenti oħra taħt dan ir-regolament mid-Direttur; u

(b) ebda haġa f'dan ir-regolament m'għandha tiftiehem bhala li tipprevjeni l-istituzzjoni ta' proċedimenti għar-rigward tar-reat allegat jew tas-sejbien ta' htija tal-persuna għar-reat mill-Qorti jew l-impożizzjoni ta' xi piena jew konfiska taht dan ir-regolament meta hekk jinsab hati.

(4) Kull min ikun ingħatalu avviz taht is-subregolament (1) u ma jkunx irid li l-proċedimenti għar-rigward tar-reat allegat isiru quddiem il-Qorti jista' b'avviz bil-miktub li jiġi notifikat lid-Direttur -

(a) jammetti r-reat, u

(b) jhallas l-ammont tal-piena lid-Direttur fi żmien tletin ġurnata wara li jkun ġie lilu notifikat l-avviz tal-piena jew wara kull perjodu sussegwenti hekk kif id-Direttur jista' jispeċifika.

(5) Meta taht dan l-artikolu persuna tammetti reat, id-Direttur għandu jwahaħhal lil dik il-persuna piena ta' flus għar-rigward tar-reat li tkun tammonta għal wiehed minn tlieta tal-ogħla piena li dik il-persuna kienet kieku tehel li kieku kienet insabet hatja tar-reat mill-Qorti skont dawn ir-regolamenti.

(6) Il-piena imposta taht is-subregolament (5) tkun dovuta bhala dejn ċivili eżegwibbli mill-Qorti kompetenti ta' ġurisdizzjoni ċivili favur il-Gvern u d-dikjarazzjoni mill-persuna li tkun wehlet il-piena li tkun tammetti l-akkuża għandha tikkostitwixxi titolu eżekuttiv għall-finijiet tal-artikolu 253 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili bl-istess mod bħallikieku kienet sentenza tal-Qorti kompetenti ta' ġurisdizzjoni ċivili.

Kap.12.

(7) Minkejja kull dispożizzjoni oħra ta' dawn ir-regolamenti jew ta' xi liġi oħra, meta persuna tammetti li wettqet reat skont dan ir-regolament, ma għandu jsir l-ebda att tal-akkuża fir-rigward ta' dak ir-reat kontra l-persuna li tkun ammettiet li wettqet dak ir-reat.

(8) Meta persuna li tkun ġiet notifikata b'avviz skont is-subregolament (1) ma tammettix, fi żmien tletin ġurnata minn meta tkun ġiet notifikata bl-avviz, li tkun wettqet dak ir-reat, jew ma tinnotfikax lid-Direttur b'avviz skont is-subregolament (3), id-Direttur għandu jibda proċeduri legali jew jara li jinbdew proċeduri legali quddiem il-Qorti fir-rigward tar-reat allegat.

(9) In-negozjanti għandhom jipprovdu t-tagħrif kollu li l-awtorità kompetenti tqis li huwa meħtieġ sabiex jiġi applikat dan ir-regolament.

**- REVIEWED -
JUSTICE UNIT,
PARLIAMENTARY
SECRETARIAT FOR
JUSTICE**

.....
Prime Minister

.....
Minister for the Economy,
Investment and Small Business

.....
Minister for Sustainable
Development, the Environment
and Climate Change

L. N. of 2014

**SUPPLIES AND SERVICES ACT
(CAP. 117)**

Fruit and Vegetables Marketing Standards Regulations, 2014

IN exercise of the powers conferred by article 3 of the Supplies and Services Act, the Minister for the Economy, Investment and Small Business, in consultation with the Minister for Sustainable Development, the Environment and Climate Change, has made the following regulations:-

1. (1) The title of these regulations is the Fruit and Vegetables Marketing Standards Regulations, 2014. Citation and scope.

(2) The scope of these regulations is to implement the relevant provisions of Council Regulation (EC) 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) and Commission Regulation (EC) 543/2011 of 7 June 2011 laying down the detailed rules for the application of Council Regulation (EC) No. 1234/2007 in respect of the fruit and vegetables sectors.

2. For the purpose of these regulations and unless the context otherwise requires: Interpretation.

Cap. 117.

"Act" means the Supplies and Services Act;

"competent authority" means the Agriculture Directorate;

"customs authority" means the Department of Customs;

"Director" means the Director responsible for Agriculture;

S.L. 117.31

"Farmers' Market" means a market established in terms of regulation 3 of the Farmers' Markets Regulations;

"finding of non-conformity" means a statement issued by the competent authority in terms of regulation 13, stating that the products in question do not conform to the relevant marketing standards;

"general marketing standards" means those standards listed in Part A of Annex I to EC Regulation No. 543/2011 or any subsequent legislation;

"grower" means a person who cultivates fruit and vegetables;

"holder" means any natural or legal person physically in possession of the products concerned;

"holding" means non-commercial premises where fruits and vegetables are kept with a view of selling them directly to the consumer;

"Inspectorate Unit" means the Inspectorate Unit within the Regulatory Section within the Agriculture Directorate;

Cap. 249.

"Malta" shall have the same meaning as that assigned to it by article 3 of the Interpretation Act;

"Minister" means the Minister responsible for Agriculture;

"product" means fruit and vegetables listed in Part IX of Annex I of EC Regulation No. 1234/2007;

"specific marketing standards" means those standards listed in Part B of Annex I to EC Regulation No. 543/2011 or any subsequent legislation;

"trader" means any natural or legal person who:

(a) holds fruit and vegetables subject to marketing standards with a view to:

- (i) displaying or offering them for sale,
- (ii) selling them, or
- (b) marketing them in any other manner, or actually carries out any of the activities referred to in paragraph (a) as regards fruit and vegetables subject to marketing standards.

The activities referred to in paragraph (a) shall cover:

- (a) distance selling whether by internet or otherwise,
- (b) such activities carried out by the natural or legal person for itself or on behalf of a third party, and
- (c) such activities carried out in the European Union and/or by export to third countries and/or import from third countries.

3. (1) No trader may trade in products in Malta unless such products conform to the general marketing standards or the specific marketing standards required in terms of these regulations. Marketing standards.

(2) The following products shall conform to the specific marketing standards:

- (a) apples,
- (b) citrus fruit,
- (c) kiwifruit,
- (d) lettuces, curled leaved and broad-leaved endives,
- (e) peaches and nectarines,
- (f) pears,
- (g) strawberries,
- (h) sweet peppers,
- (i) table grapes,
- (j) tomatoes.

(3) The marketing standard applicable to cultivated mushrooms shall be as set out in the Annex of Regulation (EC) No. 1863/2004 and any subsequent Regulation.

(4) The marketing standard applicable to bananas falling within CN Code 080300, shall be as set out in Annex 1 of Regulation (EU) No. 1333/2011 and any subsequent Regulation.

(5) Products not required to conform to the specific marketing standards shall conform to the general marketing standards:

Provided that, where the holder is able to show that he is in conformity with any applicable standards adopted by the United Nations Economic Commission for Europe (UNECE), the product shall be considered as conforming to the general marketing standard.

(6) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007 as regards the specific marketing standards, fruit and vegetables other than the 'Extra' Class, at stages following dispatch, may show a slight lack of freshness and turgidity and slight deterioration due to their development and their tendency to perish.

Exceptions and exemptions from the application of marketing standards.

4. (1) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007, the following products shall not be required to conform to the marketing standards:

(a) provided they are clearly marked with the words 'intended for processing' or 'for animal feed' or any other equivalent wording, products:

(i) intended for industrial processing, or

(ii) intended for animal feed or other non-food use;

(b) products transferred by the producer on his holding to consumers for their personal use;

(c) products recognised in a Commission Decision taken at the request of a Member State in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No. 1234/2007 as products of a given region which are sold by the retail trade of the region for well established traditional local consumption;

(d) products having undergone a trimming or cutting making them 'ready to eat' or 'kitchen ready';

(e) products marketed as edible sprouts, following germination of seeds of plants classified as fruit and vegetables under Article 1(1)(i) and Part IX of Annex I to Regulation (EC) No. 1234/2007.

(2) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007, the following products shall not be required to conform to the marketing standards within a given production area:

(a) products sold or delivered by the grower to preparation and packaging stations or storage facilities, or shipped from his holding to such stations; and

(b) products shipped from storage facilities to preparation and packaging stations.

(3) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007, the competent authority shall exempt from the specific marketing standards products presented for retail sale to consumers for their personal use and labelled 'product intended for processing' or with any other equivalent wording and intended for processing other than those referred to in sub-regulation (1)(a)(i).

(4) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007, the competent authority may exempt from the marketing standards products directly sold by the grower to the final consumer for personal use on markets reserved only for producers within a given production area defined by Member States.

(5) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007 as regards the specific marketing standards, fruit and vegetables other than the 'Extra' Class, at stages following dispatch, may show a slight lack of freshness and turgidity and slight deterioration due to their development and their tendency to perish.

(6) By way of derogation from Article 113a(3) of Regulation (EC) No. 1234/2007, the following products shall not be required to conform to the general marketing standard:

- (a) non-cultivated mushrooms of CN code 0709 59,
- (b) capers of CN code 0709 90 40,
- (c) bitter almonds of CN code 0802 11 10,
- (d) shelled almonds of CN code 0802 12,
- (e) shelled hazelnuts of CN code 0802 22,
- (f) shelled walnuts of CN code 0802 32,
- (g) pine nuts of CN code 0802 90 50,

- (h) pistachios of CN code 0802 50 00,
- (i) macadamia of CN code 0802 60 00,
- (j) pecans of CN code ex 0802 90 20,
- (k) other nuts of CN code 0802 90 85,
- (l) dried plantains of CN code 0803 00 90,
- (m) dried citrus of CN code 0805,
- (n) mixtures of tropical nuts of CN code 0813 50 31,
- (o) mixtures of other nuts of CN code 0813 50 39,
- (p) saffron of CN code 0910 20,
- (q) plantains, fig bananas and bananas intended for processing not falling within CN code 080300.

Evidence shall be supplied to the competent authority that the products falling under this sub-regulation and sub-regulations (1) to (5) fulfil the conditions laid down, in particular with regard to their intended use.

(7) Products directly sold by the grower directly to the final consumer for personal use represented in the 'Farmers' Market' shall be exempt from the application of marketing standards:

Provided that in case growers selling in the Farmers' Market decide to apply the marketing standards, the relative fruit and vegetables will become subject to all the provisions of these regulations. Traders opting to be included in the database shall inform the competent authority accordingly.

(8) Products sold by a grower from his own personal premises, being a garage or a farmhouse shall be exempt from the application of marketing standards.

(9) Operations not exceeding a threshold of value marketed production of thirty-four thousand euro (€34,000) *per annum* shall be exempt from the application of marketing standards.

(10) Imports from third countries referred to in Annex IV of the Commission Implementing Regulation (EU) No. 543/2011, which are in compliance with Article 15 of the said Regulation, shall be exempt from the application of marketing standards.

(11) Products subject to specific marketing standards presented for retail sale to consumers for their personal use and labelled “product intended for processing” or with any other equivalent wording and intended for processing, other than those referred to in sub-regulation (1)(a)(i), shall not be required to conform to specific marketing standards.

(12) Products recognised in a Commission Decision taken at the request of a Member State in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No. 1234/2007 as products of a given region which are sold by the retail trade of the region for well established traditional local consumption shall not be required to conform to specific marketing standards.

(13) The competent authority may, where it deems relevant, demand evidence to trace the intended use of the product.

5. (1) The information particulars required by the general marketing standards and the specific marketing standards shall be shown legibly and clearly on one side of the packaging, either by being printed directly onto the package or by means of a label, which is either an integral part of the package or which is affixed to it.

Information
particulars.

(2) For goods shipped in bulk and loaded directly onto a means of transport, the information particulars referred to in sub-regulation (1) shall be given in a document accompanying the goods or shall be shown on a notice board placed in an obvious position inside the means of transport.

(3) In the case of distance contracts in terms of Article 2(1) of Directive 97/7/EC of the European Parliament and of the Council, conformity with the marketing standards shall require that the information particulars shall be made available before the purchase is concluded.

(4) Invoices and accompanying documents, excluding receipts from the consumer, shall indicate the name and the country of origin of the products and, where appropriate, the class, the variety or commercial type, if required, in a specific marketing standard, or the fact that they are intended for processing.

6. (1) At the retail stage, the information particulars required by the general marketing standards and the specific marketing standards shall be displayed legibly and in a conspicuous manner.

Information
particulars at the
retail stage.

(2) Products may be presented for sale provided the retailer displays prominently, adjacent to and legibly, the information

particulars relating to country of origin and, where appropriate, class and variety or commercial type, in such manner as not to mislead the consumer.

(3) For products which are pre-packaged within the meaning of Directive 2000/13/EC of the European Parliament and of the Council, the net weight shall be indicated, in addition to all the information provided for in the marketing standards:

Provided that, in the case of products sold by number, the requirement to indicate the net weight shall not apply, if the number of items may be clearly seen and easily counted from the outside or, if the number is indicated on the label.

Mixes.

7. (1) The marketing of packages of products of a net weight of 5kg or less containing mixes of different types of fruit and vegetables shall be allowed, provided that:

(a) the products are of uniform quality and each product concerned complies with the relevant specific marketing standard or, where no specific marketing standard exists for a particular product, with the general marketing standard;

(b) the package is appropriately labelled in accordance with the general marketing standards and the specific marketing standards; and

(c) the mix is not such so as to mislead the consumer.

(2) The requirements of sub-regulation (1)(a) shall not apply to products included in a mix which are not products of the fruit and vegetables sector referred to in Article 1(1)(i) of Regulation (EC) No. 1234/2007.

(3) If the fruit and vegetables in a mix originate in more than one Member State or third country, the full names of the countries of origin may be replaced with one of the following, as appropriate:

(a) "mix of EU fruit and vegetables",

(b) "mix of non-EU fruit and vegetables",

(c) "mix of EU and non-EU fruit and vegetables".

Duties of the
competent
authority and
Inspectorate
Unit.

8. (1) The competent authority shall be responsible for the implementation and enforcement of these regulations, including the establishment of the necessary contacts and coordination

mechanisms relating to marketing standards.

(2) The Inspectorate Unit shall be responsible for carrying out conformity checks at each stage of marketing. The Inspectorate Unit shall report all its findings to the competent authority.

9. (1) The competent authority shall set up a database on traders in fruit and vegetables, which shall list, under the conditions established in Article 10 of Commission Implementing Regulation (EU) No. 543/2011, traders involved in the marketing of fruit and vegetables for which standards have been laid down pursuant to Article 113 of Regulation (EC) No 1234/2007. Traders database.

(2) The following traders shall not be required to be included in the database:

(a) natural or legal persons whose activities in the fruit and vegetables sector are limited either to the transport of goods, or to the sale at the retail stage;

(b) natural or legal persons whose activities in the fruit and vegetable sector are limited to processing.

(3) Traders shall provide such information as the competent authority considers necessary to set up and update the database. The minimum requirements of traders database shall include:

(a) the registration number, name and address;

(b) information needed for its classification in one of the risk categories mentioned in Article 11(2) of Commission Implementing Regulation (EU) No. 543/2011, in particular, position in the marketing chain and information concerning the importance of the firm;

(c) information concerning findings made during previous checks of each trader;

(d) any other information considered necessary for checks such as information concerning the existence of a quality assurance system or self-check system related to the conformity to the marketing standards.

(4) The competent authority may if it deems necessary request from other authorities information which lies within the scope of these regulations, in order to be able to compile the database.

(5) The updating of the database shall be carried out in

particular using the information collected during conformity checks.

(6) These regulations shall also be applicable to traders not established in Malta, but are trading within it.

Conformity
checks.

10. (1) The Inspectorate Unit shall perform conformity checks which are to be carried out selectively, based on a risk analysis, and with appropriate frequency, so as to ensure appropriate compliance with the marketing standards and other provisions of these regulations.

(2) Where the conformity checks conducted in terms of sub-regulation (1) reveal significant irregularities, the Director shall order the increase in the frequency of checks in relation to traders, products, origins, or other parameters.

(3) Traders shall provide the competent authority and the Inspectorate Unit with all such information as they consider necessary for organising and carrying out conformity checks.

(4) The competent authority shall in advance publish the criteria for assessing the risk of non-conformity of lots, on the basis of a risk analysis for each risk category. The competent authority shall in advance publish these criteria through a notice in the Gazette.

(5) The sample of the minimum rate of on-the-spot checks shall be drawn partly on the basis of a risk analysis and partly at random. The competent authority shall establish the risk factors. To assure relevant and efficient risk analysis, the effectiveness of the risk analysis shall be assessed and updated on an annual basis taking into account the relevance of each risk factor, comparing the results of randomly and risk-based selected samples and the specific situation in the particular risk category.

(6) The minimum control rate in respect of the marketing standards' obligations shall be established in accordance with the provisions of this regulation. In this regard the control rate shall be fixed at a minimum of 10% of traders present in the traders database and subject to marketing standards.

(7) The sampling of on-the-spot checks for marketing standards shall take into account the participation of such traders in relevant certifications systems. It should, however, be demonstrated when taking that participation into account, that the traders participating in such schemes represent a lesser risk than traders not participating in those schemes.

(8) (a) Control samples for on-the-spot checks under this regulation shall be selected by the competent authority on the basis of a risk analysis, as per data available in the traders database. Selection of the control sample.

(b) To provide the element of representativeness, the competent authority shall select randomly 20% of the minimum number of traders to be subject to on-the-spot checks:

Of 100%

20% Random

- 20% Random

80% Risk

- 20% largest amount of revenue
- 20% largest variety of fruit and vegetables subject to specific marketing standards
- 40 % previous cases on non-compliance

The effectiveness of the risk analysis shall be assessed and updated on an annual basis:

- (a) by establishing the relevance of each risk factor
- (b) by comparing the results of the risk based and randomly selected sample
- (c) by taking into account the specific situation.

The competent authority shall keep records of the reasons for the selection of each farmer for an on-the-spot check. The inspector carrying out the on-the-spot check shall be informed accordingly prior to the commencement of the on-the-spot check.

11. (1) The customs authority may only accept export declarations and, or declarations for the release for free circulation for the products subject to specific marketing standards, if: Acceptance of declaration.

(a) the products are accompanied by a conformity certificate issued in terms of regulation 12; or

(b) the competent authority has informed the customs authority that the lots concerned have been issued with a conformity certificate in terms of regulation 12; or

(c) the competent authority has informed the customs authority that it has not issued a conformity certificate for the lots concerned, because they do not need to be checked in the light of the risk assessment referred to in regulation 10(1).

(2) The provisions of sub-regulation (1) shall be enforced without prejudice to any conformity checks that the Inspectorate Unit may carry out pursuant to regulation 10.

(3) Sub-regulation (1) shall also apply to products subject to the general marketing standards and products referred to in regulation 4(1)(a) if the Director considers it necessary in the light of the risk analysis referred to regulation 10(1) and also Article 11(1) of Commission Regulation 543/2011.

Certificate of conformity.

12. Conformity certificates confirming that products conform to the relevant marketing standard shall be issued by the competent authority, in terms of Article 14 of Commission Implementing Regulation (EU) No. 543/2011.

Method of inspection.

13. (1) The competent authority shall publish in advance guidelines for specific arrangements for checking conformity at the point of retail or sale to the end consumer.

(2) The Inspectorate Unit may, at any time, and without giving any previous notice, except in cases of import and export, enter any premises for the purpose of inspection and of ensuring the carrying out of the provisions of these regulations or of any other law relating to the sale of fresh fruit and vegetables. For this purpose the Inspectorate Unit may request the assistance of the members of the Police Force.

(3) Where the Inspectorate Unit finds that the products conform with the marketing standards, the Inspectorate Unit shall make its recommendations to the competent authority. The competent authority shall then issue a conformity certificate in terms of regulation 12 on the form set out in Annex III of Commission Implementing Regulation (EU) No. 543/2011.

(4) (a) Where the products do not conform with the standards, the competent authority shall issue a finding of non-conformity for the attention of the traders or their representatives.

(b) Goods for which a finding of non-conformity has been issued may not be moved without the authorisation of the competent authority which issued that finding. That authorisation can be subject to the respect of conditions laid down by the competent authority.

(5) Traders may decide to bring all or some of the products into conformity. Products brought into conformity may not be marketed before the competent authority has ensured that the products have actually been brought into conformity.

(6) The competent authority shall issue, where applicable, a certificate of conformity on the form set out in Annex III of Commission Implementing Regulation (EU) No 543/2011 for the lot of products or part thereof, only after such products have been brought into conformity

(7) (a) If the competent authority accepts a trader's wish to bring the goods into conformity in a Member State other than that where the check leading to a finding of non-conformity has been carried out, the trader shall notify the competent authority of the destination Member State of the non-conforming lot.

(b) The competent authority issuing the finding of non-conformity shall send a copy of that finding to the other Member States concerned including the Member State of destination of the non-conforming lot.

(8) In the case of products that can neither be brought into conformity nor be sent as animal feed, industrial processing or any other non-food use, the competent authority may, if necessary, request traders to take adequate measures, in order to ensure that the products concerned are not marketed.

14. (1) Any person who contravenes or fails to comply with any of the provisions of these regulations shall be guilty of an offence against these regulations and shall, upon conviction, be liable -

Offences and penalties.

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

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than one thousand two hundred euro (€1,200) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), and to the suspension of any permit, pass or licence, for a period of not less than one month but not exceeding six months.

(2) In every case of conviction for an offence against these regulations, the Court may order the forfeiture of the articles to which the offence relates and such articles shall be forfeited to the Government.

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

Cap. 9.

(4) Proceedings in respect of an offence against these regulations shall be taken before the Courts of Magistrates sitting as a court of criminal judicature 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.

Administrative penalties.

15. (1) Where the Director has reasonable cause to believe that -

(a) an offence against these regulations has been committed by any person; and

(b) having regard to the previous conduct of the person concerned, it would be appropriate to impose a penalty under this article,

he may cause a notice in writing in accordance with sub-regulation (2) to be served on that person.

(2) A notice under sub-regulation (1) shall specify -

(a) the date and nature of the offence;

(b) a summary of the facts upon which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him);

(c) any other matters (not being previous convictions) that the Director considers relevant to the imposition of a penalty; and

(d) the amount of the penalty due, and where the penalty due depends on a previous conviction, the date of such conviction, and shall be endorsed on a statement setting out the provisions of this article.

(3) Any person on whom a notice under sub-regulation (1) is served may, within thirty days after such service by notice in writing in the appropriate form served on the Director, require that proceedings in respect of the alleged offence shall be dealt with by the Court, in which case the following provisions shall apply:

(a) no further proceedings shall be taken under this regulation by the Director; and

(b) nothing in this regulation shall be construed to prevent the institution of any proceedings in respect of the alleged offence or the conviction of the person for the offence by the Court or the imposition of any penalty or forfeiture under these regulations upon such conviction.

(4) Any person on whom a notice under sub-regulation (1) is served who does not wish that proceedings in respect of the alleged offence be dealt with by the Court may by notice in writing served on the Director -

(a) admit the offence, and

(b) pay the amount of the penalty to the Director within thirty days after the notice of the penalty is served or after such subsequent period as the Director may determine.

(5) Where under this regulation a person admits an offence, the Director shall impose a monetary penalty on that person in respect of the offence amounting to one-third of the maximum penalty to which the person would be liable if he were convicted of the offence by the Court under these regulations.

(6) The penalty imposed under sub-regulation (5) shall be due as a civil debt enforceable by the competent Court of civil jurisdiction in favour of the Government and the declaration by the person on whom the penalty is imposed that he admits the charge shall constitute an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure in the same manner as if it were a judgement of the competent Court of civil jurisdiction. Cap. 12.

(7) Notwithstanding any other provisions of these regulations or of any other enactment, where an offence has been admitted under this regulation no charge may be laid in respect of the offence against any person by whom it has been admitted.

(8) Where a person on whom a notice under sub-regulation (1) is served does not, within thirty days after the notice is served on him admit the offence or does not serve the Director with a notice in accordance with sub-regulation (3), the Director shall institute proceedings or cause proceedings to be instituted before the Court in respect of the alleged offence.

(9) Traders shall supply all information deemed necessary by the competent authority for the application of this regulation.