

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

13 ta' Awissu, 2004

ATT Nru. XII ta' l-2004

ATT biex jagħmel provvedimenti dwar l-impożizzjoni ta' eko-kontribuzzjoni fuq prodotti li jispicċaw mormija u biex jipprovdi dwar affarijiet ancillari jew incidental i dwarhom

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqa' f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

Taqsim I

Preliminari

1. (1) It-titolu ta' dan l-Att hu Att ta' l-2004 dwar l-Eko-Kontribuzzjoni. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru, flimkien mal-Ministru responsabbli għall-finanzi, jista' b'avviż fil-Gazzetta jstabilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra - Tifsir.

“Awtorità Kompetenti” tfisser l-awtorità msemija mill-Ministru taht l-artikolu 10 ta' dan l-Att;

“eko-kontribuzzjoni” jew “kontribuzzjoni” tfisser il-kontribuzzjoni li tithallas taht l-artikolu 3 ta' dan l-Att;

“il-Ministru” tfisser il-Ministru responsabbli għall-immaniġġar ta' l-iskart, u tinkludi, sal-limitu ta' l-awtorità

moghtija, lil kull persuna awtorizzata ghaldaqstant ghal xi skop ta' dan l-Att;

“mqieghed fis-suq” tfisser meta prodott jiġi trasferit mill-istadju ta' manifattura bil-hsieb li jiġi mqassam fis-suq f'Malta, jew meta prodott jinġieb ġewwa Malta bil-hsieb li jiġi mqassam fis-suq;

“prodotti” tfisser prodotti li jispiċċaw mormija u li fuqhom ghandha tithallas eko-kontribuzzjoni;

“produttur” tfisser persuna li, għall-fini ta' kummerċ jew xort'ohra fil-kors tal-kummerċ, jimmanifattura jew iġib f'Malta l-prodotti li fuqhom ghandha tithallas eko-kontribuzzjoni skond dan l-Att;

“rkupru ta' skart” tfisser l-użu mill-ġdid, riċiklagġ jew reklamazzjoni ta' skart jew ta' kull proċess ieħor li jkollu l-iskop li johroġ materja prima sekondarja jew enerġija minn dak l-iskart;

“skart” tfisser kull haġa, sustanza, prodott jew oġġett, ta' liema ghamla jkun, kemm jekk perikoluż jew xort'ohra, li jintrema' jew ikun mahsub li jintrema' jew li jkun mehtieg li jinżamm sabiex ikun jista' jintrema' u tinkludi kull haġa ohra, sustanza jew oġġett skond ma l-Ministru jista' jordna;

“Skeda” tfisser skeda li tinsab ma' dan l-Att.

Taqsim II

Impożizzjoni ta' eko-kontribuzzjoni

Impożizzjoni ta' eko-kontribuzzjoni.

3. (1) Ghandu jithallas u jingabar mill-Awtorità Kompetenti, f'isem il-Gvern, eko-kontribuzzjoni bir-rati murija fit-Tielet Kolonna ta' l-Ewwel Skeda li tithallas fuq prodotti deskritti fl-Ewwel u fit-Tieni Kolonna ta' dik l-Iskeda, li jiġu mqieghda fis-suq.

(2) L-Ewwel Skeda ghandha tiġi pubblikata bl-ilsien Inġliż biss:

Izda l-Ministru jista', minn żmien għal żmien, jordna l-pubblikazzjoni ta' dik l-Ewwel Skeda bl-ilsien Malti, u f'dak il-każ, jekk it-test Malti u dak Inġliż ta' dik l-Ewwel Skeda jkunu konfligġenti, ikun it-test Inġliż li jipprevalixxi.

4. (1) Eko-kontribuzzjoni tkun dovuta fil-waqt meta l- prodotti jigu mqieghda fis-suq: Meta tkun dovuta il-kontribuzzjoni.

Izda meta prodotti jkunu jinsabu taht proċedura ta' dwana meta jidhlu għewwa Malta, l-importazzjoni għandha titqies li ssehh meta dawn jitolqu mill-proċedura tad-dwana.

(2) Il-kondizzjonijiet li fuqhom il-kontribuzzjoni għandha tithallas u r-rata tal-kontribuzzjonijiet li għandhom jigu adottati jkunu dawk li jkunu fis-sehh fid-data meta l-prodotti jigu mqieghda fis-suq.

5. F'kazijiet ta' rkupru ta' skart minn prodotti li fuqhom tithallas eko-kontribuzzjoni skond dan l-Att, il-produtturi ta' dawk il-prodotti jistghu, skond regolamenti maghmula taht l-artikoli 12 u 13, jinghataw kreditu tal-kontribuzzjoni mhallsa fuqhom, għal kollox jew f'parti minnha, ma' eko-kontribuzzjonijiet li jistghu jkunu dovuti fil-futur. Rkupru ta' skart.

6. Il-kontribuzzjoni dovuta skond dan l-Att tkun minghajr preġudizzju għal kull obligazzjoni ohra, ta' liema xorta tkun, imposta minn jew taht kull liġi ohra dwar il-prodotti li fuqhom tkun dovuta l-kontribuzzjoni. Riservi.

Taqsimha III

Hlas ta' eko-kontribuzzjoni

7. (1) Ir-responsabbiltà għall-hlas ta' eko-kontribuzzjoni tkun tal-produttur. Responsabbiltà għal hlas ta' eko-kontribuzzjoni.

(2) Meta żewġ persuni jew aktar ikunu responsabbli għall-hlas tal-kontribuzzjoni, ir-responsabbiltà tagħhom taht l-Att tkun waħda solidali.

8. L-eko-kontribuzzjoni għandha tithallas ta' kull tliet xhur b'lura wara li jiġi pprezentat il-prospett relattiv għat-tliet xhur ta' qabel: Meta għandha tithallas eko-kontribuzzjoni.

Izda l-Ministru jista' b'regolamenti jippreskrivi dwar xi klassi jew klassijiet ta' produtturi kif jista' jiġi speċifikat f'dawk ir-regolamenti, perjodu ta' żmien itwal jew iqsar minn tliet xhur għall-hlas b'lura ta' l-eko-kontribuzzjoni u biex jiġi pprezentat il-prospett relattiv.

9. Il-proċedura ta' registrazzjoni u rappurtar li għandha tinzamm mill-produtturi kollha li huma dovuti jhallsu eko-kontribuzzjoni tinsab stipulata fit-Tieni Skeda li tinsab ma' dan l-Att. Proċedura ta' rappurtar ta' registrazzjoni.

Taqsimha IV

L-Awtorità Kompetenti

Tismija ta' Awtorità Kompetenti.

10. (1) Il-Ministru ghandu b'ordni fil-Gazzetta isemmi persuna jew korp bhala l-Awtorità Kompetenti ghall-finijiet ta' dan l-Att biex iwettqu l-funzjonijiet stipulati fl-Att u fir-regolamenti maghmulin mill-Ministru taht l-Att, u daww il-funzjonijiet l-oħra li l-Ministru jista' jkis li jkunu adatti għar-rigward tat-thaddim ta' l-Att. Dik il-persuna jew korp għandhom jissemmew għal perjodu indefinitiv:

Izda l-Ministru jkun jista' f'kull waqt itemm dik it-tismija b'ordni fil-Gazzetta:

Izda wkoll il-Ministru jista' fir-regolamenti jipprovdli li persuna jew awtorità, li ma tkunx l-awtorità kompetenti, tkun responsabbli għall-għemil ta' ċerti funzjonijiet speċifikati fir-regolamenti.

Funzjonijiet ta' l-Awtorità Kompetenti.

11. Salv meta ma jgħix provdut xort'oħra f'regolamenti maghmulin taht dan l-Att, l-Awtorità Kompetenti tkun responsabbli għall-amministrazzjoni ta' dan l-Att u għal regolamenti maghmulin tahtu. L-Awtorità Kompetenti jkollha wkoll il-funzjoni li tagħti pariri lill-Ministru fuq dan li għej:

(a) il-prodotti li fuqhom għandha tingabar eko-kontribuzzjoni u x'rata ta' kontribuzzjoni tkun tapplika;

(b) il-hruġ ta' regolamenti taht dan l-Att; u

(ċ) kull ma jista' jkun meħtieġ biex id-disposizzjonijiet ta' dan l-Att jew ta' regolamenti maghmulin tahtu jkunu jistgħu jitwettqu bl-aħjar mod.

Taqsimha V

Poteri tal-Ministru

Setgħa ta' eżenzjoni minn hlas ta' eko-kontribuzzjoni.

12. (1) Il-Ministru jista', bi qbil mal-Ministru responsabbli għall-finanzi u skond regolamenti maghmulin taht id-disposizzjonijiet ta' l-artikolu 13:

(a) jeżenta lil xi produttur mill-hlas ta' l-eko-kontribuzzjoni, għal kollox jew f'parti minnha, li xort'oħra kienet tkun pagabbli fuq prodotti li hu jipproduċi, jew

(b) jaghti lil xi produttur kreditu tal-kontribuzzjoni mhallsa fuq prodotti bhal dawk, għal kollox jew f'parti minnha, ma' eko-kontribuzzjonijiet li jistghu jkunu dovuti fil-futur,

kemm-il darba l-produttur jipprovdi jew jieħu sehem fi skema, approvata skond ir-regolamenti, għall-irkupru ta' skart minn dawk il-prodotti.

(2) Il-Ministru għandu, sa mhux aktar tard mit-tieni ġimgħa ta' kull xahar, jippubblika fil-Gazzetta lista ta' dawk l-eżenzjonijiet li setghu ġew permessi skond is-subartikolu (1) ta' dan l-artikolu.

13. (1) Il-Ministru jista' jagħmel regolamenti biex id-disposizzjonijiet ta' dan l-Att ikunu jistghu jitwettqu bl-aħjar mod, u mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi, dawk ir-regolamenti jistghu jipprovdu dwar dan li ġej:

Setgħa li jsiru regolamenti.

(a) kull żmien jew iż-żminijiet li fih jew fihom, il-post fejn, u l-mod kif, għandha tithallas il-kontribuzzjoni dovuta taħt dan l-Att;

(b) iċ-ċirkostanzi li taħthom prodotti mhux tajbin għall-konsum jew li jiġu f'pożizzjoni li ma jistgħux jitqiegħdu jew jinbiegħu fis-suq, jinqerdu, sew jekk tithallas jew ma tithallasx eko-kontribuzzjoni, u sew jekk tinghata lura sew ma tinghatax il-kontribuzzjoni mhallsa;

(ċ) ikunu jemendaw jew jirrevokaw, għal kollox jew f'parti minnha, kull Skeda li tinsab ma' dan l-Att;

(d) ikunu jipprovdu dwar dawk il-poteri li jistghu jinhtieġu biex jinfurzaw id-disposizzjonijiet ta' dan l-Att u tar-regolamenti li jsiru taħtu;

(e) ikunu jagħtu garanzija jew xi forma oħra ta' sigurtà mill-produtturi biex jiżguraw il-hlas ta' eko-kontribuzzjoni dovuta skond dan l-Att, u l-mod kif ikunu jistghu jiġu infurzati dik il-garanzija jew sigurtà oħra; u

(f) il-proċedura sabiex produtturi jiġu eżentati mill-hlas ta' l-eko-kontribuzzjoni kif provdut fl-artikolu 12;

(g) li jipprovdu għal skemi li jħajru persuni li ma jkunux produtturi sabiex jidhlu biex jirkupraw skart minn prodotti bi ftehim ma' produtturi; u

(h) kull haġa li tista' tiġi ordnata skond id-disposizzjonijiet ta' dan l-Att.

Taqsim VI

Infurzar u Sanzjonijiet

Kontravvenzjonijiet
amministrattivi.

14. (1) L-awtorità tista' timponi penali amministrattiva fuq kull min:

(a) jikser xi disposizzjoni ta' dan l-Att jew ta' regolamenti magħmulin tahtu;

(b) jonqos milli jhares xi talba jew deċizzjoni mogħtija mill-awtorità taht dan l-Att jew regolamenti magħmulin tahtu:

Izda f'dawk il-każijiet kollha fejn l-awtorità timponi penali amministrattiva dwar xi att jew ommissjoni minn xi persuna u dak l-att jew dik l-ommissjoni jikkostitwixxu reat kriminali, ma jistgħu jinbdew jew jitkomplew ebda proċedimenti kontra dik il-persuna dwar dak ir-reat kriminali.

(2) Penali amministrattiva imposta taht is-subartikolu (1) ta' dan l-artikolu ma għandhiex, sakemm ma jiġix provdut xort'ohra b'dan l-Att jew tahtu, tkun ta' iżjed minn hamest elef lira għal kull kontravvenzjoni jew nuqqas ta' konformità, u ta' mitt lira għal kull ġurnata ta' kontravvenzjoni jew nuqqas ta' konformità li jibqgħu jsiru wara, skond ma jkun il-każ.

(3) Meta jkun qed jiġi deċiż għal kemm għandha tkun tammonta penali amministrattiva, għandu jitqies, b'mod partikolari, xi jkunu x-xorta u l-gravità tal-kontravvenzjoni u għal kemm żmien din iddum għaddejja.

(4) Il-Ministru jista', b'regolamenti magħmulin taht dan l-Att, jistabilixxi dawk il-penali amministrattivi li jistgħu jiġu imposti mill-awtorità għal kontravvenzjonijiet ta' dawk ir-regolamenti:

Izda l-ammont ta' dawk il-penali li jistgħu jiġu hekk stipulati ma għandhomx ikunu ta' iżjed mill-oghla ammonti stipulati taht is-subartikolu (2) ta' dan l-artikolu.

(5) Minkejja d-disposizzjonijiet ta' kull liġi, l-ebda mandat kawtelatorju jew ordni ma għandhom jinħarġu minn xi qorti li jkunu jżommu lill-awtorità mill-eżerċizzju ta' xi poter mogħti lilha b'dan l-artikolu jew tahtu.

Kontravvenzjonijiet
amministrattivi
minn korpi
ġuridiċi.

15. Meta ssir kontravvenzjoni amministrattiva ta' xi disposizzjoni ta' dan l-Att minn korp ġuridiku u tingieb prova li din tkun saret bil-

kunsens jew l-involvement ta' persuna, jew li tkun attribwibbli ghal xi traskuraġni kbira da parti ta' persuna, li f'kull każ tkun direttur, *manager*, segretarju jew xi ufficjal iehor, ikun kif ikun jissemma, tal-korp ġuridiku jew ta' persuna li taghti x'tifhem li tkun qieghda taġixxi f'xi kariga minn dawk, kemm dik il-persuna kif ukoll il-korp ġuridiku jkun responsabbli ghal dik il-kontravvenzjoni.

16. (1) Kull persuna li tikser jew tonqos milli thares xi disposizzjoni ta' dan l-Att jew ta' regolamenti maghmulin tahtu, tkun hatja ta' reat, u tista' tehel, jekk tinsab hatja, multa ta' mhux iżjed minn ghaxart elef lira jew ammont daqs tliet darbiet l-ammont ta' eko-kontribuzzjoni li ghandha tithallas fuq il-prodotti li dwarhom ikun sar ir-reat, skond liema ammont ikun l-oghla.

Proċedimenti
kriminali.

(2) L-artikolu 21 tal-Kodiċi Kriminali u d-disposizzjonijiet ta' l-Att dwar il-*Probation* ma ghandhomx japplikaw ghal xi sejbien ta' htija taht dan l-Att.

17. Il-preskrizzjoni ta' reat kriminali jew il-bidu ta' proċedimenti li jwasslu ghal penali amministrattiva taht dan l-Att huma preskritti meta jiskadu hames snin minn meta jsir ir-reat jew il-kontravvenzjoni amministrattiva.

Preskrizzjoni ghal
reati u
kontravvenzjonijiet
amministrattivi.

18. (1) Kull persuna soġġetta ghal penali amministrattiva ghandha tiġi avzata bil-miktub bl-ammont ta' penali dovuta u bix-xorta tal-kontravvenzjoni.

Impożizzjoni ta'
penali
amministrattiva.

(2) L-avviż imsemmi fis-subartikolu (1) ta' dan l-artikolu ghandu, minghajr preġudizzju ghad-dritt ta' appell moghti taht l-artikolu 20 ta' dan l-Att, malli l-persuna indikata fl-avviż tiġi notifikata b'kopja ta' l-avviż permezz ta' att mahruġ mill-qorti, jikkostitwixxi titolu eżekuttiv ghall-effetti kollha u ghall-finijiet tat- Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(3) Minkejja id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 256 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, it-titolu eżekuttiv imsemmi fis-subartikolu (2) ta' dan l-artikolu ma jkunx eżegwibbli qabel ma jghaddu tletin jum minn meta jiġi notifikat l-att bil-qorti imsemmi f'dak is-subartikolu:

Iżda meta jkun ġie pprezentat appell kontra penali amministrattiva skond l-artikolu 20 ta' dan l-Att, ghandhom japplikaw id-disposizzjonijiet ta' l-artikolu 20 .

19. Minkejja d-disposizzjonijiet ta' l-artikoli 14 u 15 ta' dan l-Att, ebda penali amministrattiva ma ghandha tiġi imposta mill-awtorità

Skuża raġonevoli.

ghal xi nuqqas jekk dik il-persuna turi ghas-sodisfazzjon ta' l-awtorità li jkun hemm skuża raġonevoli ghal dak in-nuqqas:

Iżda:

(a) meta ma jkunx hemm flus biżżejjed biex tithallas eko-kontribuzzjoni li tkun dovuta; jew

(b) meta jiġi preżunt li jkun hemm persuna oħra li tkun se tagħmel xi haġa, il-fatt li jkun hemm dik il-preżunzjoni jew jekk ikun hemm xi dewmien jew nuqqas ta' eżattezza da parti tal-persuna li suppost tagħmel xi haġa,

dawn ma jikkostitwux skuża raġonevoli għall-finijiet ta' dan l-artikolu.

Appelli minn
penali
amministrattivi.

20. (1) Il-proċedura li għandha tiġi segwita għar-rigward ta' appelli kontra penali amministrattivi imposti mill-Awtorità għandha tiġi regolata skond id-disposizzjonijiet ta' dan l-artikolu.

(2) Persuna li tiġi notifikata b'att mahruġ mill-qorti kif imsemmi fis-subartikolu (2) ta' l-artikolu 18 ta' dan l-Att, tista' fi żmien tletin jum minn meta tiġi hekk notifikata tagħmel appell quddiem il-Bord ta' l-Appelli fejn hija toġġezzjona għall-penali amministrattivi li tkun wehlet:

Iżda l-appell ma jkunx validu hliet jekk:

(a) id-denunzja għall-perjodu li dwaru l-penali tkun giet imposta, jew kopja tagħha, tkun saret lill-Awtorità Kompetenti;

(b) l-ammont ta' l-eko-kontribuzzjoni li ma jkunx kontestat, jekk ikun hemm, u li jkun dovut mill-appellant, ikun thallas; u

(ċ) ikun sar il-hlas ta' daww id-drittijiet amministrattivi li jistgħu jiġu preskritti.

(3) Il-Bord ta' l-Appelli ma għandux jannulla penali amministrattiva kif hawn qabel imsemmi sakemm ma jkunx li dik il-penali ma tkunx tista' tiġi imposta skond il-liġi fiċ-ċirkostanzi tal-każ, jew ma tkunx tista' skond il-liġi tinghata bhala piena fl-ammont stabbilit mill-Awtorità, wara li jitqies sew il-prinċipju tal-proporzjonalità.

(4) Il-Bord ta' l-Appelli għandu, mingħajr ebda dewmien, jiffissa l-appell għas-smiġh f'data kemm tista' tkun vicina, u dik id-

data ma ghandha f'ebda każ tkun iżjed tard minn sittin ġurnata mid-data tan-notifika ta' l-appell lill-Awtorità.

(5) Kemm l-appell, u n-notifika tad-data ffissata ghas-smigh, ghandhom jiġu notifikati lill-Awtorità minghajr ebda dewmien, u l-Awtorità ghandha tippreżenta r-risposta tagħha għall-appell fi żmien tletin jum mid-data tan-notifika ta' l-appell.

(6) Id-deċiżjoni tal-Bord ta' l-Appelli meta jsir appell imsemmi fis-subartikolu (2) ta' dan l-artikolu, li tkun tikkonferma l-impożizzjoni ta' penali stabbilita mill-Awtorità jew li tkun tnaqqas xi penali bhal dik, ghandha malli ssir *res judicata* titqies bhala deċiżjoni tal-Bord ta' l-Appelli li tkun tiswa daqs deċiżjoni tal-Prim'Awla tal-Qorti Ċivili li tkun tordna li jsir il-hlas mill-appellant tal-penali amministrattiva kif din tkun ġiet konfermata jew imnaqqsa.

(7) Kull parti fil-proċedimenti quddiem il-Bord ta' l-Appelli jkollha dritt tappella fil-Qorti ta' l-Appell skond l-artikolu 23 ta' dan l-Att.

21. (1) Meta l-Bord ta' l-Appelli jkun qed jiddelibera dwar xi appell, dan ghandu jqis il-merti ta' l-appell u jista', kemm għal kollox kemm f'parti minnha, jikkonferma jew jannulla d-deċiżjoni li tkun qieghda tiġi appellata, filwaqt li jagħti bil-miktub il-motivazzjonijiet li jwasslu għad-deċiżjoni u jara li dik id-deċiżjoni ssir pubblika u tiġi komunikata lill-partijiet f'dak l-appell.

Deċiżjonijiet tal-Bord ta' l-Appelli.

(2) Bla hsara għad-disposizzjonijiet ta' l-artikolu 23 id-deċiżjonijiet tal-Bord ta' l-Appelli jkunu finali u jorbtu.

22. (1) Fl-eżerċizzju tal-funzjonijiet tiegħu, il-Bord ta' l-Appelli jista' jharrek lil kull persuna sabiex tidher quddiemu u tixhed u ġġib magħha dokumenti, u l-President tal-Bord ta' l-Appelli jkollu setgħa jagħti ġuramenti.

Proċedura tal-Bord ta' l-Appelli.

(2) Il-Bord ta' l-Appelli ghandu jagħmel mill-aħjar biex jiddeċiedi appell fi żmien mija u tmenin ġurnata minn meta jgħaddi ż-żmien sa meta l-Awtorità tista' tippreżenta ir-risposta tagħha għal dak l-appell u f'kull każ għandu jagħti d-deċiżjoni finali tiegħu mhux iżjed tard minn tletin jum minn meta l-partijiet jiddikjaraw li jkunu temmew iġibu l-provi tagħhom u jkunu għamlu s-sottomissjonijiet finali tagħhom.

(3) Sabiex ikunu jistgħu jghinu lill-Bord ta' l-Appelli fl-eżerċizzju tal-funzjonijiet tiegħu, l-istess Bord jista' jahtar periti esperti indipendenti u imparzjali biex jagħtu parir dwar kull haġa li tista' tkun rilevanti għal xi appell li jkun qed jinstema' quddiemu. F'dawk il-każijiet

il-Bord ta' l-Appelli jkollu jedd li jaghti ordnijiet kemm provizorji kemm finali dwar il-hlas ta' l-ispejjeż u d-drittijiet ta' dawk il-periti esperti mill-partijiet fl-appell.

(4) Fl-eżerċizzju tal-funzjonijiet tiegħu, il-Bord ta' l-Appelli ikollu l-istess poteri bħalma għandha l-Prim'Awla tal-Qorti Ċivili skond il-liġi.

(5) Il-Ministru jista', bla hsara għad-disposizzjonijiet ta' dan l-Att, b'regolamenti jordna l-proċedura li għandha tiġi segwita quddiem il-Bord ta' l-Appelli, u bla hsara għal dan u għal kull disposizzjoni ta' dan l-Att, il-Bord ta' l-Appelli jista' jirregola l-proċedura tiegħu nnifsu.

(6) Il-Ministru jista', bi ftehim mal-Ministru responsabbli għall-finanzi b'regolamenti, jistabbilixxi dawk id-drittijiet li jitqiesu li jkunu mehtieġa għar-rigward ta' proċedimenti quddiem il-Bord ta' l-Appelli.

(7) Il-Ministru jista' b'regolamenti jemenda l-perjodi msemmija fis-subartikolu (2) ta' dan l-artikolu.

Appell fil-Qorti ta' l-Appell.

23. (1) Meta xi parti f'appell quddiem il-Bord ta' l-Appelli, inkluża l-Awtorità, thoss ruhha aggravata b'deċiżjoni tal-Bord ta' l-Appelli, din tista' fuq punt ta' liġi tappella quddiem il-Qorti ta' l-Appell (Ġurisdizzjoni Inferjuri) kif kostitwita skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili b'rikors li jiġi pprezentat fir-registru ta' dik il-qorti fi żmien tletin jum mid-data tad-deċiżjoni tal-Bord ta' l-Appelli.

(2) Il-Ministru responsabbli għall-Ġustizzja jista' b'regolamenti taht dan is-subartikolu jistabbilixxi xi jkunu d-drittijiet li għandhom jithallsu fir-registru tal-qorti biex jiġu pprezentati atti tal-qorti li jkollhom x'jaqsmu ma' appelli taht dan l-artikolu:

Iżda sakemm jiġu hekk stabbiliti dawk id-drittijiet, għandhom japplikaw id-drittijiet fi Skeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(3) Il-Bord imwaqqaf taht l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel Regoli tal-Qorti li jkunu jirregolaw l-appelli fil-Qorti ta' l-Appell taht dan l-artikolu.

Notifika ta' avvizi.

24. (1) Meta avviz, ikun kif ikun imsejjah, jenhtieġ li jiġi mogħti mill-awtorità lil xi persuna taht dan l-Att jew taht regolamenti magħmulin tahtu, dak l-avviz għandu jiġi indirizzat lil dik il-persuna u għandu jiġi mogħti lil dik il-persuna b'xi mod minn dawn li ġejjin:

- (a) billi jinghata lill-persuna,
- (b) billi jithalla fl-indirizz fejn il-persuna tkun soltu toqghod jew tiġġestixxi n-negozju taghha,
- (c) billi jintbaghat bil-posta registrata lill-persuna fl-indirizz fejn il-persuna tkun soltu toqghod jew tiġġestixxi n-negozju taghha, jew
- (d) jekk il-persuna tkun tat indirizz fejn ghandhom jiġu notifikata l-avvizi, billi dan jithalla jew jintbaghat bil-posta registrata indirizzat lill-persuna f'dak l-indirizz.

25. (1) L-Awtorità, jew kull persuna mahtura minnha għal dak l-ghan, għandu jkollha d-dritt, wara li turi l-awtorità li jkollha bil-miktub u f'kull hin raġonevoli, li tidhol go xi art, bini jew post bil-ghan li tispezzjona hażniet, kotba, *records* jew dokumenti, sabiex tiżgura li d-disposizzjonijiet ta' l-Att u tar-regolamenti li jsiru tahtu jkunu qeghdin jitharsu u din tista' tispezzjona dawk il-hażniet, kotba, *records* jew dokumenti u tista', bla ebda hlas jew kumpens, tagħmel estratti jew kopji ta' dawk il-hażniet, kotba, *records* jew dokumenti.

Dritt ta' dhul u spezzjoni.

(2) Jekk dak id-dhul ikun mehtieg bis-sahha tas-subartikolu (1) ta' dan l-artikolu għal go xi fond okkupat għal kollox jew f'parti minnu għall-fini ta' abitazzjoni, għal dak id-dhul ikun mehtieg li qabel jinhareg mandat minn Maġistrat tal-Qorti tal-Maġistrati fil-ġurisdizzjoni ċivili taghha.

(3) Meta tkun qieghda teżercita l-poteri mogħtija taht dan l-artikolu, l-Awtorità tista' titlob l-ghajjnuna tal-Pulizija.

(4) Kull persuna li xjentement jew b'ingann tonqos milli tagħti l-ghajjnuna taghha, jew xjentement tostakola, timpedixxi jew iddewwem lil xi persuna fl-eżerċizzju tad-dmirijiet jew poteri taghha taht dan l-artikolu tista', meta tinsab hatja, tehel multa ta' mhux iżjed minn hames mitt lira.

Taqsim VII

Bord ta' l-Appelli dwar l-Eko-Kontribuzzjoni

26. (1) Ikun hemm Bord ta' l-Appelli, li jkun magħruf bhala l-Bord ta' l-Appelli dwar l-Eko-Kontribuzzjoni, li jkollu ġurisdizzjoni jisma u jiddeciedi appelli minn decizjonijiet ta' l-Awtorità skond ma hemm provdut f'dan l-Att u fir-regolamenti magħmulin tahtu.

Bord ta' l-Appelli
dwar l-Eko-
Kontribuzzjoni.

(2) Il-Bord ta' l-Appelli dwar l-Eko-Kontribuzzjoni jinhatar mill-Ministru, u jkun magħmul minn:

(a) president, u

(b) żewġ membri oħra li fil-fehma tal-Ministru jkollhom l-esperjenza rilevanti kummerċjali, teknika jew finanzjarja.

(3) Il-President u l-membri tal-Bord ta' l-Appelli jinhatru għal żmien tliet snin u jkunu jistghu jergħu jinhatru mill-ġdid.

(4) Il-Bord ta' l-Appelli jkun indipendenti fit-tweqqif tal-funzjonijiet tiegħu.

(5) Il-President u l-membri tal-Bord ta' l-Appelli jistghu jkunu rikuzati jew jastjenu għal xi raġuni minn dawk li mhallef jista' jiġi rikuzat jew jista' jastjeni skond il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'dak il-każ il-Ministru għandu jahtar persuna, li jkollha l-kwalifiki tal-president jew tal-membru rikuzat jew li jastjeni, biex joqgħod minfloku.

(6) Membru tal-Kamra tad-Deputati jew tal-Parlament Ewropew jew ta' kunsill lokali jkun skwalifikat milli jinhatar jew milli jibqa' jkun il-President jew membru tal-Bord ta' l-Appelli sakemm jibqa' f'dik il-kariga.

(7) Il-President jew il-membru tal-Bord ta' l-Appelli jista' biss jitnehha mill-kariga mill-Ministru minhabba fi traskuraġni kbira, konflitt ta' interessi, inkompetenza, jew attijiet jew ommissjonijiet li ma jixirqux lil membru tal-Bord ta' l-Appelli. Meta l-Ministru jagħmel dan, huwa għandu jqiegħed fuq il-Mejda tal-Kamra dikjarazzjoni fejn jagħti r-raġunijiet għaliex ikun qed inehhi lil dak il-President jew membru.

(8) Il-Ministru għandu jinnomina persuna biex tkun isegretarju tal-Bord ta' l-Appelli u li sservi f'dik il-kariga skond *standards* ta' etika adatti għall-kariga li jkun qed jokkupa.

Taqsim VIII

Mixellanji

Kunfidenzjalità.

27. (1) Hlief meta jiġi xort'ohra provdut bil-liġi, ebda persuna ma għandha xjentement tiżvela informazzjoni li tkun kisbet waqt il-qadi ta' dmirietha bhala membru, uffiċjal jew impjegat ta' l-Awtorità

jew bhala konsulent ma' l-Awtorità, kemm-il darba ma tkunx awtorizzata mill-Awtorità kif imiss biex tagħmel dan.

(2) Persuna li tikser dan l-artikolu tkun hatja ta' reat kontra l-artikolu 257 tal-Kodiċi Kriminali.

(3) Ebda haġa f'dan l-artikolu ma għandha tipprevjeni l-kxif ta' xi informazzjoni lill-Awtorità jew, minn jew f'isem l-Awtorità lill-Ministru, jew skond ma jista' jkun mehtieġ bil-liġi jew għall-fini tal-prosekuzzjoni ta' xi reat taht dan l-Att jew regolamenti magħmulin tahtu.

L-EWWEL SKEDA

Tariffa ta' Eko-Kontribuzzjoni

Noti Ġenerali u Regoli ta' Interpretazzjoni

(1) In-nomenklatura tat-Tariffa hi bbażata fuq in-nomenklatura għall-klassifikazzjoni ta' oġġetti fil-*Harmonized Commodity Description and Coding System 1983* (hawn iżjed 'il quddiem msejha *Harmonized System*) u għandha tiġi interpretata skond *Explanatory Notes to the Harmonized System*, pubblikati mill-Customs Co-Operation Council, Brussels.

(2) Hlief meta l-qies ta' mizura li japplika ikun speċifikat f'litri, ir-rati indikati taht Eko-kontribuzzjoni f'din l-Iskeda japplikaw għal kull qies tal-prodott speċifikat.

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SKEDI 1 PASTE UP

SKEDI 2 PASTE UP

SKEDI 3 PASTE UP

IT-TIENI SKEDA

(Artikolu 9)

Reġistrazzjoni u Proċedura ta' Rappurtar

1. (1) Kull produttur ghandu japplika ghand l-Awtorità Kompetenti fuq il-formola ta' reġistrazzjoni stipulata jew fuq kull formola ohra approvata mill-Awtorità Kompetenti, fi żmien tletin jum minn meta l-Att jidhol fis-seħh, jew fi żmien tletin jum minn meta persuna ssir produttur skond l-Att, skond liema taħbat l-iżjed tard.

(2) Meta ssir ir-reġistrazzjoni, il-produttur ghandu jinforma lill-Awtorità Kompetenti bil-ħażna ta' prodotti li jkun beda biha dakinhar tar-reġistrazzjoni.

(3) Meta ssir ir-reġistrazzjoni, ghandu jinghata numru ta' reġistrazzjoni lill-produttur.

(4) Meta persuna:

(a) tapplika biex tiġi reġistrata konformi mas-subartikolu (1) ta' dan l-artikolu, u l-Awtorità tkun sodisfatta li dik il-persuna tista' tiġi reġistrata taħt l-Att, dik il-persuna issir persuna reġistrata għall-finijiet ta' l-Att b'seħh minn dik id-data li l-Awtorità tista' tistabbilixxi;

(b) ma tkunx applikat biex tiġi reġistrata konformi mas-subartikolu (1) ta' dan l-artikolu, u l-Awtorità tkun sodisfatta li dik il-persuna tkun tista' tiġi hekk reġistrata, dik il-persuna tkun persuna reġistrata għall-finijiet ta' l-Att b'seħh minn meta dik il-persuna tkun setgħet ġiet reġistrata għall-ewwel darba. F'dak il-każ, il-ħażna ta' prodotti li l-produttur jkun beda biha meta seta' ġie reġistrat għall-ewwel darba, għandha tiġi stabbilita mill-Awtorità.

(5) Applikazzjoni għal reġistrazzjoni li tagħti x'tifhem li tkun saret minn jew f'isem xi persuna għandha għall-finijiet kollha titqies li tkun saret minn dik il-persuna jew bl-awtorità ta' dik il-persuna, skond ma jkun il-każ, kemm-il darba ma tingiebx prova kuntrarja.

(6) Kull persuna li ttejjem milli tista' tiġi reġistrata tista' titlob lill-Awtorità bil-miktub thassar dik ir-reġistrazzjoni, u jekk l-Awtorità tkun f'xi waqt sodisfatta, sew meta ssirilha talba sew xort'ohra, li dik il-persuna ma tkunx tista' aktar thallas eko-kontribuzzjoni, l-Awtorità għandha thassar ir-reġistrazzjoni ta' dik il-persuna b'seħh mill-aħhar jum tat-tliet xhur li matulhom dik il-persuna tkun temmet milli tista' tiġi reġistrata, jew minn dik id-data l-ohra li tista' tiġi stabbilita mill-Awtorità, u għandha tavża lil dik il-persuna bid-data meta jibda jseħh it-thassir tar-reġistrazzjoni.

(7) L-obligazzjonijiet u r-responsabbiltajiet taħt l-Att, li kull persuna għandha dwar kull haġa li ssir, jew tonqos milli ssir, minn dik il-persuna waqt li dik il-

persuna kienet persuna reġistrata ma ghandhomx jintlaqtu mill-fatt li dik il-persuna ttemm milli tkun persuna reġistrata.

Prospetti.

2. (1) Produttur għandu jippreżenta lill-Awtorità Kompetenti prospetti, ta' kull tliet xhur, li jkun fihom informazzjoni dwar -

(i) il-volum ta' prodotti mqieghda fis-suq matul it-tliet xhur relattivi; u

(ii) liema eko-kontribuzzjoni tithallas fuqu; u

(iii) kull informazzjoni oħra li tista' tenhtieg mill-Awtorità Kompetenti f'dak il-format li għandu jiġi stabbilit mill-Awtorità:

Izda l-produtturi jkunu obbligati li jipprezentaw l-ewwel prospett wara li jiskadu tliet xhur minn meta jibda jsehħ l-Att.

(2) Minghajr preġudizzju għal kull poter iehor li għandha taht l-Att, jekk għal xi skop, l-Awtorità tehtieg xi informazzjoni jew informazzjoni addizzjonali jew li jiġi pprezentat prospett minn persuna li ma tkunx għamlet prospett jew prospett shiħ, l-Awtorità tista' titlob bil-miktub minghand dik il-persuna dik l-informazzjoni, informazzjoni addizzjonali jew prospett skond ma jista' jiġi indikat fl-avviż.

Records u dikjarazzjonijiet.

3. Minghajr preġudizzju għal dak hawn qabel imsemmi, produttur għandu ikun mehtieg li:

(a) jzomm, dwar il-prodotti kollha li huwa fil-fatt ikun jew inkella jitqies bhala li jkun produttur tagħhom, kontijiet u *records* eżatti ta' kull moviment ta' hażniet u prodotti;

(b) jikkonforma ruhu ma' kull talba li jissorvelja, jivverifika u jipproduci għall-ispezzjoni kull kont, *record* u hażna tal-prodotti; u

(c) jiżgura konformità ma' kull htiega ta' l-Att u ta' regolamenti magħmulin tahtu u ma' dawk it-talbiet l-oħra li jsiru mill-Awtorità Kompetenti.

Għoti ta' informazzjoni.

4. (1) Minghajr preġudizzju għall-poteri ta' infurzar li għandha bis-sahha tal-liġi, l-Awtorità tista' titlob lil kull persuna tipprovdiha kull informazzjoni addizzjonali, inkluża informazzjoni finanzjarja, li l-Awtorità tqis mehtieġa għall-fini li tiżgura konformità mad-disposizzjonijiet ta', jew mad-deċiżjonijiet magħmulin skond, dan l-Att u regolamenti li jsiru tahtu.

(2) Kull informazzjoni mehtieġa mill-Awtorità taht is-subartikolu (1) ta' dan l-artikolu ghandha tkun proporzjonata mat-twettiq tal-funzjonijiet u l-obligazzjonijiet taghha taht dan l-Att u meta tkun qieghda titlob informazzjoni kif hawn qabel imsemmi, l-Awtorità ghandha tiddikjara ghaliex tkun qieghda tehtieġ li tinghata dik l-informazzjoni mitluba.

(3) Persuna li tiġi avzata bi htieġa taht is-subartikolu (1) ta' dan l-artikolu ghandha tikkonforma ruha minnufih mal-htieġa fiż-żmien moghti lilha u skond kull grad ta' dettal li jista' jkun mehtieġ mill-Awtorità:

Iżda kull tali persuna ghandha, meta tkun qieghda tikkonforma ruhha mad-disposizzjonijiet ta' dan is-subartikolu, tiddikjara b'mod ċar lill-Awtorità jekk xi informazzjoni minnha provduta ghandhiex titqies bhala wahda kunfidenzjali. Meta tagħmel dan hija ghandha taghti r-raġunijiet taghha lill-Awtorità. Tkun l-Awtorità li tiddeciedi jekk l-informazzjoni lilha indikata bhala li tkun hekk kunfidenzjali ghandhiex fil-fatt tiġi meqjusa bhala tali.

(4) Kull persuna li tonqos jew li tirrofta milli tikkonforma ruhha ma' xi talba li ssirilha taht is-subartikolu (1) ta' dan l-artikolu, tagħmel kontravvenzjoni ta' dan l-Att u tista' tehel l-impożizzjoni ta' penali amministrattiva mill-Awtorità li ma tkunx iżjed mill-ammont ta' hames mitt lira jew ta' hamsin lira ghal kull ġurnata li matulha jibqa' jsehħ dak in-nuqqas ta' konformità.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 163 tas-27 ta' Lulju, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

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.

SCHEDULES PASTE UP

1

SCHEDULES PASTE UP

2

SCHEDULES PASTE UP

3

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