

L.N. 77 of 2013

**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)**

Nitrates Action Programme (Amendment) Regulations, 2013

BY VIRTUE of the powers conferred by article 61 of the Environment and Development Planning Act, the Minister for Tourism, Culture and the Environment, with the concurrence of the Minister for Resources and Rural Affairs and the Chairman of the Malta Environment and Planning Authority, has made the following regulations:-

1. The title of these regulations is the Nitrates Action Programme (Amendment) Regulations, 2013, and these regulations shall be read and construed as one with the Nitrates Action Programme Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 504.108

2. For the words "at any stage in the handling process;" in the definition "slurry" in regulation 2 of the principal regulations, there shall be substituted the words "at any stage in the handling process; slurry shall be considered the same as organic fertilizer;".

Amends regulation 2 of the principal regulations.

3. Regulation 8 of the principal regulations shall be amended as follows:

Amends regulation 8 of the principal regulations.

(a) in sub-regulation (1) thereof, for the words "The land application of organic fertiliser shall not be permitted when:", there shall be substituted the words "The land application of organic and inorganic fertiliser shall not be permitted when:";

(b) paragraph (a) of sub-regulation (1) thereof shall be substituted by the following new paragraph:

"(a) the surface of the field sloping to a degree of 7% or greater, taking into account factors such as proximity to watercourses, soil condition, ground cover and rainfall, or if there is a significant risk of causing water pollution;"

(c) in paragraph (b) of sub-regulation (1) thereof, for the words "in any underground strata.", there shall be substituted the words "in any underground strata; or", and

immediately thereafter there shall be added the following new paragraph:

"(c) the land is water saturated or flooded and such prohibition shall remain in force until such land remains saturated or flooded."; and

(d) sub-regulation (2) thereof shall be deleted.

Adds new regulation to the principal regulations.

4. Immediately after regulation 20 of the principal regulations there shall be added the following new regulation:

"Administrative penalties.

21A. (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 regulation, he may cause a notice in writing, in accordance with sub-regulation (2), in the appropriate form to be served on that person.

(2) A notice under subregulation (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 matter (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 this shall be endorsed on a statement setting out the provisions of this regulation.

(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 as preventing 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 this regulation 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.

Cap. 12.

(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.

(7) Notwithstanding any other provision 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 upon him, admit the offence, the Director shall institute proceedings or cause proceedings to be instituted before the Court in respect of the alleged offence."

