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Product Safety Act

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CHAPTER 427 PRODUCT SAFETY ACT

To repeal and to replace the Quality Control (Exports, Imports and Local Goods) Act, Cap. 225. 1st March, 2001 ACT V of 2001, as amended by Legal Notice 426 of 2007; and Acts XXIX of 2007 and VI of 2011.

PART I PRELIMINARY

Short title.1. The short title of this Act is the Product Safety Act. Definitions. Amended by: XXIX. 2007.7; VI. 2011.157.

2. In this Act, unless the context otherwise requires - "advertisement" includes any notice, device, circular, label,

packaging, invoice, document, representation, broadcast or public announcement, visual or acoustic presentation or both, and "to advertise" shall be construed accordingly;

Cap. 378. "consumer" shall have the meaning assigned to it by article 2 of

the Consumer Affairs Act and shall include any person who otherwise than in the course of a business, trade or profession, buys or otherwise purchases or otherwise acquires products;

"court" means the Court of Magistrates sitting as a court of criminal judicature;

Cap. 510. "Director General" means the Director General (Technical

Regulations) as appointed by article 19 of the Malta Competition and Consumer Affairs Authority Act;

"distributor" includes any person in the supply chain whose activity does not affect the safety properties of a product and shall include wholesalers, retailers, commission agents and other intermediaries;

"foodstuff" means any substance or product, whether processed, partially processed or unprocessed, intended to be ingested by humans, with the exception of:

(a) medicinal products, that is any substance or combination of substances presented for treating or preventing disease in human beings or animals; it also includes any substance or combination of substances which may be administered to human beings or animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings or in animals;

(b) tobacco products, that is products for the purpose of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco;

(c) water intended for human consumption, that is all water used for that purpose, either in its original state

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or after treatment, regardless of origin, whether supplied for consumption, or whether used in a food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption and affecting the wholesomeness of the foodstuff in its finished form;

(d) natural mineral waters, that is microbiologically wholesome water, originating in an underground water table or deposit and emerging from a spring tapped at one or more natural or bore exits, and which can be clearly distinguished from ordinary drinking water by its nature and by its original state, both characteristics having been preserved intact because of the underground nature of such water;

(e) narcotic or psychotropic substances, as the term is defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted on the 19th December, 1988 in Vienna, to which Malta is a party;

"licence" includes trading licences and any other commercial or operating licences;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution;

"Minister" means the Minister responsible for consumer affairs and includes, to the extent of the authority given, any person or authority authorised by him to act in that behalf for any purpose of this Act;

"premises" includes any stall, stand, kiosk, vehicle, aircraft, seacraft and any other place other than premises used for dwelling purposes, where a trade or business is carried out or may take place, and shall also include vending machines, whether or not situated on business premises;

"producer" means: (a) the manufacturer of the product, when he is established in Malta, and any other person presenting himself as the manufacturer by affixing to the product his name, trade mark or other distinctive mark, or

(b) the person who reconditions the product; or (c) the manufacturer's representative, when the manufacturer is not established in Malta or, if there is no representative established in Malta, the importer of the product; or

(d) others in the supply chain, in so far as their activities may affect the safety aspects of a product placed on the market;

"product" includes any manufactured article, item or substance which is intended or offered for use by consumers or is likely to be used by consumers, supplied whether for consideration or not in the

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course of a trade or business and whether new, used or reconditioned, but excludes -

(a) second-hand products supplied as antiques; (b) products which are to be repaired or reconditioned

prior to being used, provided that the supplier clearly informs the persons to whom he supplies the product to that effect;

(c) medicinal products, as the term is defined in this Part of this Act;

(d) foodstuffs, as the term is defined in this Part of this Act:

Provided however that in so far as quality control, geographical or product designation or compositional requirements are concerned, foodstuffs shall be considered as products and shall be regulated by the provisions of this Act;

"proprietor", in relation to a manufacturing undertaking, means the person or persons by whom the trade or business is carried on, and includes owners and occupiers of premises where such undertaking is carried out and holders of licences in respect of any such undertaking or premises;

"safe product" means any product which, under normal or reasonably foreseeable conditions of use, including duration, and, where applicable, putting into service, installation and maintenance requirements does not present any risk or only the minimum risks, compatible with the product's use, which are considered as acceptable and consistent with a high level of protection for the safety and health of persons, taking into account in particular the following factors:

(a) the characteristics of the product, including its composition, packaging, instructions for assembly and maintenance;

(b) the effect on other products, where it is reasonably foreseeable that it will be used with other products;

(c) the presentation of the product, the labelling, any instructions for its use and disposal and any other indication or information provided by the producer;

(d) the categories of consumers at risk when using the product, in particular children, the disabled and the elderly:

Provided that the possibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering a product to be an unsafe product;

"sale" includes - (a) the supply of products sold, hired or supplied or offered for sale or hire in the course of a trade or business, and any other activity concerning products which the Minister may, from time to time, specify by

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regulations made under this Act; (b) the supply of any product which, for marketing or advertising purposes, is offered as a prize or reward or is otherwise given in connection with any public entertainment, whether such entertainment is provided against payment or gratuitously; and

(c) the supply of products in the course of the provision of a service to a consumer by a third party;

Cap. 510. "standard" shall have the same meaning as assigned to it in the Malta Competition and Consumer Affairs Authority Act;

Cap. 510. "Technica l Regula t ions Div i s ion" means the Techn ica l Regulations Division, as established by article 19 of the Malta Competition and Consumer Affairs Authority;

"unsafe product" means any product that does not conform to the definition of "safe product".

PART II GENERAL PRODUCT SAFETY

Consumer's right. 3. (1) A consumer has the right - (a) to have consumer products placed on the market which

are safe; (b) to receive adequate information regarding the safety aspects and the proper use of such products; and (c) to be adequately informed with regard to products

which give rise to risks to the health and safety of consumers and which are sold or offered for sale to him.

(2) The provisions of subarticle (1) shall not be directly enforceable in any court or tribunal, but shall be adhered to in the interpretation and implementation of this Act and any regulations made thereunder.

Safe products. 4. (1) Producers shall be obliged to only place safe products on the market.

(2) The provisions of this Act shall apply equally to products manufactured in or imported into

Malta.

(3) Any person who contravenes the provisions of this article shall be guilty of an offence under this Act.

General product safety.

5. (1) The provisions of this Act in respect of general product safety shall apply in so far as there are no specific provisions governing the safety of a particular product, in particular regulations made under this Act or under any other law.

(2) Where specific rules contain provisions imposing safety requirements on a particular product, the requirements of this Act in respect of general product safety shall not apply to such a product.

(3) Where specific requirements are made under any law

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governing only certain aspects of product safety or categories of risk for a particular product, those requirements shall apply to such a product with regard to the relevant safety aspects or risks to the exclusion of the provisions of this Act relating to general product safety, and the requirements of this Act in respect of general product safety with regard to other safety aspects or risks shall continue to apply.

(4) Subject to the provisions of subarticles (1) to (3), the provisions of this Act in respect of general product safety shall prevail over anything to the contrary in any other law.

Obligations of producers and importers.

6. (1) Without prejudice to any other obligation under this Act, producers and importers shall -
(a) provide consumers with the relevant information to enable them to assess the risks inherent in a product throughout the normal or reasonably foreseeable period of its use, where such risks are not immediately obvious without adequate warnings;

(b) take those precautions necessary to prevent or minimise such risks;

(c) adopt measures commensurate with the characteristics of the products which they supply, to enable consumers to be informed of risks which these products might present and to take appropriate action including, if necessary, withdrawing the product in question from the market to avoid these risks.

(2) The measures indicated in subarticle (1) may include, whenever appropriate, marking of the products or product batches in such a way that they can be identified, sample testing of marketed products, investigating complaints, and keeping distributors informed of such monitoring.

(3) Any person who contravenes any of the provisions of this article shall be guilty of an offence under this Act.

Compliance with general safety requirement by distributors.

7. (1) Distributors shall be required to act with due care to ensure compliance with the general safety requirement established by virtue of this Act, in particular by not supplying products which they know or should reasonably know, on the basis of the information in their possession as practitioners in the relevant trade, business or occupation, do not comply with such requirement.

(2) Any distributor who supplies products which he knows or should, as practitioner in the relevant trade, business or occupation, know to be unsafe, or who otherwise contravenes the provisions of subarticle (1) shall be guilty of an offence against this Act.

Monitoring safety of products.

8. Distributors are under a duty to assist in monitoring the safety of products placed on the market, by passing on information on product risks to their suppliers and to consumers, and to co-operate in action taken to avoid these risks.

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Assessment of general safety requirement. Amended by: VI. 2011.158.

9. (1) In the absence of specific rules, the conformity of a product to the general safety requirement shall be assessed having regard to -

(a) any relevant voluntary National Standards giving effect to a European Standard; or

(b) to any relevant European technical specifications, if any; or

(c) failing the above, to any other relevant National Standards as well as to codes of good

practice in respect of health and safety, the state of the art and technology in the sector concerned, and to the standards of safety which consumers are reasonably entitled to expect. Cap. 510.

(2) In this article, the terms "National Standard", "European Standard" and "technical specifications" shall have the meaning attributed to them in the Malta Competition and Consumer Affairs Authority Act.

Director General may impose restrictions. Amended by: VI. 2011.157.

10. (1) Notwithstanding that a product conforms with the provisions mentioned in article 9(1)(a), (b) or (c), the Director General may take such appropriate measures imposing restrictions on its being placed on the market or requiring its withdrawal from the market where he has reason to believe that, despite its conformity, the product would still be dangerous to the health and safety of consumers.

(2) The Director General shall, whenever feasible, give the parties concerned an opportunity to submit their views before adopting the measures under subarticle (1):

Provided that where, because of the urgency of the measures to be taken, the Director General has taken measures before giving such an opportunity, he shall do so as soon as practicable, after the measure has been taken by the Director General.

(3) The Director General shall, whenever he considers it possible and reasonable to do so, first seek to achieve voluntary compliance by the producers or distributors involved.

Notification. Amended by: VI. 2011.157.

11. (1) Where the Director General takes measures pursuant to article 10, he shall as soon as possible, notify the parties concerned with the reasons for such measures.

Cap. 378. (2) The provisions of articles 97, 98 and 99 of the Consumer Affairs Act shall apply mutatis mutandis to measures taken by the Director General.

General offences. 12. Any person who - (a) sells, hires, exposes or offers for sale or hire or has in

his possession for the purposes of such sale, hire, exposure or offer, any product which does not comply with the provisions of this Act or of any regulation made under this Act; or

(b) deposits with, or otherwise supplies to, any other

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person any such product, under whatever title, whether for consideration or not, for the purpose of such sale, hire, offer or exposure,

shall be guilty of an offence under this Act. Failure of any product to comply with requirements.

13. Where any product which fails to comply with the requirements of this Act or any regulation made thereunder, is part of a batch, lot or consignment of products of the same class, type or description, it shall be presumed, unless the contrary is proved, that all the products in that batch, lot or consignment fail to comply with those requirements.

Failure to give information. Amended by: VI. 2011.157.

14. It shall be an offence under this Act for a producer to fail to give any information as may be required by the Director General in the exercise of his functions under this Act.

PART III PRODUCT CONTROL AND ENFORCEMENT

Functions of Director General. Amended by: VI. 2011.157.

15. The Director General shall be responsible for the administration of this Part of this Act, and shall in the exercise of his functions and duties under this Act, be empowered:

(a) to prohibit, by order in writing, the placing on the market of any product which is unsafe or which does not comply with the provisions of this Act or any regulations made thereunder;

(b) to prohibit, by order in writing, for such time as may be necessary for tests to be carried out, any person from supplying, offering or otherwise exposing any product or product batches whenever it appears in his discretion that there exist reasonable grounds to believe a product to be unsafe;

(c) to require, by order in writing, the immediate withdrawal of unsafe products from the market and, whenever he deems it necessary, to order the destruction of such products under such conditions as he may deem appropriate;

(d) to take such measures as he may consider to be necessary to suppress or prevent practices which are detrimental to product safety;

- (e) to impose, by order in writing, conditions on product marketing, advertising, labelling and marking as may be necessary in the interest of public safety;
- (f) to publish copies of orders issued by him under any of the provisions of this Act;
- (g) to carry out or to cause to be carried out, on an adequate scale up to the final stage, of use all product control activities, including inspections, analyses, examinations or other investigations concerning the safety properties of products, even after such products have been placed on the market as safe; and
- (h) to exercise any other functions as may be assigned to

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him by or under this Act or any other law.

Enforcement of Act. Amended by: VI. 2011.157.

16. (1) Unless otherwise specified, enforcement of the provisions of this Act or any regulations made thereunder, shall vest in the Director General, provided that the Director General may delegate in writing any of the powers vested in him by virtue of this Act to any public officer, or, with the consent of the Minister, to any other person being a person employed by a body corporate established by law or a person falling within such category as may be prescribed under article 39.

(2) Any officer or other person, authorised as aforesaid, shall, when required, produce the written authorization signed by the Director General.

(3) Any reference in this Act other than in article 22 to an authorised officer or to an authorised public officer shall be deemed to include a reference to a person authorised in accordance with subarticle (1).

Power of inspection. Amended by: VI. 2011.157.

17. (1) Any Magistrate may by warrant, upon an application confirmed on oath by the Director General or by any public officer duly authorised in writing by the Director General for any of the purposes of this Act, and who has reasonable grounds to believe that unsafe products are kept or otherwise to be found on any premises other than premises exclusively used for dwelling purposes, authorise such officers to -

(a) enter and search any such premises and carry out therein any inspection as may be necessary;

(b) seize any unsafe products found therein: Provided that where the Director General has reasonable

cause to suspect that such unsafe products are likely to be removed, destroyed or the evidence of the commission of any offence under this Act may be otherwise suppressed, he may himself in writing authorise any public officer to exercise, in relation to such premises, any of the powers mentioned in this subarticle, and the authority so given by the Director General shall have the same effect as a warrant issued by a Magistrate.

(2) No entry and search shall be effected outside the normal business hours of the establishment concerned, unless the Director General has cause to believe that delay could cause the loss or suppression of any evidence or may otherwise prejudice the outcome of the search.

(3) In the course of any entry and search under this Part of this Act, the Director General may request the assistance of the Police.

Inspection of products.

18. Any public officer, authorised as aforesaid, may, for any of the purposes of this Act, inspect any product which -

(a) has been sold or is offered for sale or consumption or use by consumers; or

(b) is in the possession of, or under the control of, any producer or distributor, or which has been deposited with or otherwise delivered to any person for the

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purpose of sale or of preparation for sale, wherever the product is to be found.

Officer may be accompanied.

19. An authorised officer, who enters any premises by virtue of any of the provisions of this Part of this Act, may be accompanied by such other persons and take with him such equipment as he considers necessary.

Other powers of authorised officer.

20. It shall be lawful for an authorised officer, where necessary for the proper performance of his functions under articles 17 to 19, to -

(a) purchase a sample of any product or any material capable of being used in the preparation, manufacture or assembly of such product;

(b) break open any door and remove any impediment or obstruction to such entry, search or seizure;

(c) require any person carrying on a trade or business or employed in connection with a trade or business to produce any books or documents, including those stored in a computer or in any other information network, relating to the trade or business, and to take copies thereof;

(d) seize and detain, without paying any consideration, any goods or a sample thereof, or any other material, which appears to him to be intended for sale, or to have been sold, or is found by him on or in the premises, for the purpose of ascertaining whether an offence under this Act has been committed;

(e) seize and detain any goods, or any sample, component or material, or documents for the purpose of gathering evidence concerning the possible commission of an offence under this Act or which may be required as evidence in proceedings under any of the provisions of this Act or of regulations made under it; and

(f) where necessary, in order to ensure compliance with the provisions of this Act, require any person having authority to do so, to open any container or vending machine, and if that person does not comply with the requirement, the authorised officer may proceed to do so himself, if necessary by breaking open such container or machine.

Receipt for seized goods.

21. (1) Where an authorised officer seizes any goods, documents or other records in the exercise of his powers under article 17, he shall inform the person from whom they are seized and give due receipt.

(2) In the case of goods seized from a vending machine, the authorised officer shall inform the person whose name and address are stated on the machine as being that of the proprietor or, if no name and address are so stated, the occupier, if any, of the premises on which the machine stands or to which it is affixed.

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Applicability of Professional Secrecy Act. Amended by: XXIX. 2007.9; VI. 2011.157. Cap. 377.

22. Nothing contained in the Professional Secrecy Act shall be construed as precluding or otherwise restricting the Director General, or any public officer duly authorised by the Director General in terms of article 17, from communicating to the consumer, whose complaint regarding such matter has been investigated, information concerning findings related to such matter directly resulting from such investigation.

Obstructing or giving false information. Amended by: VI. 2011.157.

23. Whosoever shall wilfully obstruct, resist, threaten or otherwise give misleading or false information to the Director General or to an authorised officer in the exercise of any of the functions mentioned in article 15, or wilfully fails to assist or comply with any requirement lawfully made by such officer, shall be guilty of an offence under this Act.

Written notice. Amended by: VI. 2011.157.

24. Where an authorised officer has reasonable cause to believe that a product is unsafe or otherwise likely to cause injury, he may give the person responsible a written notice ordering him that until such time as the said notice is withdrawn, the product shall not be used, sold, offered for sale or traded or shall not be removed except to such place as the notice may specify. Any person who knowingly breaches or assists in breaching such written notice shall be guilty of an offence under this Act:

Provided that the Director General shall, as soon as practicable, but not later than two months from the service of such notice, on the person responsible, determine the safety or otherwise of the product and shall -

(a) if it is established that the product is safe, withdraw the notice; or

(b) if the product is established to be unsafe, prohibit its further use or sale, order its seizure and confiscation, as well as retention of the product in such premises as the Director General

may specify at the expense of the producer.

Disposal of products.

25. In proceedings for an offence under this Act, the Court may, if it deems a product to be unsafe, order that such product be destroyed or otherwise disposed of at the expense of the producer.

Failure of operator to comply with the provisions of this Act. Amended by: VI. 2011.157.

26. (1) Where the Director General has reasonable grounds to believe that the operator of a trade or business has failed to comply with any provision of this Act or of any regulation made under it, he may, by a written notice (to be known as a "notice") served on that proprietor -

- (a) specify the provision or regulation which the proprietor has failed to comply with and specify the matters which constitute the proprietor's failure to comply;
- (b) specify remedial measures which are required to be taken; and
- (c) require that the proprietor implement such measures or equivalent measures, within such a period of time as may be specified in the notice.

(2) Any person who fails to comply with a notice shall be

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guilty of an offence under this Act. Responsibilities of the Technical Regulations Division.

Substituted by: XXIX. 2007.8. Amended by: VI. 2011.159.

27. Without prejudice to any other functions assigned to it by any other law, the Technical Regulations Division, shall also have the following functions:

- (a) to establish and periodically update sectoral surveillance programmes in respect of all categories of products and risks;
- (b) to follow up and update scientific knowledge concerning the safety of products, as well as periodical reports on surveillance activities, findings and results achieved;
- (c) to periodically review and assess the functioning of the control activities and their effectiveness, and, if necessary, revise the surveillance approach and organisation put in place.

Issue of public statement. Amended by: XXIX. 2007.10; VI. 2011.157, 160. Cap. 419.

28. (1) The Director General may issue a public statement, which identifies -

- (a) products which are or may be unsafe; (b) the producers and distributors of such products;
- (c) those producers, distributors or other persons, whose practices or activities in relation to particular products may adversely affect the interests of consumers in terms of this Act; or
- (d) any other matter that may adversely affect the safety of consumers.

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(2) The provisions of subarticle (1) in relation to product safety shall prevail over the provisions of article 8(1) of the Consumer Affairs Act.

(3) The provisions of article 8(2) and (3) of the Consumer Affairs Act shall apply to public statements made or issued under this article.

Undertakings in respect of contraventions against this Act. Amended by: VI. 2011.157.

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29. (1) The Director General may, instead of initiating proceedings in respect of the violation of any of the provisions of this Act, require any person who has violated any of the provisions of this Act or any regulations made thereunder, to undertake in writing to refrain from such conduct and to take any remedial or other action as the Director General may specify and the provisions of article 12 of the Consumer Affairs Act shall apply mutatis mutandis to undertakings made under this Act.

(2) Any person who acts in contravention of an undertaking made in accordance with subarticle (1) shall be guilty of an offence under this Act.

PART IV PROCEEDINGS

Proceedings. Amended by: VI. 2011.157.

30. Proceedings in relation to any offence under this Act may only be instituted at the instance of the Director General, who may

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conduct the prosecution before the Court. Prescription. 31. Criminal actions for offences under this Act shall be

prescribed by the lapse of two years. Fines. Amended by: L.N. 426 of 2007.

32. (1) A person found guilty of an offence under article 23 shall, on conviction, be liable to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (465.87) and not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37), or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) A person found guilty of any other offence under this Act shall be liable, on conviction, to a fine (multa) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) but not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) A person found guilty of a second or subsequent offence shall, on conviction, be liable to a fine (multa) of not less than one thousand and seven hundred and forty-seven euro and three cents (1,747.03) but not exceeding twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) or to imprisonment not exceeding four years or to both such fine and imprisonment.

(4) The Court may, upon conviction for any offence committed under this Act, with the exception of offences committed under article 23, if it feels that circumstances so warrant, additionally order the suspension or cancellation of any licence or licences issued in favour of the person charged or in respect of the premises involved in the proceedings.

(5) Without prejudice to the generality of the foregoing, any person convicted in relation to an offence under articles 26 or 29 shall additionally be liable to the additional fine (multa) of not more than four hundred and sixty-five euro and eighty-seven cents (465.87) for each day that a notice or undertaking has not been complied with.

Reimbursement to the Director General. Amended by: VI. 2011.157.

33. Where a person has been convicted of an offence under this Act, the Court shall order that person to reimburse to the Director General, within such period as it shall stipulate, any costs incurred in connection with the proceedings instituted against him. Such costs shall include expenses incurred in the seizure, lifting, detention, testing, analysis, inspection and examination of products, or samples thereof, involved in the said proceedings.

Right to appeal. 34. The Attorney General shall have the right to appeal from any judgement given in proceedings instituted under this Act or in connection with regulations made thereunder.

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PART V MISCELLANEOUS

Applicability of Consumer Affairs Act. Cap. 378.

35. Nothing in this Act shall be construed as adversely affecting the rights of consumers arising from the provisions regulating liability for defective products under Part VII of the Consumer Affairs Act.

Regulations in respect of charges and forms of documents. Amended by: VI. 2011.157.

36. The Minister may make regulations - (a) establishing or authorising charges that may be imposed by the Director General in the exercise of any of the functions assigned to him under this Act or regulations made under it; and

(b) prescribing the form of any document to be used for any of the purposes of this Act.

Service of documents.

37. (1) Any document which is required or authorised by or under this Act to be given or served on any person, may be given or served either -

(a) by delivering it to that person or by leaving it or sending it addressed to him at his usual or last known residence; or

(b) in the case of a company or other body or association of persons, by delivering it to the registered or principal office.

(2) Where the document is to be given or served on the owner or the occupier of any premises and it is not practicable, after reasonable enquiry, to ascertain the name and address of the person to or on whom it should be given or served or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by addressing it to

"the owner" or "the occupier" of the premises and, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Regulations with respect to products. Amended by: XXIX. 2007.11; VI. 2011.161.

38. The Minister may, on the advice of the Director General (Technical Regulations), make regulations -

- (a) prescribing levels of minimum permissible quality in relation to any class, category or type of product, including the packaging thereof;
 - (b) prescribing mandatory requirements with respect to the design, methods of manufacture, construction, safety, finishing, testing, quality control, labelling, classification, packaging, grading, storage, transportation and environmental impact of any class, category or type of goods, materials, substances, plant, installations or structures;
 - (c) adopting and implementing any commitments and obligations relating to products arising out of or under any treaty, convention or other international agreement, whether bilateral, regional or multilateral, to which Malta is a party;
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- (d) concerning the matters to be taken into account in determining whether, and at what times, samples should be procured;
 - (e) regarding the manner of procuring samples, including the steps to be taken to ensure that the samples procured are fair and adequate samples;
 - (f) regarding the method of dealing with samples, including, where appropriate, their division into parts;
 - (g) regarding the persons to whom the samples or parts of the samples are to be delivered and the persons by whom they are to be retained;
 - (h) regarding the notices which are to be given to, and the information which is to be furnished by, the persons responsible for any product;
 - (i) regarding the methods which are to be used in analysing or examining samples, or in classifying and evaluating the results of analyses or examinations;
 - (j) regarding the circumstances in which an analyst or examiner is to be precluded, by reason of conflict of interest, from analysing or examining a particular sample;
 - (k) establishing the processes whereby particular products may be said to have undergone a reconditioning process for any of the purposes of this Act; and
 - (l) designating any manufactured article, item or substance as a "product" for all or any purposes of this Act.

Regulations with respect of market surveillance.

39. The Minister may make regulations for - (a) the establishment of systems and procedures for the

exchange of information with other countries and international organisations on product safety issues;

- (b) the setting up of procedures to allow the rapid exchange of information in respect of the safety of a product;
- (c) forms and methods of notification, co-operation and collaboration in respect of product safety issues with other countries and international organisations, whether on a multilateral or regional basis or otherwise;
- (d) the establishment of systems and procedures for the exchange of information and administrative co-ordination and collaboration with regard to product safety between government departments, public authorities and other entities under the general control of Government;
- (e) prescribing the categories of persons that may be authorised in accordance with article 16.

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Language of regulations.

40. (1) Regulations made under any provision of this Act may be made in the English language only.

(2) In the event of conflict or incompatibility between the Maltese and English texts of any regulations made under this Act, the English language version shall prevail.

Saving. Cap. 225.

41. Any orders made under the Quality Control (Exports, Imports and Local Goods) Act are to remain in force as if made under this Act until such time as they are repealed or replaced by regulations made under this Act.

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