

SUBSIDIARY LEGISLATION 639.10**CATEGORISATION OF FARMERS REGULATIONS**

9th August, 2024

LEGAL NOTICE 122 of 2024.

1. (1) The title of these regulations is the Categorisation of Farmers Regulations. Citation and scope.

(2) The scope of these regulations is to create categories of agricultural holdings and categorise farmers according to their economic activity.

2. (1) In these regulations, unless the context otherwise requires: Interpretation.

"Act" means the Agriculture Act; Cap. 639.

"annual income" means the annual value added per annual working unit of a commercial holding;

"Board" means the Holding Evaluation Board as established by regulation 5;

"commercial holdings" means agricultural holdings managed by a farmer with a standard output of four thousand euro (€4000) or more *per annum*:

Provided that agricultural holdings with a standard output of less than four thousand euro (€4000) *per annum* shall be not be considered commercial holdings:

"data" means any data related to all aspects of the production and processing of agricultural products, including but not limited to agricultural holding structure, location, accountancy, employment and agricultural and processing practices;

"derived annual income" means the annual income of the commercial holding calculated on the basis of the size of the agriculture holding;

"Minister" means the Minister responsible for agriculture;

"Ministry" means the Ministry for agriculture;

"National Statistics Office" means the National Statistics Office as established according to article 9 of the Malta Statistics Authority Act, or any other body or person which may, from time to time perform its functions; Cap. 422.

"standard output" means the standard value of gross production of commercial holdings as may be calculated according to Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up the Farm Sustainability Data Network" and, or published by Eurostat according to European Union legislation, as in force from time to time;

(2) Unless the context otherwise requires, words and phrases used in these regulations which are not defined in this regulation shall have the same meaning as assigned to them in the Act.

Setting the Farm
Categorisation
System and related
benchmarks.

3. (1) The Director shall publish, by means of a Government notice in the Gazette, tables indicating the benchmarks to provide for the categorization of commercial holdings for each category of suitably defined activities attributable to commercial holdings, and said notice shall also provide benchmarks for determining the derived annual income of commercial holdings according to the standard outputs applicable to them;

Provided that in so doing the Director shall apply a suitably simplified methodology of calculating the derived annual income of commercial holdings.

(2) The studies underlying the determination referred to in sub-regulation (1) shall be updated periodically at the discretion of the Director by utilising suitable statistical tools, instruments and variables:

Provided that at the discretion of the Director, the Government notice shall also have other relevant information consistent with the methodology involved, such as the number of livestock units and the area of utilised agricultural land;

Provided further that the categorization of commercial holdings referred in this regulation shall be revised at least every five (5) years.

(3) The tables referred in this regulation shall categorise the annual income derived from an agricultural holding into four (4) classes including all the commercial holdings in the following ranges:

(a) less than or equal to the minimum wage according to applicable laws;

(b) more than the minimum wage and less or equal to the midpoint between the minimum wage and the average basic wage for employees as reported by the National Statistics Office;

(c) more than the midpoint between the minimum wage and the average basic wage for employees as reported by the National Statistics Office, and less than or equal to the

average basic wage for employees as reported by the National Statistics Office; and

(d) more than the average basic wage for employees as reported by the National Statistics Office.

(4) The activity categories shall differentiate between livestock and crop holdings, and include rationalisations to properly account for situations of mixed activity holdings, according to a notice published by the Director in the Gazette.

4. (1) By the end of March of every year the Director shall categorise each commercial holding into one of the four (4) categories of derived farm income according to the standard output data of such commercial holding as available to the Ministry.

Categorising
commercial
holdings.

(2) The categorisation shall be based on the data of the previous years and shall take into account cycles in which the particular agricultural product was made available to the market during the year.

(3) The Director shall categorise the commercial holding by attributing the categorisation based on the standard output of the previous year and by attributing the standard output of the average of the three (3) years preceding the year of categorisation.

(4) A farmer may request a re-categorisation by making a declaration to the Board, duly proving the agricultural holding's standard output, through the submission of a request to the Board with all the following necessary supporting documentation:

(a) all documentation supplied to the fiscal authorities in relation to the agricultural activity of the agricultural holding;

(b) site plans of the parcels being cultivated by the agricultural holding;

(c) proof that the agricultural holding is being managed by the farmer who is requesting the re-categorisation;

(d) crop plans by the agricultural holding and any agreements relating to the agricultural holding; and

(e) any further documentation as may be requested by the Board, from time to time;

Provided that holdings whose information is not made available to the Ministry by the farmer shall not be considered:

Provided further that farmers requesting a re-

categorisation shall provide all their submissions by not later than June of the same year.

The Holding
Evaluation Board.

5. (1) The Minister shall appoint a Board which shall be responsible for evaluating the request made in terms of regulation 4(4).

(2) The Board shall be composed of:

(a) a Chairperson, who shall be a public officer having a substantive grade of scale five (5) or higher within the public service and serving within the Ministry;

(b) an agronomic expert being a public officer within the Ministry; and

(c) an economics officer being a public officer within the Ministry.

(3) An officer of the Directorate shall also be appointed to act as a secretary to the Board by the Director.

(4) The Board shall issue its decisions to farmers in writing by not later than ninety (90) days from when the farmers requesting re-categorisation provide their submissions, but if the last day of that term is not a working day then the decision shall be communicated to farmers not later than the next working day:

Provided that the decision of the Director shall *inter alia* include the categorisation attributed to the commercial holding.

Contestation
before the
Administrative
Review Tribunal.
Cap. 490.

6. A farmer may contest a decision according to regulation 5(4) by filing an application before the Administrative Review Tribunal established according to article 5(1) of the Administrative Justice Act within thirty (30) days from date of service on the farmer of the Board's decision.
