

User Guidelines

Companies Act (Agricultural Companies) Regulations, 2025

Purpose

The aim of these amendments is to:

- To establish a regulatory framework for the formation and operation of agricultural companies in Malta;
- To ensure that agricultural companies primarily engage in agricultural activities, generating at least 51% of their revenue from such activities, with the remainder coming from ancillary agricultural activities. The regulations set prerequisites for company formation, including the requirement for directors to be registered farmers and for businesses to submit detailed plans and financial forecasts;
- To provide mechanisms for monitoring compliance, including inspections and requirements for annual declarations;
- To ensure that Agriculture Companies adhere to both sector-specific and general corporate governance standards;
- To promote the growth and sustainability of agricultural businesses while ensuring transparency and accountability in the sector;

Companies Act (Agricultural Companies) Regulations, 2025 – provisions

- Regulation 1 -**Applicability and governance**

The scope and applicability of the regulations are provided.

- Regulation 2 -**Definitions**

The terms 'agricultural activity', 'agricultural company', 'ancillary agricultural activities' and 'local agricultural produce' are clearly defined for enhanced legal certainty and the qualifications as to which type of agricultural entities will qualify to be regulated by this set of Regulations. The terms 'certificate of registration', 'company', 'Directorate' and 'Registrar' are also defined for legal certainty.

- **Regulation 3 - Qualifications**

An organisation will qualify as an agricultural company under these regulations if at least 51% of its revenue is derived from agricultural activities and the remaining revenue comes from ancillary agricultural activities. Income from renewable energy initiatives that hinder agricultural output is not considered. Additionally, the Register must consult and obtain clearance from relevant authorities before registering an agricultural company.

- **Regulation 4 - Valid construction**

A company is not validly constituted under these regulations unless it complies with the requirements outlined in Parts II and III of these regulations.

- **Regulation 5 - Objects of an agricultural company**

A company's objects must be limited to agricultural activities, with the option to include ancillary or conducive activities, subject to article 77(3) of the Companies Act.

- **Regulation 6 -Minimum share capital company**

Article 72 of the Act applies to companies registered under these regulations, with a minimum paid-up share capital requirement of 15%.

- **Regulation 7 -Certificate of Registration**

The Registrar shall issue a certificate of registration attesting to the company's formation and authorisation to commence business from the registration date.

- **Regulation 8 -Approval and registration requirements**

The registration of a company under these regulations requires prior written approval from the Directorate. This request must be accompanied by the requisites listed in sub-regulation (2). The Directorate is required to review the request and issue its decision within two months. The Registrar cannot proceed with the company's registration unless the Directorate's approval has been obtained.

- **Regulation 9 - Shareholders' requirements**

At least 51% of the voting shares must be held by individuals or beneficial owners registered as farmers with the Directorate in terms of regulation 13 of Nitrates Action Programme Regulations (S.L. 549.66).

- **Regulation 10 - Directors' qualifications**

At least one (1) director must be an individual registered with the Directorate and categorized as per S.L. 549.66.

- **Regulation 11 - Nullity**

Any resolution, decision, or action by the company that violates the requirements of this part of the regulations will be considered null and void. Additionally, the Registrar will reject any changes to the company's share capital, board of directors, or other required documents if the agricultural company no longer meets the stipulated requirements.

- **Regulation 12- Documentary submissions to the Registrar of Companies (hereinafter referred to as the "Registrar" for company registration)**

In addition to any provisions of the Act regarding the formation of a new company, a proposed agricultural company is to submit to the Registrar of Companies; the Directorate's approval and evidence of registration of the shareholders and directors as farmers. The Registrar may also request any other documents or information deemed necessary to ensure compliance with these regulations.

- **Regulation 13- Conversion of an existing company to an agricultural company.**

Any company registered under the Act that could not have used the option in regulation 1(2) may still be registered under these regulations if it meets

certain conditions. These include compliance with the requisites set out in paragraphs (a) to (c) of this regulation.

- **Regulation 14 - Reporting Obligations**

An agricultural company formed and registered under these regulations must submit its annual accounts, annual returns, and beneficial ownership information to the Registrar in accordance with the provisions of the Act and subsidiary legislation issued thereunder. In case of default, it is being clarified that the administrative penalties and associated provisions under the Companies Act and the Companies Act (Register of Beneficial Owners) Regulations (S.L.386.19), shall apply accordingly.

- **Regulation 15- Declaration of revenue sources**

In addition to the requirements of the Companies Act, an agricultural company must submit a declaration with its annual accounts to the Registrar, confirming that at least 51% of its revenue comes from agricultural activities and the rest from ancillary agricultural activities, as outlined in the Schedule. A director who makes this declaration without reasonable grounds will be committing an offence and could face a fine (*multa*) of up to €50,000, or imprisonment for up to three (3) years, or both fine (*multa*) and imprisonment. Failure to submit such a declaration accompanying the annual accounts shall result in the Registrar's disregard of such annual accounts and the latter shall not be deemed as submitted.

- **Regulation 16- Voluntary Dissolution of Agricultural Companies Due to Revenue Criteria**

If an agricultural company no longer generates at least 51% of its revenue from agricultural activities and the rest from ancillary agricultural activities, it may pass an extraordinary resolution to be dissolved and voluntarily wound up. or apply to the Registrar for a simplified dissolution procedure in terms of article 214A of the Companies Act.

- **Regulation 17- Striking Off of Agricultural Companies for Non-Compliance with Revenue Requirements**

If an agricultural company fails to generate at least 51% of its revenue from agricultural activities and the rest from ancillary activities, the Directorate may order the company to be struck off the register. Before issuing such an order, the Directorate will provide a one-month written notice to the company's officers and registered office, allowing them to remedy the situation. The notice will specify the reason for the potential striking off and the deadline. Once the notice is issued, it will

be published on the Registrar's online portal, stating the expiry date of the one-month period. After the one-month period lapses, the Directorate will issue the order to strike off the company, and the Registrar will publish the order along with the date of striking off and the legal reason for it.

- **Regulation 18- Inspection and Verification Powers by the Directorate**

The Directorate has the authority to verify the validity of an agricultural company's registered office, conduct on-site inspections to ensure that the listed shareholders and beneficial owners are accurate, and confirm that at least 51% of the company's revenue comes from agricultural activities, with the remaining revenue from ancillary activities. To perform these inspections, the Directorate or an assigned person has the right to access the company's premises and relevant documentation, in compliance with data protection requirements. Company officers must assist the Directorate and provide requested information promptly, including allowing the Directorate to make copies of documents.

- **Regulation 19- Action by Directorate for Striking-Off**

If on-site inspections reveal that an agricultural company is not generating at least 51% of its revenue from agricultural activities and the rest from ancillary activities, the Directorate will initiate the procedure outlined in Regulation 18.

- **Regulation 20- General Application of Company Law**

Agricultural companies formed and registered under these regulations will remain subject to the provisions of the Companies Act and any related regulations for all matters not covered by these regulations.

- **SCHEDULE**

Form AC(1)-Notice that a company shall be governed by the Companies Act (Agricultural Companies) Regulations.

Form AC(1) is a notice that allows an agricultural company, which was formed and registered under the Act before the regulations came into force, to elect to be governed by the new regulations. The company must file this notice by the specified deadline.

Form AC(2)-Declaration on Source of Income in terms of regulation 16

Form AC(2) - Declaration on Source of Income in terms of regulation 16 is a declaration that must be submitted to the Registrar along with the company's annual accounts. The declaration confirms that at least 51% of the company's revenue comes from agricultural activities, with the remaining revenue derived from ancillary agricultural activities. This form is part of the company's compliance with the regulations, in addition to its obligations under the Companies Act.

Conclusion

Should more information be required kindly contact the MBR on 22582300 or at legal.enforcement@mbr.mt.

N.B. The User Guidelines contained within this document is solely intended to serve as guidelines and should not be construed as legislation. This document should not be considered as an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. The Guidelines do not purport to be an authoritative ruling on the interpretation of the legislation. Please refer to the related legislation for a more comprehensive understanding.