

**SUBSIDIARY LEGISLATION 433.26****TUTA ABSOLUTA (CONTROL) REGULATIONS**

12th January, 2010

*LEGAL NOTICE 26 of 2010.*

- 1.** The title of these regulations is the *Tuta Absoluta* (Control) Regulations. Citation.
- 2.** These regulations concern the measures to be taken to control and contain the Tomato leaf miner moth (*Tuta absoluta*). Scope.
- 3.** In these regulations, unless the context otherwise requires: Interpretation.
- "the Act" means the Plant Quarantine Act; Cap. 433.
- "the Department" means the Plant Health Department;
- "the Director" means the Director of Plant Health Department and includes, to the extent of the authority given, any officer or person authorized by the Director;
- "the field" means a site, including open fields and greenhouses for the production of susceptible plants;
- "the grower" means any person, entity, authority or other legal entity which is involved in the propagation, production or cultivation of susceptible plants;
- "the grower representative" means any entity or any other legally constituted body, which manages, administers or is responsible for any growers;
- "the Minister" means the Minister responsible for agriculture;
- "the Ministry" means the Ministry responsible for agriculture;
- "mass trapping" means the trapping of the pest *en masse*;
- "the pest" means the Tomato leaf miner moth (*Tuta absoluta*);
- "movement" means the movement of plants, plant products and other objects to which these regulations apply, from one place to another within Malta or within the European Union.
- "susceptible plants" means *Solanaceae* plants on which *Tuta absoluta* can be injurious, and includes tomato, *Lycopersicon lycopersicum* (L.) Karsten ex Farw and potatoes *Solanum tuberosum* L.
- 4.** (1) On the occurrence or suspected occurrence of the pest on susceptible plants, the Department shall be empowered to register the infected plant and field. Containment.
- (2) Any person, entity, authority, including growers, who are involved in the propagation or production of susceptible plants shall:
- (a) ensure that the phytosanitary conditions within a field

are homogeneous as regards the risk of the pest by taking into account sound scientific and statistical principles, the biology of the pest, the cultivation of the field and the particular production systems of the host plants of *Tuta absoluta* in Malta; and

- (b) carry out necessary actions and at appropriate times, to ascertain that the obligations laid down in these regulations and in any guidelines issued under these regulations are met in such a way and manner as laid down in any guideline instructions that may from time to time be issued by the Director.

(3) Any grower representative, shall be obliged to follow such guidelines issued by the Department and which the Director may, from time to time, deem necessary to issue.

(4) To contain and control the pest, the Department shall establish and enforce various provisions as may be published by notice in the Gazette.

(5) Without prejudice to other regulations under the Act, the Director may also take adequate enforcement measures, as may be established in the Gazette and which may include the full suspension and, or destruction of the susceptible plants produced, propagated and, or cultivated in any of the fields under the Director's responsibility.

Registration.

5. (1) Any grower or legal entity which is responsible for the property where susceptible plants are kept, or where susceptible plants will be produced during the next season, is obliged to register such plants with the Ministry as the Director may establish in the Gazette.

(2) No person shall carry out any of the following activities unless such person is registered in terms of the provisions of sub-regulation (1):

- (a) propagating, growing, trading or any other activity associated with any susceptible plants;
- (b) the production or the management of collective and dispatching centres.

Responsibilities of growers and legal entities.

6. (1) Any grower or grower representatives are obliged:

- (a) to keep a record of all the susceptible plants and of any other relevant information in such a manner as laid down in guideline instructions as may by time to time be issued by the Director;
- (b) to give such information and co-operate with the Director on any matter relating to these regulations and for such purpose shall ensure access to any person authorised by the Director, in particular for inspection and, where appropriate, sampling, and to the records referred to in paragraph (a) and related documents in accordance with these regulations.

(2) Failure to abide by the Department's instructions shall

entitle the Director to gain access to any premises and, or property and to take any action which is deemed necessary in terms of these regulations. All expenses incurred by the Department in exercising such action shall be borne solely by the entity or any other legally constituted body on whose property or premises the plants are found.

**7.** (1) The Department shall issue guidelines and instructions in the Gazette for the containment and control of this pest. Powers of the Department.

(2) Where, following the inspections or checks it is found that the plants, plant products or other objects do not satisfy the requirements established by these regulations or guidelines and instructions issued under these regulations, the Department shall immediately take adequate enforcement measures to contain the pest as stipulated in regulation 4(5).

**8.** (1) Without prejudice to the provisions of the Act and regulations made thereunder, inspections by the Department shall be intensified on any imports of tomato seeds and seedlings. Controls in importation and movement.

(2) Any movement of tomato seedlings and tomato fruits will be closely monitored by the Department and will be subjected to the same regime to both tomato fruits and seedlings originating in Malta or any other Member State.

**9.** (1)(a) It shall be the duty of the Director to ensure compliance with the provisions of these regulations and for such purposes the Director shall carry out such checks, verifications and inspections during any such time as may be necessary. Enforcement.

(b) For the purposes of the foregoing provisions of these regulations, the Director shall have access to any premises where an activity regulated by these regulations is being carried out and he shall also have access to all relevant information and records. The Director may also collect samples of plants, plant products and other objects and carry out any relevant checks thereon.

(2) Where it is established, through the checks carried out in accordance with this regulation, that there is a risk for the spreading of the pest, such checks shall be the subject of official measures in accordance with these regulations or any other measure that the Director may deem fit.

(3) Without prejudice to provisions of these regulations, if any person, entity, authority or other legally constituted body is found not to abide with these regulations or with instructions and guidelines issued by the Department under these regulations, such person, entity, authority or other legally constituted body shall be guilty of an offence under the Act.

**10.** (1) The Director may, where he deems appropriate, issue guidelines, measures or operative procedures for the implementation of these regulations. Issue of guidelines.

(2) Without prejudice to the generality of sub-regulation (1), the Director may by notice published in the Gazette, lay down the minimum measures to be taken to control and prevent the spread of the pest.

Offences.

**11.** Without prejudice to the provisions of these regulations, any person found guilty of an offence against any provision of these regulations shall, on conviction, be liable to penalties established under the Act.

Powers of the Director.

**12.** (1) The Director may at any time revoke the measures taken to control the pest.

(2) Nothing in these regulations shall be construed to contravene the provisions of the Act and regulations thereafter, and, or relative European Union Regulations, Directives and Decisions.

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