

Government Notice No. 72 of 2019

THE EXCISE ACT

Regulations made by the Minister under section 57 of the Excise Act

1. These regulations may be cited as the Excise (Amendment) Regulations 2019.
2. In these regulations –
“principal regulations” means the Excise Regulations 1994.
3. Regulation 2 of the principal regulations is amended by inserting, in the appropriate alphabetical order, the following new definitions –
“home consumption” means for use on the local market;
“plastic container” –
 - (a) means a container made of plastic, whether biodegradable or not, of any shape, with or without lid; and
 - (b) includes a plate, bowl, cup and tray, as specified in Part I of the First Schedule to the Act;
4. The principal regulations are amended by inserting, after Part XXIB, the following new Part –

PART XXIC – BIODEGRADABLE AND NON- BIODEGRADABLE PLASTIC CONTAINERS

99F. (1) Subject to section 16 of the Customs Act or section 4 of the Excise Act, as the case may be, the Director-General shall not clear any consignment of plastic containers for home consumption unless there is a certificate issued by the manufacturer of the plastic containers.

- (2) The certificate referred to in paragraph (1) shall –

-
- (a) set out the materials used to manufacture the plastic containers; and
 - (b) specify whether the plastic containers are manufactured from –
 - (i) petroleum-based materials or their derivatives, in which case the plastic containers shall be classified as non-biodegradable;
 - (ii) from any materials other than petroleum-based materials or their derivatives, in which case the plastic containers shall be classified as biodegradable.

(2A) Notwithstanding paragraph (1), where the importer or manufacturer of plastic containers does not submit the certificate –

- (a) the plastic containers shall be deemed to be non-biodegradable; and
- (b) the Director-General shall clear the plastic containers on payment of the excise duty in accordance with paragraph (3).

(3) (a) The plastic containers shall, in accordance with paragraph (2) and (2A), attract excise duty at the rate specified in Column 5 of Part I of the First Schedule to the Act.

(b) Notwithstanding paragraph (a), excise duty shall be exempted on non-biodegradable plastic containers falling under item 90 of Part IA of the First Schedule to the Act.

(4) Where the Director-General has reasonable doubt on the accuracy of the certificate referred to in paragraph (2), he shall –

- (a) (i) take samples of the plastic containers for testing at the time of importation or from the place of manufacturer, as the case may be; and
- (ii) request the National Environment Laboratory to carry out a test using the Fourier Transform-Infrared Spectroscopy to determine whether the plastic containers contain petroleum-based materials or their derivatives;
- (b) notwithstanding paragraph (a), clear the goods on the condition that the importer or manufacturer furnishes a security to cover the amount of excise duty and taxes payable thereon.

(5) Where the result of the test referred to in paragraph (4)(a)(ii) indicates that the plastic containers contain petroleum-based materials or their derivatives, the Director-General shall –

- (a) not later than 5 working days from the receipt of the test result, require the importer or manufacturer, by notice in writing, to pay –
 - (i) the amount of underpayment as per section 24A of the Customs Act; and
 - (ii) the cost incurred for testing;
- (b) release the security referred to in paragraph (4)(b) on payment of the amount referred to in subparagraph (a).

(6) Where the result of the test referred to in paragraph (4)(a)(ii) indicates that the plastic containers do not contain petroleum-based materials or their derivatives, the Director-General shall release the security referred to in paragraph (4)(b).

(7) This Part shall not apply to –

- (a) plastic containers not meant for commercialisation, not exceeding 10 units in quantity;
- (b) goods imported under items E8, E9, E10, E11, E13 and E19 of Part II of the First Schedule to the Customs Tariff Act;
- (c) goods imported under regulation 9(3) of the Investment Promotion (Mauritian Diaspora Scheme) Regulations 2015;
- (d) goods imported for further processing and subsequent re-exporting;
- (e) goods imported as relief consignment as defined under the Customs Act; and
- (f) the island of Rodrigues.

(8) For the purpose of this Part –

“biodegradable plastic container” means a plastic container manufactured from any material other than petroleum-based materials or their derivatives.

5. These regulations shall come into operation on 2 May 2019.

Made by the Minister on 12 April 2019.