



MALTA

ECO-CONTRIBUTION ACT

Focus Business Services (Malta) Limited

STRAND TOWERS
Floor 2
36 The Strand
Sliema, SLM 1022
P O BOX 84
MALTA

T: +356 2338 1500

F: +356 2338 1111

enquiries@fbsmalta.com

www.fbsmalta.com

CHAPTER 473**ECO-CONTRIBUTION ACT**

To make provision for the imposition of an eco-contribution on products which result in waste and to provide for matters ancillary or incidental thereto.

1st September, 2004

ACT XII of 2004, as amended by Legal Notices 393, 394, 529 and 533 of 2004, and 28, 312 and 341 of 2005; Act II of 2006; Legal Notice 106 of 2006; Act IV of 2007; Legal Notices 172, 229, 300 and 427 of 2007, 105 of 2008, and 7, 109, 141 and 230 of 2009; Act II of 2009; Legal Notice 383 of 2009; and Act I of 2010.

Part I - Preliminary

1. The short title of this Act is the Eco-Contribution Act.

Short title.

2. In this Act, unless the context otherwise requires -

"competent authority" means the authority designated by the Minister under article 10;

Interpretation.

Amended by:

II. 2006.21;

II. 2009.60.

"eco-contribution" or "contribution" means the contribution chargeable under article 3;

"the Minister" means the Minister responsible for waste management and includes, to the extent of the authority given, any person authorised in that behalf for any purpose of this Act;

"placed on the market" means when a product is transferred from the manufacturing stage or when a product is brought into Malta with the intention of distribution on the market in Malta, including when a product is so transferred or brought into Malta for use in the trade, business, profession or vocation of the person transferring or bringing the product into Malta;

"producer" means a person who, for the purpose of trade or otherwise in the course of business, manufactures or brings into Malta products on which the eco-contribution shall be payable in terms of this Act, and in relation to services means a person who for the purpose of trade or otherwise provides services in Malta on which eco-contribution shall be payable in terms of this Act;

"products" means products which result in waste and on which an eco-contribution is chargeable;

"recovery of waste" means the re-use, recycling or reclamation of waste or any other process aiming to extract secondary raw materials or energy from such waste;

"Schedule" means a schedule to this Act;

"services" means services which are listed in the Second Schedule and on which an eco-contribution is chargeable;

"waste" means any thing, substance, product or object, in whatever form, whether hazardous or otherwise, which is discarded or intended to be discarded or is required to be kept in order to be

discarded and includes such other thing, substance or object as the Minister may prescribe.

Part II - Imposition of eco-contribution

Imposition of eco-contribution.
Amended by:
II. 2009.61.

3. (1) There shall be charged and levied by the competent authority, on account of the Government, an eco-contribution at the rates shown in the Third Column of the First Schedule payable on products described in the First and Second Columns of the said Schedule, which are placed on the market, and in the Fourth Column of the Second Schedule payable on services described in the First, Second and Third Columns of the said Schedule.

(2) The First and Second Schedules shall be published in the English language only:

Provided that the Minister may, from time to time, order the publication of the said First and Second Schedules in the Maltese language and in any such case, if there is any conflict between the Maltese and English texts of the said First and Second Schedules, the English text shall prevail.

Time when contribution shall fall due.
Amended by:
II. 2009.62.

4. (1) The eco-contribution on products listed under the First Schedule shall be due at the time at which the products are placed on the market and the eco-contribution on services listed under the Second Schedule shall be due at the time indicated in the third column of the Second Schedule:

Provided that where products are placed under a customs procedure on entry into Malta, placing on the market shall be deemed to take place when they leave the customs procedure.

(2) The conditions on which the contribution shall be chargeable and the rate of the contributions to be adopted shall be those in force on the date on which the products are placed on the market.

Recovery of waste.

5. In cases of recovery of waste from products on which eco-contribution is paid in terms of this Act, the producers of those products may, in accordance with regulations made under articles 12 and 13, be granted a credit of the contribution paid thereon, or part thereof, against eco-contributions which may fall due in future.

Savings.

6. The contribution due in terms of this Act shall be without prejudice to any other obligations, of whatever nature, imposed by or under any other law in respect of the products on which the contribution shall fall due.

Part III - Payment of eco-contribution

Liability for payment of eco-contribution.

7. (1) The liability for the payment of the eco-contribution shall lie with the producer.

(2) Where two or more persons are liable for the payment of the contribution, their liability under the Act shall be joint and several.

Time of payment of eco-contribution.

8. The eco-contribution shall be payable on a quarterly basis in arrears on submission of the return relative to the preceding quarter:

Provided that the Minister may by regulations prescribe in respect of such class or classes of producers as may be specified in those regulations, a period of time longer or shorter than a quarter for the payment in arrears of the eco-contribution and for the submission of the relative return.

9. The registration and reporting procedure to be adhered to by all producers liable to the payment of an eco-contribution is laid down in the Third Schedule.

Registration and reporting procedure.
Amended by:
II. 2009.63.

Part IIIA - Imposition of Eco-contribution on Plastic Bags

Added by:
II. 2009.64.

9A. (1) A producer of plastic bags described in the First and Second Columns of the First Schedule who is liable for the payment of an eco-contribution at the rate shown in the Third Column of the said Schedule shall be obliged to comply with the obligations in accordance with the provisions of the said Fourth Schedule.

Information to be printed on plastic bags.
Added by:
II. 2009.64.

(2) The Minister may, by regulations made under this article, amend, substitute or repeal the Fourth Schedule.

9B. Any person in the course of an economic activity who, upon an inspection by the competent authority or any person appointed by it for such purpose in terms of article 25 -

Offences and penalties.
Added by:
II. 2009.64.

- (a) has in his possession plastic bags, already placed on the market in Malta, which do not conform to the obligations listed under the provisions of the Fourth Schedule; or
- (b) fails to comply with any other obligation listed under the provisions of the Fourth Schedule,

shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1,000):

Provided that where a person has been convicted under this article and is again convicted of an offence under the said article committed within six months from the date of the previous conviction, the fine (*multa*) shall in no case be less than one thousand five hundred euro (€1,500):

Provided further that where a person has been convicted for a third offence under this article within a period of twelve months from the date of the first conviction, the fine (*multa*) shall in no case be less than two thousand euro (€2,000):

Provided further that where a person has been convicted for four offences under this article in a period of twenty-four months, the court shall on the latest of the said convictions impose a fine (*multa*) of not less than two thousand five hundred euro (€2,500) and in addition to the punishment for that conviction order the suspension for a determinate time of not less than one week and not more than one month of all licences, permits, warrants or other authorisation granted by the Police or by any other authority to carry on the economic activity or activities to which the offences relate.

Compromise penalties.
Added by:
II. 2009.64.

9C. (1) Notwithstanding any other provision of this Act, the competent authority may, in the case of an offence under article 9B, enter into an agreement in writing with the offender whereby the said offender pays to the competent authority five hundred euro (€500) in the case of a first offence, seven hundred and fifty euro (€750) in the case of a second offence and one thousand euro in the case of a third offence (€1,000), within fifteen days from the receipt of a notice by the competent authority to this effect, and upon the payment of such fine (*multa*), all criminal liability under this Act with regard to the offences in relation to which the fine (*multa*) has been paid, shall be extinguished.

(2) Any sum due in virtue of an agreement entered into in terms of subarticle (1) shall be due to the Government as a civil debt. The competent authority shall not enter into an agreement as is referred to in subarticle (1) unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.

(3) The provisions of this article shall be without prejudice to any proceedings or forfeiture instituted or having effect in virtue of any other law.

(4) The said agreement and the payment of the fine (*multa*) so imposed shall be without prejudice to any eco-contribution and administrative penalty due under this Act.

Part IV - The Competent Authority

Nomination of competent authority.

10. The Minister shall by order in the Gazette designate a person or body to be the competent authority for the purposes of this Act to carry out the functions laid down in the Act and in the regulations made by the Minister under the Act and such other functions as the Minister may consider appropriate in relation to the operation of the Act. Such person or body shall be designated for an indefinite period:

Provided that the Minister shall have the power at any time to terminate such nomination by order in the Gazette:

Provided further that the Minister may in the regulations provide that a person or authority other than the competent authority shall be responsible for the performance of certain functions specified in the regulations.

Functions of the competent authority.

11. Save where otherwise provided in any regulations made under this Act, the competent authority shall be responsible for the administration of this Act and for any regulations made thereunder. The competent authority shall also have the function of advising the Minister on the following matters:

- (a) the products on which an eco-contribution should be charged and the applicable rate of contribution;
- (b) the issue of any regulations under this Act; and
- (c) any matter as may be necessary for the better carrying out of the provisions of this Act or of any regulations made thereunder.

Part V - Powers of the Minister

12. (1) The Minister may, with the concurrence of the Minister responsible for finance and in accordance with regulations made under the provisions of article 13 -

Power to exempt payment of eco-contribution.
Amended by:
II. 2009.65.

- (a) exempt any producer from the payment of the eco-contribution, in whole or in part, which would otherwise have been payable on products produced by him, or
- (b) grant any producer a credit of the contribution paid on such products, in whole or in part, against eco-contributions which may fall due in future,

if the producer provides or participates in a scheme, approved as provided in the regulations, for the recovery of waste from those products:

Provided that producers of bags of plastics falling under the First Schedule and producers of services falling under the Second Schedule shall not qualify for the purpose of this subarticle.

(2) The Minister, shall, by not later than the second week of each month publish in the Gazette a list of the exemptions which may have been allowed in terms of subarticle (1).

13. The Minister, with the concurrence of the Minister of finance, may make regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for any of the following:

Power to make regulations.

- (a) the time or times within which, the place where, and the manner in which, the contribution due under this Act is to be paid;
- (b) the circumstances under which products not fit for consumption or which are unmarketable are destroyed with or without payment of the eco-contribution, or with or without a refund of the contribution paid;
- (c) amend or revoke, in whole or in part, any Schedule issued under this Act;
- (d) to provide for any powers which may be required in order to enforce the provisions of this Act and the regulations thereunder;
- (e) the giving of a guarantee or other form of security by producers in order to ensure the payment of the eco-contribution due in terms of this Act, and the manner in which such guarantee or other security may be enforced;
- (f) for the procedure for producers to be exempted from the payment of the eco-contribution as provided in article 12;
- (g) providing for schemes which encourage persons other than producers to undertake the recovery of waste from products in agreement with producers; and
- (h) anything that may be prescribed in accordance with the

provisions of this Act.

Part VI - Enforcement and Sanctions

Power of competent authority to issue assessments.
Added by:
IV. 2007.45.

13A. (1) Where any person liable to the payment of eco-contribution fails to furnish a return when due or furnishes a return with an understatement of the eco-contribution due for that period, or furnishes an incomplete or incorrect return which he fails to correct within the prescribed time period, the competent authority may issue an assessment on that person indicating the amount of eco-contribution due and shall serve such assessment at any time after the expiration of the time allowed in terms of this Act for the furnishing of the return and by not later than six years from the end of the period to which the return relates.

(2) An assessment issued in terms of subarticle (1) shall not relieve the person who has not furnished a return or the corrected return, as the case may be, from his obligation to furnish the return and from his liability to any or to further administrative penalties due in terms of this Act.

(3) The power of the competent authority to issue an assessment includes the power to issue an additional or revised assessment within the same time limits and to cancel an assessment so issued.

Assessments.
Added by:
IV. 2007.45.

13B. (1) An assessment issued in terms of article 13A shall be made in such form and contain such particulars as the competent authority may deem appropriate.

(2) An assessment may be issued by reference to such information, estimates or criteria as the competent authority may, in its judgement, deem appropriate.

(3) Where an assessment is issued any amount of eco-contribution indicated in such assessment shall, except if and to the extent that the assessment is cancelled or revised, be deemed for the purposes of this Act to be and to always have been the eco-contribution properly due and chargeable with respect to the period to which the return relates.

Statements and assessments to constitute executive title.
Added by:
I. 2010.70.

Cap. 12.

13C. Any statement issued by the competent authority and any assessment issued in terms of article 13A showing any amount of eco-contribution due by a person shall, unless the contrary is proved, be sufficient evidence that that amount is due to the competent authority by that person and shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Validity of statements, etc.
Added by:
I. 2010.70.

13D. (1) Any statement, assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall not be deemed to be void or voidable for want of form or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act.

(2) In the case of a body of persons it shall be sufficient if only

the name of the body of persons appears on any notice, warrant or proceeding, including any proceeding in the Court of Appeal, issued or made under or for the purposes of this Act.

14. (1) The authority may impose an administrative penalty upon any person who -

- (a) infringes any provision of this Act or of regulations made thereunder;
- (b) fails to comply with any request or decision given by the Authority under this Act or the regulations made thereunder:

Administrative
infringements.
Amended by:
IV. 2007.46;
L.N. 427 of 2007;
L.N. 105 of 2008.

Provided that in all cases where the authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence:

Provided further that in all cases where the competent authority imposes an administrative penalty in terms of the Act, it shall be payable in addition to the eco-contribution properly chargeable and due under the Act.

(2) An administrative penalty imposed under subarticle (1) shall not, unless provided otherwise by or under this Act exceed eleven thousand and six hundred and forty-five euro (11,645) for each infringement or failure to comply and two hundred and thirty euro (230) for each day of infringement or non-compliance, as the case may be.

(3) In determining the amount of an administrative penalty, regard shall be had, in particular, to the nature and extent of the infringement and its duration.

(4) The Minister may, by regulations made under this Act establish administrative penalties that may be imposed by the authority for breaches of the said regulations:

Provided that the amount of the penalties that may be so prescribed shall not exceed the maximum amounts prescribed under subarticle (2).

(5) Notwithstanding the provisions of any law, no precautionary warrant or order shall be issued by any court restraining the authority from the exercise of any of the powers conferred upon it by or under this article.

15. Where an administrative infringement of any provision of this Act is committed by a body corporate and is proved to have been committed with the consent or involvement of or to be attributable to any gross negligence on the part of a person being a director, manager, secretary or other officer however so described of the body corporate or a person who was purporting to act in any such capacity, both that person and the body corporate shall be liable for the said infringement.

Administrative
infringements by
bodies corporate.

Criminal proceedings.
Amended by:
L.N. 427 of 2007;
L.N. 105 of 2008;
I. 2010.71.

16. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of regulations made thereunder shall be guilty of an offence, and shall be liable, on conviction, to a fine (*multa*) not exceeding twenty-three thousand and two hundred and ninety euro (23,290) or an amount equal to three times the amount of the eco-contribution payable on the products in respect of which the offence is committed, whichever shall be higher.

Cap. 9.
Cap. 446.

(2) Article 21 of the Criminal Code and the provisions of the Probation Act shall not apply to any conviction under this Act.

(3) No criminal proceedings under this Act shall be taken except at the instance or with the sanction of the competent authority, and proceedings that have been so taken may, at any time before final judgment, be withdrawn at the request of the competent authority.

Cap. 9.

(4) Notwithstanding the provisions of the Criminal Code, the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings under this Act.

(5) The institution of proceedings or the imposition of a penalty for any offence under this Act shall not relieve any person from prosecution under any other law or from liability to the payment of any tax for which he is or may be liable under this Act, and the institution of proceedings or the imposition of a penalty for any offence under any other law or the payment of any tax under this Act shall not relieve any person from any prosecution or penalty under this Act in respect of an offence committed against this Act.

(6) In any criminal proceedings under this Act the competent authority or any other officer designated by the competent authority may, notwithstanding the provisions of any other law, produce the evidence, plead and otherwise conduct the prosecution instead of or jointly with the police.

(7) Should the evidence of the competent authority or of the officer designated by the competent authority as aforesaid be required as part of the case for the prosecution, he shall be heard before assuming the duties of a prosecuting officer unless the necessity of his giving evidence arises at a later stage:

Provided that the Commissioner or other officer as aforesaid may state the facts constituting the offence before giving evidence.

Prescription for offences and administrative infringements.

17. The prosecution of a criminal offence or the initiation of proceedings to impose an administrative penalty under this Act shall be prescribed by the lapse of five years from the date on which the offence or administrative infringement is committed.

Imposition of administrative penalty.

18. (1) Any person subject to an administrative penalty shall be notified in writing of the amount of the penalty due and of the nature of the infringement.

(2) The notice referred to in subarticle (1) shall, without prejudice to the right of appeal under article 20, upon the service of a copy thereof by judicial act on the person indicated in the notice, constitute an executive title for all effects and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. Cap. 12.

(3) Notwithstanding the provisions of article 256(2) of the Code of Organization and Civil Procedure, the executive title referred to in subarticle (2) of this article shall not be enforceable before the lapse of thirty days from the service of the judicial act therein referred to: Cap. 12.

Provided that where an appeal against an administrative penalty in accordance with article 20 has been filed, the provisions of article 20 shall apply.

19. Notwithstanding the provisions of articles 14 and 15, no administrative penalty shall be imposed by the authority for any default if that person shows to the satisfaction of the authority that there is a reasonable excuse for the default: Reasonable excuse.

Provided that -

- (a) an insufficiency of funds to pay an eco-contribution due; or
- (b) when reliance is placed on any other person to perform any task, the fact of that reliance or any dilatoriness or inaccuracies on the part of the person relied upon,

shall not constitute a reasonable excuse for the purposes of this article.

20. (1) The procedure to be followed in relation to appeals against an assessment issued and administrative penalties imposed by the competent authority shall be regulated by the provisions of this article. Appeals.
Substituted by:
IV. 2007.47.

(2) A person who receives and is notified of an assessment in terms of article 13A or is notified with a judicial act referred to in article 18(2) may, within thirty days from the date of such notification, lodge an appeal before the Appeals Board objecting to the amount of eco-contribution and administrative penalties so fixed:

Provided that an appeal shall not be valid unless:

- (a) the return for the period in respect of which the assessment is issued or the penalty has been imposed, or a copy thereof, has been submitted to the competent authority;
- (b) the amount of the ecocontribution which is not in dispute, if any, due by the appellant, has been paid; and
- (c) a payment of such administrative fees as may be prescribed has been made.

(3) The Appeals Board shall not annul an administrative penalty as aforesaid unless such penalty cannot at law be imposed

in the circumstances of the case, or cannot at law be fixed in the amount established by the competent authority, due account being given to the principle of proportionality.

(4) The Appeals Board shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than sixty days from the date of the service of the appeal on the competent authority.

(5) The appeal, and the notification of the date fixed for hearing, shall be notified to the competent authority without delay, and the competent authority shall file its reply thereto within thirty days from the date of the notification of the appeal.

(6) The decision of the Appeals Board shall, upon becoming *res judicata*, be deemed to be a decision of the Appeals Board equivalent to a decision of the First Hall of the Civil Court ordering payment by the appellant of the eco-contribution and administrative penalty as confirmed or reduced.

(7) Any of the parties to the proceedings before the Appeals Board shall have a right of appeal to the Court of Appeal in accordance with article 23.

Decisions of Appeals Board.

21. (1) In determining an appeal, the Appeals Board shall take into account the merits of the appeal, and may in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

(2) Subject to the provisions of article 23 the decisions of the Appeals Board shall be final and binding.

Procedure of the Appeals Board.

22. (1) In the exercise of its functions, the Appeals Board may summon any person to appear before it and give evidence and produce documents, and the Chairman of the Appeals Board shall have the power to administer the oath.

(2) The Appeals Board shall endeavour to determine an appeal within one hundred and eighty days from the lapse of the period by when the Authority may file its reply to the aforesaid appeal and in any case shall deliver its final decision not later than thirty days from when the parties declare that they have concluded with their evidence and made their final submissions.

(3) The Appeals Board in order to assist it in the exercise of its functions may appoint independent and impartial experts to advise it on any issue that may be relevant to any appeal lodged before it. In such cases the Appeals Board shall be entitled to make both provisional and final orders in respect of the payment of the costs and fees of such experts by any of the parties to the appeal.

(4) The Appeals Board in the exercise of its functions shall have the same powers as are competent to the First Hall, Civil Court according to law.

(5) The Minister may subject to the provisions of this Act, by regulations prescribe the procedure to be followed before the Appeals Board, and subject thereto and to any other provisions of

this Act, the Appeals Board may regulate its own procedure.

(6) The Minister may, with the concurrence of the Minister responsible for finance by regulation, establish any such fees as are considered to be necessary in relation to any proceedings before the Appeals Board.

(7) The Minister may by regulation amend any of the periods stated in subarticle (2).

23. (1) Any party to an appeal to the Appeals Board, including the authority, who feels aggrieved by a decision of the Appeals Board, may on a question of law appeal to the Court of Appeal (Inferior Jurisdiction) as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within thirty days from the date of the decision of the Appeals Board.

Appeal to the
Court of Appeal.

Cap. 12.

(2) The Minister responsible for Justice may by regulation under this subarticle establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals under this article:

Provided that until such fees are so established, the fees in Schedule A to the Code of Organization and Civil Procedure shall apply.

Cap. 12.

(3) The Board established under article 29 of the Code of Organization and Civil Procedure may make Rules of Court governing appeals to the Court of Appeal under this article.

Cap. 12.

24. Where a notice however so described is required to be given by the authority to any person under this Act or any regulations made thereunder, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

Service of notices.

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or carries on business,
- (c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business, or
- (d) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address.

25. (1) The authority, or any person appointed by it for such purpose, shall, upon the production of his written authority and at all reasonable times, have the right to enter upon any land, building or place for the purposes of inspecting any stocks, books, records or documents, in order to ensure compliance with the provisions of the Act and the regulations thereunder and may inspect any such stocks, books, records or documents and may, without fee or reward, make extracts or copies of any such books, records or documents.

Right of access and
inspection.
Amended by:
L.N. 427 of 2007;
L.N. 105 of 2008.

(2) If access is required in virtue of subarticle (1) to any premises occupied in whole or in part for the purpose of habitation, such access shall require the prior warrant issued by a Magistrate sitting in the Court of Magistrates in its civil jurisdiction.

(3) In the course of the exercise of the powers under this article, the authority may request the assistance of the Police.

(4) Any person who wilfully or maliciously refrains from giving his assistance, or wilfully obstructs, impedes or delays any person in the exercise of his duties or powers under this article shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand and one hundred and sixty euro (1,160).

Part VII - Appeals Board

Board of Appeals
on Eco-
Contribution.

26. (1) There shall be an Appeals Board, to be known as the Eco-Contribution Appeals Board which shall have jurisdiction to hear and determine appeals from decisions of the authority as provided in this Act and in regulations made thereunder.

(2) The Eco-Contribution Appeals Board shall be appointed by the Minister, and shall be composed of:

- (a) a chairman, and
- (b) two other members who in the opinion of the Minister have the relevant commercial, technical, or financial experience.

(3) The Chairman and members of the Appeals Board shall be appointed for a term of three years and shall be eligible for re-appointment.

(4) The Appeals Board shall be independent in the performance of its functions.

Cap. 12.

(5) The Chairman and members of the Appeals Board may be challenged or abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with the Code of Organization and Civil Procedure. In such a case the Minister shall appoint a person, having the qualifications of the chairman or member challenged or abstaining, to sit in substitution.

(6) A member of the House of Representatives or of the European Parliament or of a local council shall be disqualified from being appointed or continuing to be the Chairman or a member of the Appeals Board for as long as he holds that office.

(7) The Chairman or member of the Appeals Board may only be removed from office by the Minister on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board. In doing so the Minister shall lay before the House of Representatives a statement giving the reasons for the removal of the said Chairman or member.

(8) The Minister shall designate a person to serve as secretary to the Appeals Board and who shall serve in such a capacity in accordance with the ethical standards appropriate to his position.

Part VIII - Miscellaneous

27. (1) Except where otherwise provided by law, a person shall not knowingly disclose information obtained by him while performing the duties of a member, officer or employee of the authority or of an adviser or consultant to the authority, unless he is duly authorised by the authority to do so. Confidentiality.

(2) A person who contravenes this article shall be guilty of an offence against article 257 of the Criminal Code. Cap. 9.

(3) Nothing in this article shall prevent the disclosure of any information to the authority or, by or on behalf of the authority to the Minister or as may be required at law or for the purpose of prosecuting an offence under this Act or regulations made thereunder.

Amended by:
 L.N. 393 of 2004;
 L.N. 529 of 2004;
 L.N. 533 of 2004.
 Substituted by:
 L.N. 28 of 2005;
 L.N. 312 of 2005.
 Amended by:
 L.N. 341 of 2005;
 IV. 2007.48;
 L.N. 172 of 2007;
 L.N. 229 of 2007;
 L.N. 300 of 2007;
 L.N. 427 of 2007;
 L.N. 105 of 2008;
 L.N. 7 of 2009;
 II. 2009.66;
 L.N. 109 of 2009;
 L.N. 230 of 2009.

FIRST SCHEDULE
Eco-Contribution Tariff

General Notes and Rules for Interpretation

(1) The nomenclature of the Tariff is based on the nomenclature for the classification of goods in the Harmonized Commodity Description and Coding System 1983 (hereinafter referred to as the Harmonized System) current at the time of coming into force of this Schedule, as may be amended from time to time, and shall be interpreted in accordance with the Explanatory Notes to the Harmonized System published by the Customs Co-Operation Council, Brussels:

Provided that notwithstanding any change in any HS Code Number, all products falling within the descriptions provided for in the Schedule shall remain subject to the provisions of this Act.

(2) Except where the applicable unit of measurement is specified in litres, the rates indicated under Eco-Contribution in this schedule apply for each unit of the specified product.

(3) Unless otherwise provided for in this Schedule, all categories of product groups subject to eco-contribution include only the complete final product.

HS CODE NUMBER	DESCRIPTION	ECO- CONTRIBUTION
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CARBOYS, BOTTLES, FLASKS, JARS AND OTHER CONTAINERS MADE OF PLASTIC, GLASS OR METAL, CONTAINING ANY OF THE FOLLOWING BEVERAGES:

2201	Waters, including natural or artificial mineral waters and aerated waters not containing added sugar or other sweetening matter nor flavoured; ice and snow	€0.02
2202	Waters, including mineral waters and aerated waters containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	€0.02
2203	Beer made from malt	€0.02
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009	€0.12
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	€0.12
2206	Other fermented beverages (for example, cider perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included	€0.02

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	€0.12

EMPTY CARBOYS, BOTTLES, FLASKS, JARS, AND OTHER CONTAINERS MADE OF PLASTIC, GLASS OR METAL, UNDER THE FOLLOWING HEADINGS:

3923	Articles for the conveyance or packing of beverages	€0.02
7010	Articles for the conveyance or packing of beverages	€0.02
7612	Cans of aluminium for the conveyance or packing of beverages	€0.02

TOILETRIES AND WASHING PREPARATIONS, UNDER THE FOLLOWING HEADINGS:

3303	Perfumes and toilet waters	€0.12
3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations. But excluding unscented nursery powder packed in cartons of a weight not exceeding 70 grams and hand and body lotion in containers not exceeding 50 ml	€0.12
3305	Preparations for use on the hair, but excluding items falling under heading 3305 10 00	€0.12
3305 10 00	Shampoos, in containers exceeding 50 ml	€0.05
3306	Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages	€0.05
3307	Pre-shave, shaving or aftershave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties. But excluding bath and shower gel in containers not exceeding 50 ml	€0.12
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401, not including preparations of heading 3402 20 or of heading 3402 90	€0.12
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401, carried under heading 3402 20 or heading 3402 90	€0.02

TABLEWARE AND KITCHENWARE, OF PLASTICS

3924 10 00	Tableware and kitchenware (per 50 pieces or part thereof)	€0.02
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PACKAGING, OF PLASTICS

3923 10 00	Clamshells, with a hinged lid, of expanded polystyrene and all other expandable plastic materials	€0.12
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GUM

1704 10	Chewing gum, whether or not sugar-coated (per 2 gram net weight, or part thereof)	€0.01
2106	Chewing gum, under heading 2106 (per 2 gram net weight, or part thereof)	€0.01

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
AMMUNITION		
9306	Cartridges, whether or not filled with ammunition, excluding: <ul style="list-style-type: none"> i) cartridges for riveting or similar tools or for captive-bolt humane killers, ii) cartridges, filled with lead pellets of a maximum weight not exceeding 24 grams 	€0.05 per piece
MATTRESSES AND ARTICLES OF BEDDING		
9404 21	Mattress, of cellular rubber or plastics, whether or not covered	€6.99
9404 29	Mattress, of other materials	€6.99
9404 30	Sleeping bags	€2.33
9404 90	Other articles of bedding, excluding pillows	€2.33
PLASTIC BAGS		
3923	Bags of plastics, excluding: <ul style="list-style-type: none"> i) bags for the conveyance of goods; ii) sacks and cones; iii) bags, without any handles, loops, slots or any other feature that facilitates the use of the bag for the conveyance of goods, and without any gussets, not exceeding 26 cm in width and 40 cm in length; iv) bio-degradable bags in accordance with MSA EN 13432:2000, MSA EN 14046:2003, MSA EN 14047:2003, MSA EN 14048:2003 as appropriate, and degradable plastic bags, of any dimension, including bio-degradable and degradable garbage bags; v) plastic packaging, without handles, used as part of a production process vi) plastic bags designed for re-use, which are used to contain goods or products, and which are sold by the producer for a sum of not less than €1.20 per piece 	€0.14 per piece
3923	Bags of degradable plastic, excluding bags for the conveyance of goods and bags without any handles, loops, slots or any other feature that facilitates the use of the bag for the conveyance of goods, and without any gussets, not exceeding 26 cm in width and 40 cm in length	€0.02 per piece
3923	Bags of plastics, for the conveyance of goods, with a handle, loop, slot or any other feature that facilitates the use of the bag for the conveyance of goods, excluding bags which constitute or form an integral part of the packaging in which goods are sealed prior to retail sale or transfer	€0.15 per bag
TYRES FOR MOTOR AND COMMERCIAL VEHICLES, UNDER THE FOLLOWING HEADINGS:		
4011	New pneumatic tyres, of rubber, not including tyres of heading 4011 50	€4.66
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, of rubber	€4.66

HS CODE NUMBER	DESCRIPTION	ECO- CONTRIBUTION
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BATTERIES AND ACCUMULATORS, UNDER THE FOLLOWING HEADINGS:

8506	Primary cells and primary batteries, excluding batteries used in: i) hearing aids; ii) cochlear implants; and iii) cardiac pacemakers	€0.06
8507	Electric accumulators, whether or not rectangular (including square) not exceeding 35 grams in weight	€0.06
8507	Electric accumulators, whether or not rectangular (including square) exceeding 35 grams in weight	€1.63

PETROLEUM OILS, UNDER THE FOLLOWING HEADINGS:

	Lubricating oils; other oils:	
2710 19 71	For undergoing a specific process	€0.23 per litre
2710 19 75	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 19 71	€0.23 per litre
	For other purposes:	
2710 19 81	Motor oils, compressor lube oils, turbine lube oils	€0.23 per litre
2710 19 83	Liquids for hydraulic purposes	€0.23 per litre
2710 19 85	White oils, liquid paraffin excluding heavy liquid paraffin BP/ USP 6360 qualifying as a food grade product	€0.23 per litre
2710 19 87	Gear oils and reductor oils	€0.23 per litre
2710 19 91	Metal-working compounds, mould release oils, anti-corrosion oils	€0.23 per litre
2710 19 93	Electrical insulating oils	€0.23 per litre
2710 19 99	Other lubricating oils and other oils	€0.23 per litre

OIL FILTERS, UNDER THE FOLLOWING HEADING:

8421 23	Oil or fuel filters for internal combustion engines	€0.12
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WHITE GOODS AND ELECTRONIC EQUIPMENT, UNDER THE FOLLOWING HEADINGS:

Cooling and refrigerating equipment		
8415	Air-conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	€27.95
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other but excluding refrigeration apparatus under heading 8418 50; heat pumps other than air-conditioning machines of heading 8415	€23.29
841850	Other refrigeration or freezing chests, cabinets, display counters, showcases and similar refrigerating or freezing furniture	€69.88

Water Heaters		
8516 10 11	Instantaneous water heaters	€6.99
8516 10 19	Other electric water heaters	€6.99
8419 11 00	Instantaneous gas water heaters	€6.99
8419 19 00	Other water heaters, non-electric	€6.99

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
Monitors and TV equipment		
8528	Reception apparatus for television whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors; not including colour television apparatus with integral tube with a diagonal measurement of the screen exceeding 52 cm	€11.65
8528 12 56	Colour TV receivers with integral tube screen width/height ratio less than 1.5, diagonal screen measurement exceeding 52cm but not exceeding 72 cm	€34.94
8528 12 58	Colour TV receivers with integral tube, screen width/height ratio less than 1.5, diagonal screen measurement exceeding 72 cm	€34.94
8471 60 90	Computer monitor	€11.65
Telecommunications equipment		
8525 20 91	Mobile telephones (For cellular networks)	€5.82
8517	Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; not including parts thereof, not including apparatus carried under headings 8517 50 and 8517 90	€5.82
Appliances used for washing and cooking		
8422 11 00	Dishwashing machines of the household type	€23.29
8450	Household or laundry-type washing machines, including machines which both wash and dry	€23.29
8516 50 00	Microwave ovens	€23.29
8516 60	Other ovens; cookers, cooking plates, boiling rings; grillers and roasters: - of a weight exceeding 2 kg. but up to 10 kg - of a weight exceeding 10 kg.	€6.99 €23.29
7321	Ovens; cookers, cooking plates, boiling rings; grillers and roasters falling under heading 7321, but excluding charcoal barbecue tables and gas fired barbecues with lava or other similar solid heat conducting material as a heating source: - of a weight exceeding 2 kg. but up to 10 kg - of a weight exceeding 10 kg.	€6.99 €23.29
8419	Ovens; cookers, cooking plates, boiling rings; grillers and roasters falling under heading 8419: - of a weight exceeding 2 kg. but up to 10 kg - of a weight exceeding 10 kg.	€6.99 €23.29
Electronic equipment		
8470	Calculating machines and pocket-size data-recording, reproducing and displaying machines with calculating functions; accounting machines, excluding items under heading 8470 50 and heading 8470 90	€1.16
8470 50	Cash registers	€23.29
8470 90	Other	€2.33

HS CODE NUMBER	DESCRIPTION	ECO-CONTRIBUTION
8471	Automatic data-processing machines, excluding: i) portable automatic data processing machines, ii) printers, and iii) visual display units	€32.61
8471	Portable automatic data-processing machines, incorporating peripherals within the same unit	€32.61
8473	Cases or housings for automatic data processing machines, whether or not incorporating a power supply or any other component	€32.61
8471	Printers: - of a weight not exceeding 10 kg - of a weight exceeding 10 kg.	€11.65 €23.29
8472	Other office machines (for example, automatic banknote dispensers, coin-sorting machines, coin counting or -wrapping machines), excluding items under heading 8472 10 and under heading 8472 20	€69.88
8472 10	Duplicating machines: - of a weight not exceeding 10 kg - of a weight exceeding 10 kg.	€11.65 €23.29
8472 20	Addressing machines and address plate embossing machines	€2.33
8476	Automatic goods-vending machines (for example, postage stamp, cigarette, food or beverage machines), including money-changing machines	€69.88
9009	Photocopying apparatus incorporating an optical system or of the contact type and thermo-copying apparatus: - of a weight not exceeding 10 kg - of a weight exceeding 10 kg.	€11.65 €23.29
3215	Toner and ink cartridges under heading 3215	€2.33
8473	Toner and ink cartridges for equipment classified under heading 8473	€2.33
9009	Toner and ink cartridges for equipment classified under heading 9009	€2.33
Incandescent / halogen lamps and fluorescent tubes		
8539 21 92 90 8539 22 10 00 8539 22 90 90 8539 29 92 90	Incandescent/Halogen filament lamps, exceeding 100 V, excluding ultraviolet or infra-red lamps, or energy-efficient halogen lamps with certified energy saving capability of not less than 20% versus standard incandescent lamps	€0.25 per lamp
8539 31 10 90	Fluorescent hot cathode tubes with double ended cap, excluding certified energy saving tubes which include, Tri-phosphor tubes, T5 tubes or ultraviolet tubes used in the medical and industrial fields	€0.50 per tube

Added by:
II. 2009.68.
Amended by:
L.N. 383 of 2009.

SECOND SCHEDULE

(Article 3(1))

CODE NUMBER	DESCRIPTION	TIME WHEN CONTRIBUTION FALLS DUE	ECO-CONTRIBUTION RATE
*S 201001	Accommodation provided in any premises which for the purpose of providing such service requires the license in virtue of the Malta Travel and Tourism Services Act, or any other Act which may be substituted therefore, excluding host families.	The time when the invoice is raised by the producer or at the time of the check-in, whichever is the earlier.	Fifty cents (€0.50) per night per person.

*in force as from 1st April, 2010.

Amended by:
L.N. 394 of 2004;
L.N. 106 of 2006;
L.N. 427 of 2007;
L.N. 105 of 2008;
II. 2009.67.

THIRD SCHEDULE

(Article 9)

Registration and Reporting Procedure

Registration

1. (1) Every producer must apply to the competent authority on the prescribed registration form or on such other form approved by the competent authority, within thirty days of entry into force of the Act or within thirty days from the date on which a person becomes a producer in terms of the Act, whichever is the later.

(2) Upon the coming into force of the Act, a producer may be requested to inform the competent authority of his opening stock of products as at such date as the authority may determine:

Provided that the recognised producers of products falling under HS Code Numbers 2201 to 2206 inclusive, and 2208 in the First Schedule, duly recognised by the competent authority in virtue of regulations made under the Act, must inform the authority of their opening stock as may be prescribed, as on the 4th September, 2004, and the eco-contribution thereon must be paid at such time as is provided in the regulations made under the Act:

Provided further that for the purposes of the above proviso "opening stock" shall mean the quantity of products owned by the recognised producers and physically located in the factory, warehouse, bottling plant, or other stores utilised by the recognised producers in the exercise of their business.

(3) On registration, a registration number shall be assigned to the producer.

(4) Where any person -

(a) applies to be registered pursuant to subarticle (1), and the authority is satisfied that that person is liable to be registered under the Act, that person shall be a registered person for the purposes of the Act with effect from such date as the Authority may determine;

(b) has not made an application for registration pursuant to subarticle (1), and the authority is satisfied that the person is liable to be so registered, the Authority shall proceed to so register him and that person shall be deemed a registered person for the purposes of the Act with effect from the date on which that person first became liable to be registered. In such an event, the producer's opening stock of products as at the date when he first became liable to be registered shall be determined by the authority.

(5) An application for registration purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by that person's authority, as the case may be, unless the contrary is proved.

(6) Any person who ceases to be liable to be registered may request the authority in writing to cancel that registration, and if the authority is at any time satisfied, whether upon such request or otherwise, that that person is no longer liable to pay an eco-contribution, the authority shall cancel that person's registration with effect from the last day of the quarter during which such person ceased to be liable to be registered, or from such other date as may be determined by the authority, and shall notify that person of the date on which the cancellation of registration takes effect.

(7) The obligations and liabilities under the Act of any person in respect of anything done, or omitted to be done, by that person while that person was a registered person shall not be affected by the fact that that person ceases to be a registered person.

Returns

2. (1) A producer shall submit to the competent authority returns, on a quarterly basis, containing data -

- (i) on the volume of products placed on the market during the relative quarter; and
- (ii) on the eco-contribution payable thereon; and
- (iii) such other information as may be required by the competent authority in such format as shall be established by the authority:

Provided that producers shall be bound to submit the first return after the lapse of three months from entry into force of the Act.

(2) Without prejudice to its other powers under the Act if for any purpose, the authority requires any information or additional information or the submission of a return from any person who has not made a return or a complete return, it may, in writing, demand from such person such information, additional information or return as may be indicated in the notice.

Records and statements

3. Without prejudice to the foregoing, a producer, shall be required to:

- (a) maintain, in respect of all product movements, accurate accounts and records including:
 - (i) the date of the product movements;
 - (ii) a description of the products;
 - (iii) the quantity of the products involved in the movements; and
 - (iv) the eco-contribution to be paid on such movements;
- (b) maintain, for all products for which he is or is deemed to be a producer,

accurate accounts and records of stock;

- (c) comply with all requests to monitor, check and produce for inspection any accounts, records and any stocks of products; and
- (d) ensure compliance with all the requirements of the Act and any regulations made thereunder and with such other requests made by the competent authority:

Provided that for the purposes of this item, the term "product" shall include all products listed in the First Schedule to the Act, irrespective of whether they are placed on the market in Malta for the purposes of the Act.

Provision of information

4. (1) Without prejudice to the enforcement powers that it has at law, the authority may require any person to provide it with any additional information, including financial information, that the authority considers necessary for the purpose of ensuring compliance with the provisions of, or decisions made in accordance with this Act and regulations thereunder.

Any information required by the authority under subarticle (1) shall be proportionate to the performance of its functions and obligations under this Act and in requiring any information as aforesaid, the authority shall state why it requires the information requested.

(3) A person who is notified with a requirement under subarticle (1) shall comply promptly with the requirement within the timescales and according to any level of detail as may be required by the authority:

Provided that any such person shall, in complying with the provisions of this subarticle, state clearly to the authority if any information provided by him is to be considered as confidential. In doing so he shall give his reasons to the authority. It shall be the authority which shall decide whether the information indicated to it as being confidential should be so treated.

(4) Any person who fails or refuses to comply with a requirement under subarticle (1) shall commit an infringement of this Act and shall be liable to the imposition of an administrative penalty by the authority not exceeding the sum of one thousand and one hundred and sixty euro (1,160) or one hundred and fifteen euro (116) for each day during which failure to comply persists.

Added by:
II. 2009.69.
Amended by:
L.N. 141 of 2009.

FOURTH SCHEDULE

(Article 9A)

Other obligations regarding plastic bags

(1) Any producer referred to in article 9A(1) shall be obliged to print on each side of the bag, a label, consisting of, but not limited to, the following information:

- (a) the name of the person registered in terms of the Third Schedule,
- (b) the business address, and
- (c) the eco-contribution registration number as prescribed in item 1(3) of

the Third Schedule.

The information above mentioned is to be provided in a character font of not less than one centimetre and in a manner clearly visible. The producer shall also print the batch number of the bag on each side of the bag.

(2) The producer, referred to in article 9A(1), shall provide, for every supply, a certificate to prove that the bag or bags with the corresponding batch number were supplied by him and that the eco-contribution was accounted for in terms of this Act.

(3) Any person who in the course of an economic activity acquires the plastic bags through an intermediary, is required to obtain a copy of the certificate issued by the producer, verifying that eco-contribution has been accounted for on the consignment with the corresponding batch number.

(4) Any person who supplies plastic bags and who is required to issue a fiscal receipt under item 2 of the Thirteenth Schedule to the Value Added Tax Act shall indicate on the fiscal receipt the price inclusive of the eco-contribution for each supplied plastic bag, one by one.
