

L.N. 84 of 2010

**ECO-CONTRIBUTION ACT
(CAP. 473)**

Eco-Contribution (Exemptions) Regulations, 2010

IN exercise of the powers conferred by articles 12 and 13 of the Eco-Contribution Act, the Minister for Resources and Rural Affairs in concurrence with the Minister of Finance, the Economy and Investment, has made the following regulations:-

Citation,
commencement and
scope.

1. (1) The title of these regulations is the Eco-Contribution (Exemptions) Regulations, 2010.

(2) These regulations shall be deemed to have come into force on the 1st July, 2009.

(3) These regulations provide measures, procedures and additional guidance to the Act and aim to regulate the granting of exemptions in respect of the eco-contribution due on products placed on the market by producers who participate in the recovery of packaging waste through waste recovery schemes.

(4) These regulations shall be read and construed in the context of the provisions of the Eco-Contribution (Approved Waste Recovery Facilities) Regulations, 2008. L.N. 74 of 2008.

Interpretation.

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

“the Act” means the Eco-Contribution Act;

“Approved Waste Recovery Facility” means a facility approved in terms of the Waste Recovery Scheme Regulations, 2010 by the Approving Body as being engaged in the recovery of waste on a commercial basis in Malta or outside Malta;

“Approving Body” means the body constituted under regulation 7 of these regulations;

“commercial basis” means operating with the aim of making a profit and without any support from public finances, excluding funding granted by the European Union;

“exemption period” means a period of one calendar year, provided that for the period commencing 1st July 2009, the exemption period means a period running from 1st July 2009 until 31st December 2010;

“exemption rate” means the percentage of products placed on the market which are exempt from eco-contribution as a percentage of the amount of total products placed on the market as shown in Schedule 2 for the relevant exemption period;

“recycling bag” means a bag 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, used for the disposal of waste;

“the Minister” means the Minister responsible for waste management and includes, to the extent of the authority given, any person, including any Approving Body, authorised in that behalf for any purpose of the Act;

“packaging waste” means waste listed in Schedule 1;

“permit” means any permit issued by the Minister in terms of the Eco-Contribution (Approved Waste Recovery Facilities) Regulations, 2008;

“products” means the products listed in Schedule 1;

“recovery of waste” or “recovery” means the recovery and collection of waste from the market, by delivery to an Approved Waste Recovery Facility for the subsequent re-use, recycling or reclamation thereof;

“recovery rate” means the percentage of waste recovered as a percentage of the total amount of waste of products shown in the Schedules 1 and 2 and placed on the market by a producer for the relevant exemption period;

“scheme” or “waste recovery scheme” means a system through which any producer can demonstrate to the

satisfaction of the Approving Body the recovery of domestic, commercial and industrial packaging waste placed by such producer on the market, when the packaging waste is delivered to one or more Approved Waste Recovery Facilities in terms of the Waste Recovery Scheme Regulations, 2010.

(2) Any term not defined in these regulations shall have the same meaning as that assigned to it in the Act.

Exemption from eco-contribution.

3. A producer who participates in an approved waste recovery scheme may, apply for an exemption from payment of eco-contribution due on products where the producer indicates that packaging waste generated from such products will be recovered through the waste recovery scheme:

Provided that the eco-contribution return shall still be duly filed by the producer in terms of the Act.

Exemption mechanism.

4. (1) Upon an exemption being granted by the Approving Body, no eco-contribution shall be payable by a producer in an exemption period on all or a percentage of products calculated in terms of the exemption rate and which constitute packaging waste placed on the market by the producer as stipulated in Schedule 2:

Provided that, in respect of the total amount of packaging waste that will be declared as placed by such producer on the market, the waste recovery scheme undertakes to recover, separate and recycle a percentage of such packaging waste, with the minimum recovery rates in terms of Schedule 2, calculated by reference to the amount of packaging waste placed on the market during such exemption period.

(2) Where following the grant of an exemption, eco-contribution would have been paid in the relevant exemption period, the producer shall be eligible to a refund of eco-contribution paid on all or on a percentage of products placed on the market calculated in terms of the exemption rate as stipulated in Schedule 2.

(3) Where the thresholds set in sub-regulation (1) are not reached, the exemption in favour of the producer shall be revoked and the eco-contribution, which would have been due other than owing to the exemption, shall be due in full:

Provided that the producer shall be deemed to be in possession of a valid exemption if such producer subscribes to

another approved scheme in terms of the proviso to sub-regulation (2) of regulation 4 of the Eco-Contribution (Approved Waste Recovery Facilities) Regulations, 2008.

(4) Nothing included in these regulations shall preclude the scheme from its obligations to acquire the necessary permits granting access to collect such packaging waste from the owner or holder of such waste from within localities where waste collection falls under the responsibility of Local Councils.

5. (1) An application for an exemption from eco-contribution due on products may be made on a form issued by the Approving Body.

Application for exemption.

(2) The application shall be accompanied by such documentary evidence to the satisfaction of the Approving Body indicating the quantity and nature of packaging waste recovered as per Schedule 2 and which will be recovered from the products placed on the market by a producer during the relevant exemption period.

(3) Exemptions shall be granted on a provisional basis, and shall become final only when a certificate is issued in terms of regulation 8.

6. (1) Subject to the condition set out in sub-regulation (2) hereof, producers exempted in terms of these regulations who distribute recycling bags free of charge to the general public and to Local Councils for the purpose of encouraging the separation of domestic waste for recycling, shall be exempt from eco-contribution on such bags.

Distribution of recycling bags.

(2) The bags distributed shall be those identified in Schedule 3 and shall have printed on each side, in a character font of not less than two centimetres and in a manner which is clearly visible, a label consisting of, but not limited to, the following information:

(a) the name of the approved scheme, and in the absence thereof, the name of the operator of the approved scheme,

(b) the business address of the approved scheme, and in the absence thereof, the business address of the operator of the approved scheme.

Approving Body.

7. The Approving Body shall be composed of one representative from each of the following:

- (a) the Malta Environment and Planning Authority;
- (b) the Ministry responsible for waste management and strategy implementation; and
- (c) the Ministry responsible for finance,

and shall regulate its own procedures in processing and approving requests for exemptions from eco-contribution.

Certificate.

8. (1) The Approving Body shall issue a certificate in respect of each producer whose application for exemption from eco-contribution is accepted.

(2) The certificate shall be valid for the relevant exemption period and may be renewed for subsequent exemption periods subject to the producer submitting documentary evidence as stipulated in sub-regulation (2) of regulation 5.

(3) Without prejudice to sub-regulation (3) of regulation 4 and the proviso thereto, the Approving Body may revoke a certificate if any of the conditions for the application of the exemption from eco-contribution is not satisfied or no longer adhered to.

(4) The Approving Body may issue a list of producers in possession of a valid certificate and the corresponding products on which the exemption from eco-contribution is applicable.

Right of appeal.

9. The provisions regulating appeals set out in the Act shall be applicable to appeals from decisions of the Approving Body made to the Appeals Board.

SCHEDULE 1

Regulation 3

Packaging waste

Carboys, bottles, flasks, jars and other containers made of plastic, glass or metal, containing any of the following beverages:

Clusters of products	HS Code Number
Waters, including natural or artificial mineral waters and aerated waters not containing added sugar or other sweetening matter nor flavoured; ice and snow	2201
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	2202
Beer made from malt	2203
Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009	2204
Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	2205
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	2206
Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	2208

Empty carboys, bottles, flasks, jars and other containers made of plastic, glass or metal under the following:

Clusters of products	HS Code Number
Articles for the conveyance or packaging of beverages	3923
Articles for the conveyance or packaging of beverages	7010
Cans of aluminium for the conveyance or packaging beverages	7612

Toiletries and washing preparations, under the following headings:

Clusters of products	HS Code Number
Perfumes and toilet waters	3303
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	3304

weight not exceeding 70 grams and hand and body lotion in containers not exceeding 50ml	
Preparations for use on the hair, but excluding items falling under heading 3305 10 00	3305
Shampoos, in containers exceeding 50 ml	3305 10 00
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	3306
Pre-shave, shaving or aftershave preparations, personal deodorants, bath preparations, depilatories and other perfumer, 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	3307
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	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 of heading 3402 90	3402

SCHEDULE 2
Regulation 4

Recovery rate:	Exemption rate:
Up to and including 40% of the amount of products placed on the market	0%
Exceeding 40% and up to and including 50% of the amount of products placed on the market	50%
Exceeding 50% and up to and including 60% of the amount of products placed on the market	60%
Exceeding 60% and up to and including 70% of the amount of products placed on the market	70%
In excess of 70% of the amount of products placed on the market	100%

In all cases, a minimum of 60% of the total packaging waste which is recovered shall be collected from door-to-door collection and domestic bring-in sites.

SCHEDULE 3
Regulation 6(2)

Plastic Bags:

Clusters of products	HS Code Number
Recycling 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, used for the disposal of waste and which are distributed to the general public and Local Councils for the purpose of encouraging the separation of domestic waste for recycling	3923

