

EXEMPTIONS BILL, 2019

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Exemptions Bill, 2019

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EXEMPTIONS ACT, 2019

AN ACT to regulate the application of tax exemptions and other exemptions and to provide for related matters.

PASSED by Parliament and assented to by the President:

Preliminary Provisions

Object of this Act

1. The object of this Act is to
 - (a) rationalise the current exemptions regime by varying, where necessary, and consolidating existing statutory provisions on exemptions; and
 - (b) provide for the administration of exemptions.

Application

2. (1) This Act applies to all exemptions.
 - (2) This Act shall be read together with any other enactment relevant to taxation, levies, fees and charges and public financial management.
 - (3) Where there is a conflict or inconsistency between the provisions of this Act and any other enactment related to exemptions, the provisions of this Act shall prevail.

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Definition of exemption

3. (1) An exemption under this Act is a deviation from
- (a) a tax, levy, fee or charge provided for under an enactment,
 - or
 - (b) the timing of the payment of a tax, levy, fee or charge
- which results in a reduction in the effective liability of the payer.
- (2) Despite subsection (1), the power of the Commissioner-General to extend the date on which a tax is payable shall continue to apply.

General Provisions

Prohibition of exemptions in other legislation

4. (1) An enactment shall not provide for the grant of an exemption or a variation to a provision of this Act.
- (2) Where a provision in an enactment effectively contravenes subsection (1), that provision in that enactment is void.
- (3) Subsection (1) does not apply to an amendment to this Act or to Regulations made under this Act.

General responsibility

5. (1) A person who acts for the State shall not act in a way that enables another person to enjoy an exemption unless that exemption has been lawfully granted under this Act.
- (2) A person who seeks to benefit from an exemption shall satisfy the requirements for accessing that exemption before benefitting from the exemption.

Responsibility of the Minister

6. (1) The power to
- (a) submit a request for an exemption to Cabinet or Parliament,
 - or
 - (b) seek Executive approval for an exemption
- is vested in the Minister.
- (2) The Minister shall, on receipt of a request for an exemption,
- (a) vet the request for the exemption and ensure that the exemption is consistent with the economic management priorities of Government and the general policy of the Government on exemptions; and
 - (b) negotiate the exemption on behalf of the State.

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(3) The Minister shall, subject to Cabinet approval, seek the approval of Parliament by resolution for a request for exemption in accordance with article 174 of the Constitution.

(4) The Minister shall monitor the use of an exemption as an economic management tool.

(5) The Minister shall advise Cabinet on matters relating to exemptions.

(6) The Minister shall ensure that Ministries, Departments and Agencies and other relevant stakeholders are sensitised on any new law or requirement instituted to

- (a) improve the effectiveness of the exemptions regime; or
- (b) ensure compliance with this Act.

Negotiation and approval of exemption

7. (1) A person shall not negotiate or enter into an agreement to grant an exemption except with the prior written approval of the Minister.

(2) An understanding or agreement reached between parties to grant an exemption is of no effect and is not enforceable against the State unless subsection (1) has been complied with.

(3) Where an exemption is contained in a contract to be placed before Parliament for approval, the contract shall be accompanied with

- (a) a detailed assessment of the value of the anticipated exemptions contained in the contract;
- (b) the list of items and taxes to which the exemptions are applicable;
- (c) a limit on the total value of the exemptions to be granted under that contract; and
- (d) the implications of the exemption on programmed revenue.

(4) A contract that contains an exemption shall not be considered by Parliament unless subsections (1) and (3) have been complied with.

(5) An exemption negotiated by the Minister and placed before Parliament for approval may be varied by Parliament and the Minister shall notify the person concerned and give effect to the variation.

Ministries, Departments and Agencies

Procedure for granting exemptions to Ministries, Departments and Agencies

8. (1) An application for an exemption by a Ministry, Department or Agency shall be made to the Minister.