

# RULINGS

## CUSTOMS ACT

### PART XIX. RULINGS

#### 176A. APPLICATION FOR A RULING.

(1) A person may make an application, in respect of particular goods specified in the application, to the Commissioner General for a ruling in respect of any one or more of the following matters:

- (a) the tariff classification of those goods under the *Customs Tariff Act 1990*;
- (b) whether or not those goods are, for the purposes of the tariff and in accordance with any applicable regulations made under this Act, the produce or manufacture of a particular country or group of countries, referred to in the application;
- (c) whether or not those goods are subject to a specified duty concession under the *Customs Tariff Act 1990* referred to in the application.

(2) An application under Subsection (1) of this section may be made:

- (a) in respect of imported goods -
  - i) at any time before the date of importation into Papua New Guinea of the goods that are the subject of the application; or
  - ii) at any later time, if the Commissioner General's discretion permits; or
- (b) in respect of goods manufactured in a manufacturing area –
  - i) at any time before the date of manufacture of the goods; or
  - ii) at any later time, if the Commissioner General's discretion permits.

(3) A person may make an application in relation to a particular matter specified in the application, to the Commissioner General for a ruling as to the correct application of any provision contained in the *Customs Tariff Act 1990*.

(4) Every application under subsection (1) or subsection (3) of this section must be in the approved form, and must :-

- (a) state the name and address of the applicant; and
- (b) in the case of an application under subsection (1) of this section,
  - i) specify the particular goods that are the subject of the application; and
  - ii) specify, in respect of those goods, the matter or matters listed under Subsection (1) of this section on which the applicant requests a ruling and the applicant's opinion as to what the ruling should be; and

- iii) unless the Commissioner General agrees otherwise, be accompanied by the goods or a sample of the goods; and
  - (c) contain, or have attached, all information that is relevant to a proper consideration of the application; and
  - (d) be accompanied by the fee approved by the Commissioner General.
- (5) The Commissioner General may, at any time, request further information from an applicant if the Commissioner General considers that the information is relevant to the application.

#### **176B. MAKING OF RULINGS**

- (1) Subject to subsection (4) of this section, the Commissioner General shall,
  - (a) in the case of an application made under Section 176A (1) of this Act, make a ruling in respect of any particular goods specified in the application and in respect of the matter or matters on which the ruling is sought; or
  - (b) in the case of an application made under Section 176A (3) of this Act, make a ruling in respect of the particular matter specified in the application.
- (2) The Commissioner General must make a ruling under Subsection (1) of this Section within such time or times as may be prescribed after receipt of :-
  - (a) in the case of an application under Section 176A (1) of this Act,
    - (i) a properly completed application in respect of particular goods; and
    - (ii) the goods or a sample of the goods, unless the Commissioner General has agreed not to require receipt of the goods; and
  - (b) all information that the Commissioner General considers relevant to a proper consideration of the application; and
  - (c) all information that the Commissioner General requests under Section 176A (5) of this Act; and
  - (d) payment of the prescribed fee.
- (2) A ruling may be made subject to such conditions as the Commissioner General thinks fit.
- (4) The Commissioner General may decline to make a ruling if, in the Commissioner General's opinion, there is insufficient information to do so.

#### **176C. NOTICE OF RULINGS**

The Commissioner General shall promptly give notice in writing to the applicant of –

- (a) a ruling, together with the reasons for the ruling, and the conditions (if any) to which it is subject; or

- (b) a decision to decline to make a ruling, together with the reasons for that decision.

#### **176D. EFFECT OF RULINGS**

(1) Subject to Section 176G of this Act, a ruling in respect of particular goods is conclusive evidence for the purpose of this Act and, where applicable, the *Customs Tariff Act 1990* that the goods –

- (a) have a particular tariff classification in the *Customs Tariff Act 1990*; or
- (b) are or are not, as the case may be in accordance with applicable regulations made under this Act, the produce or manufacture of a particular country, or group of countries, for the purposes of the *Customs Tariff Act 1990*; or
- (c) are or are not, as the case may be, subject to a specified duty concession under Part IV of the *Customs Tariff Act 1990*.

(2) Subject to Section 176G of this Act, a ruling in respect of a particular matter in respect of which a ruling has been given under Section 176B(1)(b) of this Act is conclusive evidence for the purposes of this Act and where applicable, the *Customs Tariff Act 1990* of the application of the regulation or regulations on which the ruling was made in relation to that matter.

#### **176E. CONFIRMATION OF BASIS OF RULINGS**

At any time after a ruling is made, the Commissioner General may, by notice in writing, require the applicant to satisfy the Commissioner General in such manner and within 30 days or such longer period as the Commissioner General considers appropriate –

- (a) that the facts or information on which the ruling was made remain correct; and
- (b) that any conditions on which the ruling was made have been complied with.

#### **176F. AMENDMENT OF RULINGS**

(1) The Commissioner General may from time to time amend a ruling to correct any error contained in that ruling.

(2) The Commissioner General shall, promptly after making the amendment, give notice in writing to the applicant of the amended ruling and, subject to Subsection (3) of this section, the ruling as amended shall be applied to that applicant as from the date on which notice of the amendment was given to the applicant.

(3) Notwithstanding Subsection (2) of this section, if the amendment to the ruling has the effect of increasing any duty liability in respect of any goods:-

- (a) where the goods are imported within 90 days of the date notice of the amendment is given, pursuant to a binding contract entered into before that date; or
- (b) where the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to Papua New Guinea at the date notice of the amendment of the ruling is given; or

- (c) where the goods are imported on or before the date notice of the amendment is given but have not been entered for home consumption

then the ruling as given prior to amendment under this section shall be applied to those goods.

- (4) Notwithstanding Subsection (2) of this section, if the amendment to the ruling has the effect of decreasing any duty liability in respect of any goods, then the provisions of Section 104 of this Act shall apply.

#### **176G. CESSATION OF RULINGS**

- (1) A ruling ceases to have effect on the earliest to occur of the following dates: -
  - (a) the date on which any information on which the ruling was made ceases to be correct in all material respects; or
  - (b) the date of a material change in any of the information or facts on which the ruling was made; or
  - (c) the date of a material change in the *Customs Tariff Act* 1990, or to any applicable regulations made under this *Act* or the *Customs Tariff Act* 1990, if that date occurs prior to importation or manufacture of the relevant goods, as the case may be; or
  - (d) the date on which any of the conditions to which the ruling was made subject ceases to be met or complied with; or
  - (e) the date of a failure to satisfy the requirements of the Commissioner General under Section 176E of this Act; or
  - (f) the date of expiry of 3 years from the date that notice of the ruling, or any amendment to that Customs ruling under Section 176F of this Act, is given to the applicant.
- (2) A ruling shall not come into effect if –
  - (a) information on which it was made was not correct in all material respects; or
  - (b) a material change has occurred in any information or facts on which it was made.

#### **176H. APPEAL FROM THE RULING OF THE COMMISSIONER GENERAL**

An applicant who is dissatisfied with a ruling, or a decision to decline to make a ruling, or a decision to amend a ruling, under this Part of this Act may, within 30 days after the date on which notice of the ruling or decision is given, appeal to a Customs Review Tribunal against that ruling or decision.

#### **176I. NO LIABILITY WHERE RULING RELIED ON**

- (1) Where an applicant or any other person has relied on a ruling in relation to specific goods or a specific matter, and, as a result, -
  - (a) the applicant or person has not paid the amount of duty that, but for this section, is payable on the goods; or
  - (b) the applicant or person would, but for this section, be liable to the imposition of a penalty under Sections 147B of this Act; or
  - (c) goods, but for this section, would be liable to seizure under this Act;

the amount of the duty otherwise payable is not recoverable as a debt due to the state and no penalty shall be imposed under Sections 147B of this Act and the goods shall not be liable to seizure under this Act, as the case may be.

- (2) Subsection (1) of this section applies only in relation to a matter on which the Customs ruling was given and where the ruling has not ceased under Section 176G of this Act, and in accordance with any amendment to a ruling that the applicant has received notice under Section 176F of this Act.

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## **CUSTOMS REGULATIONS**

### **PART XVI. RULINGS**

#### **92. FEE FOR APPLICATION FOR RULING**

The fee for application for a ruling shall be as approved by the Commissioner General in respect of each particular good or each particular matter, as the case may be, specified in the application.

#### **93. TIME FOR MAKING A RULING**

- (1) The time prescribed for the purposes of the Section 176B(2) of the Act within which a Customs ruling must be made is 15 working days.
- (2) Where a ruling cannot be made within the specified period Customs shall advise the applicant in writing of the reasons and shall inform the applicant of the expected date in which a ruling will be made.
- (3) In application of this section Customs shall not be liable for any loss or damage occasioned by any delay in making the ruling otherwise through neglect or wilful act of an officer, the burden of proof of which shall rest with the applicant.

#### **94. FORM OF APPLICATION AND NOTICE OF RULING**

The application for a ruling and the notice of a ruling shall be in an approved form.