

[LEGAL NOTICE NO. 49]

## EXCISE ACT 1986

**Excise (Infringement Notices) Regulations 2018**

In exercise of the powers conferred on me by section 64C of the Excise Act 1986, I hereby make these Regulations—

## PART 1—PRELIMINARY

*Short title and commencement*

1.—(1) These Regulations may be cited as the Excise (Infringement Notices) Regulations 2018.

(2) These Regulations come into force on 1 August 2018.

*Interpretation*

2. In these Regulations, unless the context otherwise requires—

“Act” means the Excise Act 1986;

“court” means a court of competent jurisdiction;

“fixed penalty” means a penalty prescribed in column 4 of Schedule 1;

“fixed penalty offence” means an offence prescribed in columns 1 and 2 of Schedule 1;

“Infringement Notice” means the notice issued under regulation 5;

“late payment fee” means 50% of the fixed penalty a person is liable to pay; and

“Service” means the Fiji Revenue and Customs Service.

*Objectives*

3. The objectives of these Regulations are to—

(a) ensure compliance with the Act; and

(b) address breaches of the Act.

*Application*

4. These Regulations apply throughout Fiji irrespective of a person’s nationality, citizenship or place of registration or incorporation.

## PART 2—PROCEEDINGS FOR INFRINGEMENT NOTICES

*Issuance of Infringement Notice*

5.—(1) A proper officer may issue an Infringement Notice to a person alleged to have committed a fixed penalty offence by serving the Infringement Notice—

(a) personally upon the person;

(b) through registered mail sent to the person’s postal address last recorded by the Service;

- (c) at the registered office of the person;
- (d) upon a person who resides at the person's physical address last recorded by the Service, provided that the first mentioned person is of or over the age of 18 years; or
- (e) through any electronic means as approved by the Service, including by electronic mail to a valid electronic mailing address submitted by the person to the Service and verified by the Service.

(2) In these Regulations, service of the Infringement Notice is deemed to have been effected if the Infringement Notice is—

- (a) in the form prescribed in Schedule 2; and
- (b) served in accordance with this regulation.

(3) The Service may notify a person to whom an Infringement Notice is issued of the person's alleged commission of a fixed penalty offence and such notification may be made by—

- (a) Short Message Service (SMS) messaging to a registered mobile phone contact; or
- (b) electronic mail to a valid electronic mailing address,

submitted by the person to the Service and verified by the Service.

*Fixed penalty*

6. A person to whom an Infringement Notice is issued is liable to a fixed penalty and must, within 30 days from the date the Infringement Notice is issued, undertake one of the following actions—

- (a) pay the fixed penalty in a single payment or by instalments; or
- (b) elect to dispute the Infringement Notice in a court.

*Failure to pay fixed penalty*

7.—(1) If a person to whom an Infringement Notice is issued does not undertake any of the actions in regulation 6 within the prescribed period, the person is liable to pay the late payment fee in addition to the fixed penalty and where the person is—

- (a) an individual, the individual shall be issued a departure prohibition order preventing the individual from leaving Fiji; or
- (b) a company, all the directors of the company in Fiji shall be issued a departure prohibition order preventing the directors from leaving Fiji,

unless the person undertakes one of the following actions—

- (i) pays the fixed penalty and late payment fee in a single payment or by instalments; or
- (ii) elects to dispute the Infringement Notice in court.

(2) If a person to whom an Infringement Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Infringement Notice in a court,

the person must notify the Service, on or before the payment of the fixed penalty and late payment fee, if applicable, of the person's intention to dispute the Infringement Notice.

(3) If a person to whom an Infringement Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Infringement Notice and the court subsequently makes a final determination in the person's favour, including the determination of any appeal in any appellate court, the Service must refund the fixed penalty and late payment fee, if applicable, to that person.

(4) If a person to whom an Infringement Notice is issued does not undertake any of the actions in regulation 6 within the prescribed period, the Service must notify the Director of Immigration immediately after the expiration of the prescribed period.

(5) Upon receipt of the notification from the Service under subregulation (4), the Director of Immigration must issue to—

- (a) where the person is an individual, the individual; or
- (b) where the person is a company, all the directors of the company in Fiji,

a departure prohibition order stating—

- (i) the reasons for the issue of the departure prohibition order;
- (ii) the fixed penalty and late payment fee that the person is required to pay; and
- (iii) that the departure prohibition order may be revoked if the person undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to a person under this regulation, the person to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the person is liable to, to the Service or, if the person intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if a person pays in full the fixed penalty and late payment fee that the person is liable to, the departure prohibition order is deemed to have been revoked and the person must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

*Failure to take action within 3 months*

8. If a person to whom an Infringement Notice is issued does not undertake any of the actions provided in regulation 7(1)(i) and (ii) within 3 months from the date the Infringement Notice is issued, the Infringement Notice takes effect as a conviction and the Service may seek the maximum penalty for the prescribed offence from a court.

*Evidence of matters in certificate*

9. A certificate signed by a proper officer stating that the fixed penalty was or was not paid must, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

Made this 31st day of July 2018.

A. SAYED-KHAIYUM  
Attorney-General and Minister for Economy

SCHEDULE 1  
(Regulation 2)

EXCISE ACT 1986

FIXED PENALTY OFFENCES AND FIXED PENALTIES

Section	Fixed Penalty Offence	Maximum Penalty: Fine Imprisonment	Fixed Penalty						
			Infringement Notice Penalty Individuals				Infringement Notice Penalty Body Corporate		
			1 <sup>st</sup> Offender	2 <sup>nd</sup> Offender	3 <sup>rd</sup> Offender	4 <sup>th</sup> or more	1 <sup>st</sup> Offender	2 <sup>nd</sup> Offender	3 <sup>rd</sup> or more
8(1)	Manufacture without license etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
10(3)	Failure to furnish description of proposed excise factory etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
11(3)	Failure to provide accommodation	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
13(2)	Failure to comply with provisions relating to denaturing of spirit	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
14(2)	Manufacturing spirits to a strength exceeding prescribed limits	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
15(2)	Storage, possession and control of excisable goods without lawful authority	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
18(4)	Removal or return excisable good without Comptroller's written consent	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
19(2)	Altering excisable goods in breach of regulations made under section 86	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
20(2)	Packing, sorting, caring out or similar operation with respect to excisable goods	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
21(2)	Taking samples without complying with procedures and conditions specified by the Comptroller	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

22(2)	Unauthorised delivery of excisable goods	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
22C(1)	Penalties for failure to comply with requirements under section 22A(3) for transferring excisable goods or failure to produce excisable goods transferred in Fiji under section 22B(5)	A fine not exceeding 3 times the total excise duty component at subsisting rates for home consumption on such goods or \$200,000, whichever is greater. Not more than 12 years imprisonment	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
28(2)	Manufacturers failure to submit returns etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
30(2)	Failure to comply with conditions placed by the Minister with regard to remitting or refunding excise duty	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
42(2)	Refusal to assist and aid an officer in measuring and taking an account of excisable goods in or upon a premises	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
45(5)	Refusal to stop or to permit the search of a vehicle, boat or other means of conveyance	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
47(3)	Failure to submit a certificate of audit	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
51(2)	Failure to provide assistance	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
52	Making incorrect statements and falsifying documents etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
53	Refusing to give information or answer to questions	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
54	Evasion of excise duty and illegal manufacture of excisable goods	\$25,000 or 3 times the value of the excisable goods or materials, whichever is greater  10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

55(1)	Excess of excisable goods which should be in stock	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
55(2)	Deficiency in excisable goods which should be in stock	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
56(3)	Unlawful possession of stills etc for manufacturing spirits or machinery for manufacturing of excisable goods	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
57	Obstruction of officers etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
64(1)	Various penalties associated with owners of aircraft and ships	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
71(2)	Refusal to furnish information etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
72A(3)	Interfering with sealed goods or breaking or interfering with customs seal without the consent of the Comptroller	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
80(3)	Failure to comply with standards and methods of manufacturing etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
81(5)	Failure to maintain books etc as required by the Comptroller	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
87(2)	Failure to comply with conditions of exemptions granted by the Minister	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

SCHEDULE 2  
(Regulation 5(2)(a))



**FII REVENUE AND CUSTOMS SERVICE**

**INFRINGEMENT NOTICE**

**Infringement Notice Number:**

<b>1. Details of Offender</b>
Name:
Address:
TIN:
<b>2. Details of Offence</b>
Statement of Offence:
Particulars of Offence:
Contrary to:

This offence carries a maximum penalty of [\$.]. If you do not wish to contest this Infringement Notice, you are required to pay the fixed penalty of [\$.] to the Fiji Revenue and Customs Service.

The payment of the fixed penalty is due within 30 days from the date of issue of this Infringement Notice and is payable at any Fiji Revenue and Customs Service office. If you pay the fixed penalty, all liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.

If you wish to contest this Infringement Notice, you may elect to dispute this Infringement Notice in court within 30 days from the date of issue of this Infringement Notice.

If you fail to pay the fixed penalty or dispute this Infringement Notice in court within 30 days from the date of issue of this Infringement Notice, you will be—

- (i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the fixed penalty; and
- (ii) issued a departure prohibition order preventing you from leaving Fiji.

You may pay your fixed penalty and late payment fee in a single payment or in instalments.

The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court.

If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court within 3 months from the date this Infringement Notice is issued to you, this Infringement Notice will take effect as a conviction from the court and the Fiji Revenue and Customs Service may seek the maximum penalty from the court.

### 3. Details of Proper Officer

Name:	Date: [day/month/year]
Signature:	

### 4. Affidavit of Service

I, [name of Proper Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.

[signature of Proper Officer]

Sworn by the above named Proper Officer this [specify day] day of [specify month] 20 [specify year].

Before:

[name and signature of Commissioner for Oaths/Justice of the Peace]

Commissioner for Oaths/Justice of the Peace