

MEMORANDUM



FROM: Commissioner Operations

Phodiso Valashia

TO: General Manager Investigations, Compliance & Enforcement
General Manager Region North
General Manager Region South
All Members of Staff

REF: BURS/CED/PCA 23 I (10)

30th May 2022

LONG TERM RESTRICTION ON IMPORTATION OF SOME SELECTED VEGETABLE COMMODITIES

1. Reference is made to the attached advising on the current prohibition on importation of some vegetables into Botswana.
2. It has since emerged that some persons defy the prohibition and do so through the act of non-declaration of the vegetables, some repeatedly, contrary to Sections 35 and 96 (1) of the Customs Act, 2018 (the Act). It has also been observed that offenders are charged arbitrary amounts, some of the charges not fully covering the extent of the seriousness of the offence under consideration. It is perhaps worth noting here that the importation of prohibited vegetables is not only illegal but it also undermines the national economic policy objective of sustainable food security for Botswana. The Customs offence on this instance is therefore of a serious nature.
3. It shall be recalled that, the Act under Section 96 (8) prescribes that a person who fails to declare goods to the Revenue Service on importation into Botswana commits an offence and shall be liable to (a) a fine not exceeding P1,000,000.00 or treble the value of the goods in respect of such offence, whichever is greater, or (b) to imprisonment for a term not exceeding ten years, and (c) the goods and the container in respect of which the offence is committed shall be liable to forfeiture.

4. In view of the foregoing, the following charges in respect of those who are found to have smuggled, aided or abetted the smuggling of prohibited vegetables into Botswana shall apply:
 - a. For vegetables valued at less than P2,500.00:
 - i. *First offender* – P50,000.00 fine and the vegetables and the container in respect of the offence committed shall be forfeited to the Revenue Service;
 - ii. *Second offender* – P150,000.00 fine and the vegetables and the container in respect of the offence committed shall be forfeited to the Revenue Service; and
 - iii. *Repeat offender* – criminal proceedings should be instituted against the offender.
 - b. For vegetables valued at P2,500.00 or above:
 - i. *First offender* – P450,000.00 fine and the vegetables and the container in respect of the offence committed shall be forfeited to the Revenue Service;
 - ii. *Second offender* – P850,000.00 fine and the vegetables and the container in respect of the offence committed shall be forfeited to the Revenue Service; and
 - iii. *Repeat offender* – criminal proceedings should be instituted against the offender.
5. Further to the foregoing and pursuant to Section 375(1) of the Act, all means of transport of vegetables that have not been declared as prescribed under the Act should be detained until such time that investigations in respect of the Customs offence under consideration have been concluded. Please note that the release of such means of transport shall only be done on authorization of an appropriate officer holding the position of General Manager or above in the Revenue Service.
6. Kindly ensure **immediate** implementation of the instructions as contained in this Memorandum.
7. Thank you.