

*Government Notice No. 164 of 2019***THE INFORMATION AND COMMUNICATION  
TECHNOLOGIES ACT****Regulations made by the Minister, after consultation with  
the ICT Board, under section 48 of the Information  
and Communication Technologies Act**

1. These regulations may be cited as the Information and Communication Technologies (Clearance to Import ICT Equipment) Regulations 2019.

2. In these regulations –

“CE marking” means the marking affixed on the packaging of an ICT equipment, as well as on the equipment itself, indicating conformity of the equipment to the essential requirements defined in the European Directive 2014/53/EU and is the visible consequence of the conformity assessment process under that Directive;

“declaration of compliance” means a declaration made by a licensed dealer to certify that the ICT equipment he wishes to import meets the standards as determined by the Authority;

“designated officer” means an officer of the Authority designated by the Executive Director;

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“effective date”, in relation to an application for clearance to import an ICT equipment, means the date by which all required documents and information are submitted;

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“free entry ICT equipment” means an equipment imported for non-commercial purposes, including for personal use and for offering as gifts;

“guidelines” means guidelines issued by Authority under section 17(3) of the Act –

- (a) setting out the requirements for, the applicable law relating to, and the procedures for, an application for clearance to import an ICT equipment;
- (b) listing all persons to whom the Authority has issued a dealers’ licence to sell, expose or offer for sale or hire telecommunication and radiocommunication apparatus or devices;
- (c) listing all ICT equipment which have been granted type approval certificate by the Authority;
- (d) listing the standards to which categories of ICT equipment are required to comply with;
- (e) listing of prohibited ICT equipment;
- (f) listing of all ICT equipment intended for selling, exposing or offering for sale or hire under a valid dealers’ licence and for which a clearance to import is subject to a type approval certificate;
- (g) listing of all ICT equipment intended for selling, exposing or offering for sale or hire under a valid dealers’ licence and for which a clearance to import is subject to a declaration of compliance;
- (h) listing of all ICT equipment intended for professional use such as Private Mobile Radio and Maritime VHF Radio, for corporate private networks such as outdoor access points and for public operator networks such as Radio Base

Stations, for which clearance to import is subject to a type approval certificate and licence to operate;

- (i) listing of all ICT equipment for non-commercial purposes, including for personal use and for offering as gifts, for which no licence and no type approval certificate is required;
- (j) listing of all free entry ICT equipment for non-commercial purposes, including for personal use and for offering as gifts, for which no licence and no type approval certificate is required;
- (k) any other listing or provisions which the Authority may deem necessary from time to time;

“ICT equipment” means –

- (a) an equipment intended for telecommunication or radiocommunication;
- (b) a radiocommunication component intended to be incorporated into an equipment; or
- (c) an equipment whose primary function is not for radiocommunication but which incorporates radiocommunication components,

and listed in the Guidelines;

“import” has the same meaning as in the Customs Act;

“licence” means a licence issued by the Authority under section 24 of the Act;

“prohibited ICT equipment” means an ICT equipment which, by virtue of its operating frequency band or other technical and regulatory characteristics, no type approval certificate and no clearance to import may be granted, irrespective of whether

the equipment bears the CE marking or not, except where such equipment is intended to be used for the purpose of national security and public order;

“TradeNet” has the same meaning as in the Customs Act;

“type approval certificate” means a certificate issued by the Authority in respect of an ICT equipment which meets a minimum set of regulatory, technical and safety requirements authorising the sale and use of the equipment and on the basis of which a clearance to import that equipment may be granted.

3. Any guidelines issued by the Authority under these regulations shall be posted on the website of the Authority.
4. No person shall import a prohibited ICT equipment.
5. (1) No person shall import an ICT equipment unless he obtains clearance from the Authority for the importation of such equipment.
  - (2) An application for clearance to import an ICT equipment –
    - (a) shall be made electronically through the TradeNet or in such other manner as the Authority may determine;
    - (b) shall, in case a type approval certificate or declaration of compliance is required in respect of that equipment other than in respect of a free entry ICT equipment, be accompanied by a scanned copy of –
      - (i) the relevant documents certifying that the equipment complies with such standards as the Authority may determine;
      - (ii) any other document as specified in the guidelines; and
    - (c) may be subject to the payment of such fees as specified in the guidelines.

(3) Where a type approval certificate is required in respect of an ICT equipment, no application for clearance to import that equipment shall be entertained by the Authority unless the application is made by a licensed dealer or any person who intends to use that equipment in Mauritius.

(4) Where a type approval certificate has been granted in respect of an ICT equipment, no other type approval certificate shall be required in respect of the same type of ICT equipment.

(5) On receipt of an application for clearance to import an ICT equipment, the Authority shall grant or refuse to grant the clearance not later than 2 working days after the effective date of receipt of the application.

(6) (a) Notwithstanding paragraph (5), where verification of the ICT equipment is required, the Authority shall grant or refuse to grant the clearance not later than 2 working days after verification of the equipment by a designated officer.

(b) Any clearance granted pursuant to subparagraph (a) shall be subject to the payment of such additional fee as specified in the guidelines for the purpose of verification.

(c) For the purpose of paragraph (a), in case the ICT equipment is under Customs control, the designated officer shall take the ICT equipment or a sample of the ICT equipment, as the case may be, in accordance with section 25B(3) of the Customs Act.

(7) Where an application for clearance to import an ICT equipment is for non-commercial purposes and does not require a licence or type approval certificate, the Authority may grant clearance upon verification of any regulatory documents and technical specifications which the importer submits or, where such documents and technical specifications are not adequate or available, proceed to the verification of the equipment for a CE marking or any relevant regulatory information.

(8) Notwithstanding these regulations, where a clearance to import an ICT equipment is subject to the issue of a licence, the clearance shall be granted upon successful determination of the licence.

(9) For the purpose of these regulations, the Authority shall notify its decision, to grant or refuse to grant a clearance to import an ICT equipment, to the Director-General and the importer through the TradeNet or in such other manner as the Authority may determine.

(10) The Director-General shall release or clear an ICT equipment imported in accordance with section 25B of the Customs Act.

**6.** (1) Any clearance granted under these regulations shall remain valid unless revoked by the Authority.

(2) The Authority may revoke a clearance where –

- (a) any licence or authorisation related to the clearance has been cancelled, revoked or suspended by the Authority;
- (b) it has come to the notice of the Authority that a clearance has been granted on the basis of a false declaration of compliance or any other fraudulent documents submitted by the applicant;
- (c) it has come to the notice of the Authority that an ICT equipment no more satisfies the requirements specified in the guidelines.

**7.** Notwithstanding regulation 6(2)(b), where it has come to the notice of the Authority that a false declaration of compliance has been submitted, the Authority may –

- (a) request the licensed dealer to forthwith remove the ICT equipment from the market;

- (b) request the licensed dealer to recall the ICT equipment at its own cost where the equipment represents a safety risk to the users or where harmful interference to legitimate radiocommunication systems may result from the operation of the equipment;
  - (c) suspend or revoke the licence of the dealer in accordance with the relevant provisions of the Act;
  - (d) take such other measures as it may, in the circumstances, determine.
- 8.** Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.
- 9.** These regulations shall come into operation on 1 October 2019.

Made by the Minister, after consultation with the ICT Board, on 12 September 2019.

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