

## **THE CUSTOMS ACT**

### **Regulations made by the Minister under section 163 of the Customs Act**

1. These regulations may be cited as the Customs (Amendment) (No. 2) Regulations 2006.

2. In these regulations –

“principal regulations” means the Customs Regulations 1989.

3. The principal regulations are amended -

(a) by adding immediately after regulation 3, the following new regulation –

#### **3A. Use of seal, stamp or mark**

The Director-General may determine any identifiable seal, stamp or mark for use by Customs in the performance of its duties.

(b) in regulation 4(b) -

(i) by deleting the words “as follows –” and replacing them by the words “and during the hours specified hereunder, unless otherwise authorised by the Director-General;”

(ii) in item (i), by deleting the words “unless the Director-General directs otherwise” wherever they appear;

(iii) in items (ii), (iii) and (ix), by deleting the words “unless the Director-General otherwise allows” wherever they appear;

(c) in regulation 14A, by deleting the words “and section 18 of the Industrial Expansion Act”;

(d) in regulation 15(3), by deleting the words “(Form No.10)”;

(e) in regulation 16 –

(i) in paragraph (1), by deleting the word “duty” wherever it appears and replacing it by the words “duty, excise duty and taxes”;

- (ii) in paragraph (2), by deleting the word “duty” and replacing it by the words “duty or excise duty”;
- (iii) in paragraph (3), by deleting the word “duty” wherever it appears and the words “Rs 25” and replacing them by the words “duty or excise duty” and “200 rupees” respectively;
- (iv) in paragraph (4), by deleting the word “duty” wherever it appears and replacing it by the words “duty or excise duty”;
- (f) in regulation 17, by deleting the word “duty” wherever it appears and replacing it by the words “duty or excise duty”;
- (g) by adding immediately after regulation 17, the following new regulation -

**17A. Goods defective, obsolete or not according to specifications**

For the purposes of section 23(1A) of the Act, no refund shall be made unless -

- (a) the importer notifies the Director-General in writing within 5 working days of the date of the clearance of the goods specifying whether the goods are defective, obsolete or not according to specifications;
  - (b) the seller agrees to the return of the goods; and
  - (c) the goods are returned to the seller within 6 months of the date of notification under sub-paragraph (a).
- (h) in regulation 19 –
    - (i) by deleting the heading and replacing it by the following heading –

**Freight forwarding agent**

- (ii) by deleting the words “clearing and forwarding agent” wherever they appear and replacing them by the words “freight forwarding agent”;

- (i) in regulation 20, by deleting the heading and replacing it by the following heading –

**Report of inward cargo**

- (j) by adding immediately after regulation 20, the following new regulation –

**20A. Report of outward cargo**

- (1) The Master, owner or duly authorised agent of every aircraft or ship departing for airports or ports beyond the seas shall report to the Director-General by delivering a full and complete outward manifest, both in electronic form and hard copy or in any other manner acceptable to the Director-General, in respect of the aircraft or ship, its cargo and passengers –

(a) in the case of an aircraft, not later than 4 hours before departure; or

(b) in the case of a ship, not later than 24 hours before departure.

- (2) Where cargo is shipped to Rodrigues, the manifest shall show separately the specified goods as defined in section 116A of the Act.

- (3) The Director-General may authorise the master, owner, or his agent to amend obvious errors in the report submitted under paragraph (1), upon payment of a fee of 200 rupees for each amendment made.

- (4) Any person who fails to comply with subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

- (k) in regulation 22, by adding the following new paragraph, the existing provision being numbered (1) accordingly –

(2) A fee of 200 rupees shall be paid in respect of each amendment pursuant to paragraph (1).

- (l) by revoking regulation 28 and replacing it by the following regulation –

**28. Form of bill of entry**

(1) Every bill of entry submitted electronically shall be in accordance with the Single Goods Declaration Form No. 36 as specified in the First Schedule.

(2) Where a hard copy of a bill of entry is submitted to the Director-General, its recto shall be certified by the TradeNet User making the entry.

- (m) in regulation 29 -

(i) in paragraph (1), by deleting the words “duty exemption or rebate” and replacing them by the words “exemption or rebate of duty, excise duty and taxes”;

(ii) in paragraph (2), by deleting the words “duty payable” and replacing them by the words “duty, excise duty and taxes payable”;

- (n) in regulation 30 –

(i) in paragraph (1), by deleting the words “Form No. 10 of the First Schedule in such number of copies as the Comptroller may require” and replacing them by the words “the Single Goods Declaration Form No. 36 as specified in the First Schedule”;

(ii) in paragraph (2), by deleting the words “25 rupees” and the word “Comptroller” and replacing them by the words “200 rupees” and “Director-General” respectively.

- (o) in regulation 33 –

(i) in paragraph (1), by deleting the words “Comptroller on Form No. 7” and replacing them by the words “Director-General on Form No. 37”;

(ii) by revoking paragraph (2) and replacing it by the following paragraph –

(2) On reshipment, the goods shall be produced at the place of shipment to the officer who shall examine the goods and endorse Form No. 37 accordingly.

- (p) in regulation 38(1), by deleting subparagraphs (a), (b) and (c) and replacing them by the following subparagraphs –
- (a) for each day or part thereof during the first week 10 rupees
  - (b) for each subsequent day or part thereof 50 rupees
- (q) in regulation 45 –
- (i) in paragraph (1)(b), by deleting the word “duty” wherever it appears and replacing it by the words “duty, excise duty and taxes”;
  - (ii) in paragraph (2)(c), by deleting the word “duties” and replacing it by the words “duty, excise duty”;
- (r) in regulation 53(4), by deleting the word “Duty” and replacing it by the words “Duty, excise duty and taxes”;
- (s) in regulation 54(2), by deleting the word “Duty” and replacing it by the words “Duty, excise duty and taxes”;
- (t) by revoking regulation 56;
- (u) in regulation 60, by repealing paragraph (1) and replacing it by the following paragraph –
- (1) Every exporter shall pass an export bill of entry in accordance with the Single Goods Declaration Form No. 36 as specified in the First Schedule.
- (v) in regulation 63(3), by deleting the word “duty” and replacing it by the words “duty, excise duty and taxes”;
- (w) in regulation 64, by repealing paragraph (3) and replacing it by the following paragraph –
- (3) Prior to the shipment of any stores, a bill of entry in accordance with the Single Goods Declaration Form No. 36 as specified in the First Schedule shall be passed in respect of such stores.

- (x) in regulation 69 –
  - (i) in paragraph (3), by deleting the words “Rs 100” and replacing them by the words “500 rupees”;
  - (ii) in paragraph (4), by deleting the words “Rs 100” and “Rs 1000” and replacing them by the words “500 rupees” and “5000 rupees” respectively;
- (y) in regulation 73(1), by deleting the words “Form No. 7 or 9 as the case may be” and replacing them by the words “the Single Goods Declaration Form No. 36”;
- (z) by adding immediately after regulation 74, the following new regulation –

**74A. Import from and export to Agalega, Rodrigues or St Brandon**

Any goods imported from or exported or re-exported to Agalega, Rodrigues or St Brandon shall be entered under the appropriate Form No. 33, 34 or 35 as specified in the First Schedule.

- (za) in regulation 76(2), by deleting the word “duty” and replacing it by the words “duty, excise duty and taxes”;
- (zb) in regulation 80 –
  - (i) in paragraph (2), by deleting the word “duty” and replacing it by the words “duty, excise duty and taxes”;
  - (ii) in paragraph (4), by deleting the words “duty, levy or tax” wherever they appear and replacing them by the words “duty, excise duty and taxes”;
- (zc) in regulation 81(2), by deleting the word “duty” and replacing it by the words “duty, excise duty and taxes”;
- (zd) in regulation 82 –
  - (i) by repealing paragraph (3);
  - (ii) in paragraph (4), by deleting the words “paragraphs (2) and (3)” and replacing them by the words “paragraph (2)”;
- (ze) in regulation 83, by deleting the word “duty” wherever it appears and replacing it by the words “duty, excise duty and taxes”;

(zf) in regulation 88, by repealing paragraph (2) and replacing it by the following paragraph –

(2) Goods, other than goods in a container under Customs seal, landed or brought to the quay for shipment may be watched by any officer outside normal working days and hours at the expense of the owner of the goods.

(zg) by revoking regulation 90 and replacing it by the following regulations -

#### **90. Deferred Duty and Tax Scheme**

(1) Any person who intends to operate a shop under the Deferred Duty and Tax Scheme shall make an application to the Director-General in such form and manner as the Director-General may determine.

(2) No person shall operate a shop under the Deferred Duty and Tax Scheme unless -

- (a) his premises have been approved as such by the Director-General;
- (b) he is registered as a registered person under the Value Added Tax Act; and
- (c) he displays in a conspicuous place at the shop a logogram in the form approved by the Director-General.

(3) Any goods intended for sale at the shop shall be entered for export and shall be accompanied by the relevant warehousing import and export entries.

(4) Every operator of a shop shall —

- (a) subscribe such bond as the Director-General may consider sufficient to cover all his transactions from the time the goods are imported or removed from bond until they are sold for export or accounted for;
- (b) keep a full and true record, whether electronically or otherwise, of all transactions relating to the shop; and
- (c) sell goods mainly to visitors.

(5) A receipt with such copies and in such form as may be approved by the Director-General shall be delivered to every passenger purchasing goods at a shop.

(6) Where an operator sells goods to a visitor, he may sell the goods free of duty, excise duty and taxes provided that the goods are transferred to the port or airport to be placed in the custody of an approved person for delivery, under Customs control, to the visitor at the time of his departure.

(7) Where the goods are delivered to a visitor otherwise than in the manner specified in paragraph (6) –

- (a) the visitor shall, at the time the goods are purchased, pay to the operator the value of the goods together with the duty, excise duty and taxes payable on the goods;
- (b) the visitor, at the time of his departure and on presentation to the proper officer, of the goods, his passport or other travel documents and the receipt showing the amount paid, may claim a refund of any duty, excise duty and taxes paid on those goods; and
- (c) the approved person acting on behalf of the Director-General shall, subject to paragraph (8), refund to the visitor any duty, excise duty and taxes paid on the goods after deducting therefrom the administrative charges specified in the Sixth Schedule.

(8) No refund of duty, excise duty and taxes shall be made by the approved person where the amount otherwise refundable before deduction of administrative charges is less than 200 rupees in the aggregate in respect of purchases made in one shop.

(9) Where goods transferred in the manner specified in paragraph (6) have remained unclaimed by the visitor for a period exceeding 8 days from the date of his departure, the approved person shall hand over those goods to the proper officer.

(10) Every operator, shall, not later than 20 days after the end of every month, submit to the Director-General, in respect of that month, a return in a form approved by the Director-General, either electronically or otherwise authorised by the Director-General –

- (a) specifying the receipts and deliveries of each type of goods and the balance remaining on the last day of the month, and the amount of duty, excise duty and taxes payable at time of sale; and
- (b) at the same time pay to the Director-General, the amount of the duty, excise duty and taxes payable for that month.

(11) The operator shall-

- (a) in respect of every period of 12 months, carry out, not later than one month after the end of that period, a physical stocktaking of all goods in his shop;
- (b) submit to the Director-General, not later than one month after the end of the month in which the stocktaking was carried out, a statement of that stock duly certified by a qualified auditor; and
- (c) where the quantity of any goods in the statement of stock specified in subparagraph (b) is less than the quantity specified in the return under paragraph (10)(a) for the corresponding month and without prejudice to any action the Director-General may take under the customs laws, pay, at the same time, the amount of duty, excise duty and taxes on the deficiency.

(12) (a) The Director-General may, at any time, cause a physical stocktaking of the goods in a shop to be carried out by the operator at the operator's expense.

- (b) Where a stocktaking under subparagraph (a) shows a deficiency, the operator shall, without prejudice to any action the Director-General may take under the customs laws, immediately pay the duty, excise duty and taxes in respect of the deficiency.

(13) Where a person operating a duty free shop at a place other than at the port or airport has elected to operate under the Deferred Duty and Tax Scheme pursuant to section 168(2) of the Act, he shall as from 1 October 2006 be governed by the provisions of this regulation.

(14) In this regulation -

“approved person” means the person approved by the Minister;

“mainly”, in relation to paragraph (4)(c), means 80 per cent or such other percentage as may be approved by the Director-General of the annual turnover of the operator representing sales to visitors;

“operator” means a person operating a shop under the Deferred Duty and Tax Scheme;

“qualified auditor” has the same meaning as in the Companies Act 2001;

“shop” means a shop approved under the Deferred Duty and Tax Scheme.

#### **90A. Duty free shop**

(1) Any goods intended for sale at a duty free shop shall be entered for export and shall be accompanied by the relevant warehousing import and export entries.

(2) Every operator of a duty free shop shall sell goods free of duty, excise duty and taxes to incoming or outgoing passengers only.

(3) The provisions of regulation 90(4)(a) and (b), (10), (11), (12) and (14) shall apply to a duty free shop with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this regulation.

- (zh) by revoking regulation 92 and by replacing it by the following regulation –

**92. Forms to be endorsed by Mauritius Chamber of Commerce and Industry**

(1) Subject to paragraph (2), every form required under these regulations to be submitted to the Director-General shall be endorsed by the Mauritius Chamber of Commerce and Industry.

(2) Form No. 1 to Form No. 5, Form No. 11, Form No. 19, Form No. 22, Form No. 24, Form No. 30 and Form No. 32 shall be endorsed up to 30 November 2006.

- (zi) by adding immediately after regulation 93, the following new regulation –

**93A. Transitional provisions**

- (1) For the purposes of section 168(1) of the Act –
- (a) the certified statement of materials shall, in respect of each consignment, indicate the date and the bill of entry number;
  - (b) the export enterprise shall, not later than 15 October 2006, pass a bill of entry for home consumption in respect of the materials and at the same time submit a security acceptable to the Director-General to cover the duty, excise duty and taxes payable, if any, on the materials;
  - (c) the pioneer status enterprise shall, not later than 15 October 2006, submit a security acceptable to the Director-General to cover the duty, excise duty and taxes payable, if any, on the materials.

- (2) Where the materials –
- (a) are used in the production by 31 January 2007, the security referred to in paragraph (1)(b) or (c) shall lapse; or
  - (b) are not wholly used in the production by 31 January 2007, the enterprise shall, not later than 7 February 2007, pay to the Director-General any duty, excise duty and taxes on the materials not used as at 31 January 2007.

(3) Where any person operating a duty free shop at a place other than at the port or airport does not make an election under section 168(2) of the Act, he shall, as from 1 October 2006, continue to be exempted from payment of duty, excise duty and taxes on goods he imports and which are intended for sale in his duty free shop.

(4) The provisions of regulation 90(3), (4)(a) and (b), (5), (6), (7), (8), (9), (10), (11), (12), and (14) shall apply to a duty free shop referred to in paragraph (3) with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this regulation.

(zj) in the First Schedule –

- (i) by inserting immediately after Form No. 32, Form No. 33 to Form No. 37 as set out in the Schedule to these regulations;
- (ii) by repealing Form No. 6 to Form No. 11 and Form No. 23.

4. Regulation 3(zg) and (zi) shall come into operation on 1 October 2006.

Made by the Minister on 15 September 2006.

**SCHEDULE**  
*(regulation 3(zj))*