

Customs and Excise (General) (Amendment) Regulations, 2015
(No. 80)

IT is hereby notified that the Minister of Finance and Economic Development has, in terms of section 235 of the Customs and Excise Act [*Chapter 23:02*], made the following regulations:—

1. These regulations may be cited as the Customs and Excise (General) (Amendment) Regulations, 2015 (No. 80).

2. (1) The Customs and Excise (General) Regulations, 2001, published in Statutory Instrument 154 of 2001 (hereinafter called “the principal regulations”), are amended by the insertion after Part IV of the following Part—

“PART IVA

REGISTRATION OF AUTHORISED ECONOMIC OPERATORS

Application for registration as authorised economic operator

34A. Any person wishing to be registered as an authorised economic operator in terms of section 216B of the Act shall submit an application on the prescribed form to the proper officer and furnish the following particulars and documents—

- (a) the name and address under which the authorised economic operator will operate and its principal office in Zimbabwe; and
- (b) where the applicant—
 - (i) is a company, certified copies of the certificate of incorporation under the Companies Act [*Chapter 24:03*], and of the memorandum and articles of association of the company together with the names of directors of the company and of all shareholders holding more than ten *per centum* of the shares of the company; or
 - (ii) is a partnership, a certified copy of the partnership agreement, together with the names of all the partners; or

- (iii) is a clearing agent, proof (in lieu of the requirements of subparagraph (i) and (iii)) that it is licensed as such in terms of section 216A of the Act;
- and
- (c) the names and addresses of the person(s) authorised to act on behalf of the authorised economic operator for the purposes of the Act; and
- (d) evidence that the authorised economic operator has sufficient financial resources to operate as such in the form of audited financial statements for the preceding two years prior to the date of the application or such other period as the Commissioner may allow; and
- (e) evidence that the authorised economic operator possesses or is the process of obtaining—
 - (i) an automated documentation and archiving system for the conduct of customs-related transactions; and
 - (ii) a business partner number issued by the Commissioner;
- and
- (f) where the Commissioner so requires in terms of section 217 of the Act, evidence of the provision of security to the Commissioner's satisfaction for the due observance of all relevant provisions of the Act.

Requirements before registration

34B. The Commissioner shall register an applicant as an authorised economic operator and issue it with a registration certificate if he or she is satisfied that the applicant—

- (a) in the case of an existing company or partnership—
 - (i) has paid off or fully secured all arrears of duty, and other debts due by the company to the Zimbabwe Revenue Authority; and

- (ii) has accounted for or acquitted all outstanding removals in bond or in transit; and
 - (iii) is up to date with respect to all other obligations in terms of other Acts administered by the Commissioner-General of the Zimbabwe Revenue Authority and
 - (iv) has paid the licence fee prescribed in section 173;
- and
- (b) has an efficient system of managing commercial and, where appropriate, transport records which allows appropriate customs controls; and
 - (c) will maintain appropriate record keeping standards; and
 - (d) is financially solvent and capable of meeting the requirements of the Act; and
 - (e) applies appropriate safety and security standards; and
 - (f) has not been convicted of any contravention of an Act administered by the Commissioner-General of the Zimbabwe Revenue Authority; and
 - (g) the directors and managers of the applicant have not been convicted of any offence involving imprisonment or suspended imprisonment of six months or more.

Obligations of authorised economic operators

34C. (1) After registration the authorised economic operator shall—

- (a) keep proper records in terms of section 223 of the Act; and
- (b) undertake to institute and maintain administrative measures to ensure—

- (i) compliance by designated representatives or employees of the operator with the applicable provisions of the Act and any lawful instructions given by the Commissioner or any of his or her officers;
 - (ii) that a relationship the operator's staff shall at all times in deal in good faith with the Zimbabwe Revenue Authority;
- and
- (c) maintain an accounting system which is in accordance with Generally Accepted Accounting Practices (GAAP) and which facilitates audit-based customs control; and
 - (d) allow a proper officer physical and electronic access to the information and documents of the operator as provided for in terms of section 223 of the Act; and
 - (e) use and regularly upgrade an information technology system that is compatible to the one used by the Zimbabwe Revenue Authority for customs procedures; and
 - (f) ensure that its business premises are secure and in conformity with the appropriate security and safety standards;

For the purposes of this paragraph its premises are said to be secure if—

- (i) structures to be used in connection with the operations specified in the operator's registration certificate are constructed of materials and incorporate features that protect against unlawful entry or intrusion; and
- (ii) appropriate access control measures are in place to prevent unauthorised access to controlled areas of the premises;

(2) Where there is any subsequent change in the information or particulars provided in application for registration by the authorised economic operator, it shall without delay notify the Commissioner in writing of the change.

(3) An authorised economic operator that wishes to surrender its certificate of registration shall without delay give written notice of its intention to the Commissioner specifying the reasons therefor, and shall return the authorised economic operator certificate to the Commissioner no later than the day on which it ceases operation.

Suspensions and revocation of registration

34D. (1) Subject to subsection (3), the following are the grounds on which the registration certificate of an authorised economic operator may be suspended or revoked in terms of section 216B(8) of the Act—

- (a) where the authorised economic operator ceases to operate as such; or
- (b) at the written request of the authorised economic operator; or
- (c) failure to comply with or contravention of—
 - (i) any of the obligations referred to in section 34C; or
 - (ii) any other provision of the Act;
- (c) failure to avail to the Commissioner any information and documentation required to be availed under the Act or lawfully requested by the Commissioner; or
- (d) any civil or criminal contravention of the laws of Zimbabwe that substantially impugns the reputation or trustworthiness of the operator; or
- (e) such good or sufficient reason as, in the Commissioner's opinion, justifies the suspension or revocation of the registration, which reason the Commissioner shall disclose to the operator in writing.

(2) For the avoidance of doubt it is declared that the effect of a suspension of the registration of an authorised economic operator is that it shall not have an electronic or other access to any authorised economic operator facility provided by the Zimbabwe Revenue Authority during the period of the suspension.

(3) Before suspending or revoking the registration of an authorised economic operator, the Commissioner shall by written notice inform the authorised economic operator of the reasons for the proposed suspension or revocation and request it to submit to the Commissioner within fourteen days of the notification written reasons as to why the registration should not be suspended or revoked:

Provided that where in the public interest the Commissioner is of the opinion that the registration of an authorised economic operator must be suspended or revoked with immediate effect, the authorised economic operator shall be entitled to submit to the Commissioner within fourteen days of the notification of the suspension or revocation written reasons why its registration should be reinstated.

(4) Immediately upon notification by the Commissioner that its registration has been suspended or revoked, the authorised economic operator shall surrender its certificate of registration to the Commissioner.

Appeals

34E. (1) Any applicant or registrant aggrieved by the decision of the Commissioner not to grant its registration, or to suspend or revoke its registration, as the case may be, may within a period of thirty days after being notified of the Commissioner's decision appeal to the Commissioner-General of the Zimbabwe Revenue Authority, whose decision shall be final.

(2) Subsection (1) comes into effect on the 1st January, 2016."

3. (1) Section 63 ("Authority to load for exportation")(3) of the principal regulations is amended the deletion of "ten" and the substitution of "thirty".

(2) Subsection (1) comes into effect on the 1st January, 2016.

4. Section 114 (“Rebate of duty on travellers’ effects”) of the principal regulations is amended—

(a) in subsection (1) by the insertion of the following definitions—

““transport service” means—

- (a) the carriage of passengers and or goods for hire or reward; or
- (b) any other transport service for hire or reward by whatever name known;

“transport service vehicle” means—

- (a) a goods vehicle; or
- (b) an omnibus; or
- (c) any vehicle drawing a trailer that is used for the conveyance of goods through a port of entry (excluding a vehicle and trailer used exclusively for the conveyance of tourists on an organised tour or safari); or
- (d) any other vehicle used in connection with a transport service which has seating accommodation for not more than seven passengers;”;

(b) in subsection (2) by the repeal of paragraph (c) and substitution of the following—

“(c) other goods to a total value for duty purposes not exceeding an amount equivalent to two hundred United States dollars per traveller.”;

(c) in subsection (4) by the insertion of the following paragraph after paragraph (j)—

“(k) goods imported by a traveller and being transported by a transport service vehicle, which vehicle is drawing a trailer and is used for the conveyance of goods through a port of entry.”.

Customs and Excise (General) (Amendment) Regulations, 2015
(No. 80)

5. Section 173 (“Licensing fee”) of the principal regulations is amended by the deletion of “and 216A” and substitution of “216A and 216B”.

6. Section 175B of the principal regulations is repealed and substituted by—

“Cancellation fee

175B. The cancellation fee prescribed for the purposes of section 235 of the Act for every Form 21 submitted in terms of section 18, 20, 26, 62, 75, 76, 79, 82, 83, 84, 85 or 148 shall be fifty United States dollars for each bill of entry cancelled.”.

7. Section 177 of the principal regulations is repealed and substituted by—

“Prescribed Value

177. The free-on-board value prescribed for the purposes of subsection (3) of section 120 of the Act shall be ten United States dollars.”.