

BASUTOLAND, BECHUANALAND
PROTECTORATE, SWAZILAND.

HIGH COMMISSIONER'S NOTICE
No. 97 OF 1949.

EXCHANGE QUOTA REGULATIONS.

It is hereby notified for general information that, under and by virtue of section *one* of the Basutoland Emergency Powers (Defence) Proclamation, 1939 (No. 35 of 1939), section *one* of the Bechuanaland Protectorate Emergency Powers (Defence) Proclamation, 1939 (No. 36 of 1939), and section *one* of the Swaziland Emergency Powers (Defence) Proclamation, 1939 (No. 37 of 1939), respectively, His Excellency the High Commissioner has been pleased to make the regulations set out in the Annexure hereto for Basutoland, the Bechuanaland Protectorate and Swaziland, each of which is hereinafter respectively referred to as "the Territory".

These regulations shall be deemed to have had force and effect from the 5th day of November, 1948.

By Command of His Excellency
the High Commissioner.

W. A. W. CLARK,
Chief Secretary.

High Commissioner's Office,
Cape Town, 28th April, 1949.

ANNEXURE.

GENERAL PRINCIPLES GOVERNING THE PROVISION
OF EXCHANGE.

1. In these regulations, unless the context otherwise indicates—

“ authorised dealer ” means any of the following banks:—

Barclays Bank (Dominion, Colonial and Overseas); and

Standard Bank of South Africa, Limited;

“ sterling area ” includes any part of the British Commonwealth of Nations, excluding Canada and Newfoundland, any territory in respect of which a

mandate on behalf of the League of Nations is being exercised by the Government of the United Kingdom or of any other Dominion, any British Protectorate or Protected State, Iraq, Iceland, the Faroe Islands, Transjordan and such other Territories as the Resident Commissioner may by notice in the *Gazette* declare to be included in the sterling area;

“ goods of non-sterling origin ” means goods imported from countries outside the sterling area;

“ Resident Commissioner ” includes any person designated by the Resident Commissioner for the purpose of these regulations.

2. (a) During the twelve months ending 30th June, 1949, no authorised dealer shall sell to any person desiring to effect payment for goods supplied and services rendered in connection therewith by countries outside the sterling area, exchange for that purpose in excess of a quota representing 50 per cent. of the value for Customs duty purposes of his total importations from non-sterling countries during the calendar year 1947 and determined in accordance with the provisions of regulation 12, or in excess of a quota redetermined in respect of such person in accordance with the provisions of regulation 22 or 24, or in excess of a quota, or additional quota determined in respect of such person in accordance with the provisions of regulation 18 or 19, and otherwise than in accordance with the conditions hereinafter set out.

(b) In computing a person's total importations from non-sterling countries during the calendar year 1947, no account shall be taken of any importations by such person of any machinery, plant or equipment from the said countries during the said period, unless the importation of such goods is the normal business of such person.

3. The exchange required to meet future payments of the kind described in regulation 2 shall be made available in quarterly allocations. No person shall be allowed to use his allocation of exchange in advance of the first day of the quarter for which that allocation is due, but any amount not availed of in one quarter may be added to the allocations available in any subsequent quarterly period.

4. No person shall incur any debt in respect of goods imported or ordered from a country outside the sterling area if such debt would result in the value for Customs duty purposes of his imports from countries outside the sterling area during any quarter of the twelve months ending 30th June, 1949, exceeding the amount of his allocation for that quarter.

5. As the first quarter of the current quota year has already expired, an amount equivalent to one half of the total quota for the 12 months ending 30th June, 1949, less exchange already made available since 1st July, 1948, will be available for the six months ending 31st December, 1948, as soon as the quota to which a person is entitled has been established in accordance with the provisions of regulation 12.

6. Should the exchange already purchased by any person since 1st July, 1948, exceed his allocation for the period ending 31st December, 1948, such excess shall be deducted from his subsequent quarterly allocations. In computing the amount of exchange already made available, account shall be taken of unexpired balances of letters of credit, outstanding balances of forward exchange contracts not under credits, and any similar existing commitments.

DETERMINATION OF QUOTAS.

7. Every person who has entered or is desirous of entering into commitments for the purchase of goods or services rendered or to be rendered in connection therewith from countries outside the sterling area may apply for an exchange quota to any authorised dealer and shall submit with his application a sworn declaration in duplicate, on Form F. 190 of the value for Customs duty purposes of goods of non-sterling origin imported and received by him direct or through shippers or agents during the calendar year 1947. This declaration shall be supported by Bills of Entry Import or, in respect of goods imported by parcel post, by invoices stamped by the Post Office showing amounts equivalent to the total declared. Where Bills of Entry are not available, an auditor's certificate, to the effect that he is satisfied, from an examination of the relevant books and documents, that the declaration correctly reflects the value of goods of non-sterling origin imported by the declarant during 1947, may be accepted as evidence in lieu thereof if such certificate is accompanied by invoices date-stamped by the Department of Customs and Excise. The declaration so supported and accepted shall serve as the basis for establishing the person's exchange quota for the year ending 30th June, 1949.

8. Every person who applies for a quota in his favour, shall similarly submit to the same authorised dealer, a sworn declaration, in duplicate, on Form F. 191 of the value for Customs duty purposes of all goods of non-sterling origin imported and received by him direct, or through shippers or agents in the

period 1st July, 1948, to 20th November, 1948. The figures given in the declaration will be subject to verification in due course.

9. Any person may obtain the forms referred to in regulations 7 and 8, specimen copies of which are appended, from any authorised dealer, after 20th November, 1948.

10. After the date of publication of this notice, but prior to the allocation to any person of an exchange quota in accordance with the provisions of regulation 12, authorised dealers may continue to provide exchange to bona fide importers for payments which fall due before the date on which quotas are allocated, such exchange being noted by the authorised dealer and marked off against the applicant's quota when it is granted. Authorised dealers, however, shall not establish any fresh letters of credit or forward exchange contracts until exchange quotas have been determined for any person in accordance with the provisions of regulation 12, provided that letters of credit may be established up to 30th November, 1948, for the importation of machinery, equipment and raw materials required in the normal course of their business by mining and industrial undertakings, pending the issue of exchange quotas to the undertakings concerned.

11. After 30th November, 1948, no further exchange will be provided to or on behalf of any person who has not applied for and been allocated an exchange quota in accordance with the provisions of regulations 7, 8 and 12.

12. On receipt of Forms F. 190 and F. 191 from any person, the authorised dealer shall (a) allot to that person an exchange quota in terms of these regulations, (b) mark off against the quota allocation for the six months ending 31st December, 1948, the amount paid for goods of non-sterling origin by that person from 1st July, 1948, to the date on which the exchange quota is allotted, and (c) earmark against such allocation any amounts for which that person is committed or may be called upon to provide non-sterling exchange during the remainder of the current period of six months ending on 31st December, 1948.

13. The balance of the exchange allocation for the current period of six months ending on 31st December, 1948, and the free amount of future exchange allocations as they accrue will be available to meet payments for direct importations by the person concerned, or he may request the authorised dealer holding the exchange quota record to transfer such allocations, in whole or in part, to shippers, agents or overseas bankers to meet negotiations of bills. By arrange-

ment with the authorised dealer holding the exchange quota record, allocations may be transferred, e.g., from one shipper to another or from a shipper to a banker or agent or vice versa, or to provide for direct importations. No person in whose favour a quota has been determined shall divest himself of that quota or any part thereof in favour of any other person.

14. Quotas shall be allotted only to persons for whose account goods are imported and not to shippers or agents who import for account of others. Shippers or agents may obtain exchange from the portions of quotas of persons which are transferred to them by authorised dealers acting on behalf of the persons concerned.

15. In cases where a person deals with more than one authorised dealer, he shall submit his Forms F. 190 and F. 191 to only one authorised dealer and arrange with such authorised dealer when the exchange quota is allotted, to transfer specified amounts therefrom to the other authorised dealers concerned.

16. Every person to whom an exchange quota has been allotted shall be given an Exchange Quota number which he must advise to shippers or agents when ordering non-sterling goods through their medium. The shippers or agents must be requested to endorse this Exchange Quota Number prominently on the relative bills and invoices at the time of drawing in connection with payment for goods of non-sterling origin.

OUTSTANDING COMMITMENTS.

17. An authorised dealer shall not provide exchange for orders placed in excess of any person's quota even though such orders have been placed before the date of publication of this notice. Authorised dealers shall cancel all revolving credits and credits which provide for the negotiation of drafts up to a specific amount current at any one time unless the authorised dealer is legally bound to give notice of cancellation, in which case such notice shall be given immediately.

Persons would therefore, be well-advised to cancel orders placed in non-sterling countries unless they have satisfied themselves by reference to their Bills of Entry Import that the value for Customs duty purposes of the goods imported by them since the 1st July, 1948, to date, plus the amount of orders placed will not exceed 25 per cent, of the dutiable value of their total imports from non-sterling countries during 1947.

EXCEPTIONAL AND ADDITIONAL ALLOCATIONS.

18. Any person who commenced business as an importer subsequent to 1st January, 1947, and who is, therefore, not in a position to furnish the information referred to in regulations 7 and 8, may submit a special application for a quota to the Resident Commissioner direct and not through the medium of the banks, with such data as he may be able to supply in support of his application. After investigation the Resident Commissioner may decide upon an amount which the authorised dealer concerned shall accept as the applicant's quota for the year ending 30th June, 1949.

19. Any manufacturer or importer of capital goods who is not entitled to an exchange quota on the strength of past importations, or who requires additional exchange for the importation of essential capital goods and equipment or raw materials from countries outside the sterling area, may apply in writing for an allocation or an additional allocation to the Resident Commissioner stating his Exchange Quota Number, if any, and submit with his application a sworn declaration in such form as the Resident Commissioner may prescribe, giving the fullest possible information regarding past imports and the purposes for which the exchange applied for is required. After investigation the Resident Commissioner may decide upon an amount which the authorised dealer concerned shall accept as the applicant's quota or additional quota for the year ending 30th June, 1949, and shall specify the purposes for which and the periods in respect of which such quota or additional quota is allotted. The authorised dealer shall, however, provide exchange for the manufacturer or importer of capital goods for additional quota allotted in his name, unless the authorised dealer himself, by the establishment of such quota, that

20. The provisions of regulations 7, 18 and 19, irrespective of the currency in which such charges are paid.

FURTHER REQUIREMENTS.

21. In order to ensure that no person who is entitled to an exchange quota has been allotted utilizes such quota in a manner as to divert his purchases from the more essential to less essential goods and services, a person may be required to submit to the Resident Commissioner or a person authorised by the Resident Commissioner to grant exemptions from the provisions of sub-regulation (a).

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FREIGHT AND INSURANCE.
20A. (a) Notwithstanding any provision to the contrary in these regulations, freight and insurance charges incurred in connection with the importation of goods of non-sterling origin, shall be deducted from the exchange quotas allocated to importers in terms of regulations 7, 18 and 19, irrespective of the currency in which such charges are paid.
(b) The Resident Commissioner or a person authorised by the Resident Commissioner may grant exemptions from the provisions of sub-regulation (a).

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Commissioner a sworn statement, in such form as he may prescribe, showing the division into categories of his imports during the calendar year 1947, and in any quarterly or six-monthly period thereafter.

22. If any person fails to submit such statement as may be called for in terms of regulation 21, his quota may be reviewed.

23. If it appears to the Resident Commissioner that any person submitting a statement in terms of regulation 21 is utilizing his quota or the greater part thereof for the importation into the Territory of non-essential goods, the Resident Commissioner may request such person to distribute his importations among such different categories and in such proportions as the Resident Commissioner may require.

24. If any person fails to comply with any request which the Resident Commissioner may, in terms of regulation 23 have addressed to him, his quota may be reviewed.

25. If the Resident Commissioner is satisfied that any person to whom a quota has been allotted in terms of these regulations has failed to comply with any provision of any of these regulations or has made any incorrect statement in any declaration made or return rendered for the purposes of these regulations, it may cancel the unused balance, if any, of any exchange quota determined in respect of such person and thereupon no authorised dealer shall sell any exchange for the purpose referred to in regulation 2 to such person unless and until the Resident Commissioner otherwise directs.

26. Every person who contravenes or fails to comply with any provision of these regulations (excluding regulations 21 and 23), or contravenes or fails to comply with the terms of any notice or order or direction issued or any permission or exemption granted under these regulations, or who obstructs any person in the execution of any power or function assigned to him by or under these regulations or who makes any incorrect statement in any declaration made or return rendered for the purposes of these regulations (unless he proves that he did not know and could not by the exercise of a reasonable degree of care have ascertained, that the statement was incorrect) or refuses or neglects to furnish any information which he is required to furnish under these regulations (excluding regulations 21 and 23), shall be guilty of an offence and liable upon conviction to a fine not exceeding five thousand pounds or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

DECLARATION IN RESPECT OF IMPORTS FROM COUNTRIES
OUTSIDE THE STERLING AREA* DURING 1947.

In accordance with the conditions laid down in
regulation 7 of the Exchange Quota Regulations
published under High Commissioner's Notice No. 97
of 1949, I/We.....

for and on behalf of.....

do hereby solemnly declare—

(a) that my/our normal business
is the importation of plant
machinery and equipment for resale
and that the value for Customs duty
purposes of all goods imported and
received by me/us from countries
outside the sterling area during the
period 1st January, 1947, to 31st
December, 1947, was £.....

(b) that my/our normal business
is not the importation of plant
machinery and equipment and that
the value for Customs duty purposes
of goods other than plant machinery
and equipment imported and
received by me/us from countries
outside the sterling area during the
period 1st January, 1947, to 31st
December, 1947, was £.....

The deponent has acknowledged that
he knows and understands the
contents of the affidavit.

Sworn to†
Affirmed and signed at.....on the
.....day of.....19.....

Before me.....
Commissioner of Oaths.
Justice of the Peace.

* The sterling area is defined as the British Commonwealth
of Nations, excluding Canada and Newfoundland, any
territory in respect of which a mandate on behalf of the
League of Nations is being exercised by the Government of
the United Kingdom or of any other Dominion, any British
Protectorate or Protected State, Iraq, Iceland, the Faroe
Islands and Burma. The non-sterling countries therefore
consist of Canada and Newfoundland and all other countries
not enumerated above.

† Delete whichever is inapplicable.

NOTE.—Bills of Entry representing the importation
of the relative goods and in respect of goods imported
by post invoices stamped by the Post Office, must be
submitted in support of this Declaration.

F. 191.

DECLARATION IN RESPECT OF IMPORTS FROM COUNTRIES
OUTSIDE THE STERLING AREA* DURING THE PERIOD
1ST JULY, 1948, TO 20TH NOVEMBER, 1948.

In accordance with the conditions laid down in
regulation 8 of the Exchange Quota Regulations
published under High Commissioner's Notice No. 97
of 1949, I/We.....

.....
for and on behalf of.....

.....
do hereby solemnly declare that during the period 1st
July, 1948, to 20th November, 1948, I/We.....

.....the aforesaid
company† imported goods from countries outside the
sterling area* to the total dutiable value shown
below:—

(a) Goods imported and paid for
by the importer himself (not
financed through agents and/or
shippers) £.....

(b) Goods imported and paid for
through shippers and/or agents
(specify names of shippers and/or
agents and show separate totals
against each) £.....

Total of goods imported and
paid for £.....

(c) Goods imported and received
but not yet paid for and not covered
by letters of credit or forward
exchange contracts. (Detailed list
must be provided.) £.....

.....
The deponent has acknowledged that
he knows and understands the
contents of the affidavit.

* The sterling area is defined as the British Commonwealth
of Nations, excluding Canada and Newfoundland, any
territory in respect of which a mandate on behalf of the
League of Nations is being exercised by the Government of
the United Kingdom or of any other Dominion, any British
Protectorate or Protected State, Iraq, Iceland, the Faroe
Islands and Burma. The non-sterling countries therefore
consist of Canada and Newfoundland and all other countries
not enumerated above.

† Delete whichever is inapplicable.

Sworn to†
Affirmed and signed at.....on the
.....day of.....19.....

Before me.....
Commissioner of Oaths.
Justice of the Peace.

† Delete whichever is inapplicable.

NOTE.—Bills of Entry representing the importation of the relative goods and in respect of goods imported by post invoices stamped by the Post Office, must be submitted in support of this Declaration.