

Statutory Instrument No. 93 of 1980

CUSTOMS AND EXCISE DUTY ACT
(Cap. 50:01)
CUSTOMS AND EXCISE DUTY (AMENDMENT) REGULATIONS, 1980
(Published on 27th June, 1980)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Amendment of regulation 22 (Cap. 50:01 Sub. Leg.)
3. Amendment of regulation 33 of principal Regulations
4. Substitution of regulation 37 of principal Regulations
5. Amendment of Fourth Schedule to principal Regulations
6. Amendment of Fifth Schedule to principal Regulations
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IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 122 of the Customs and Excise Duty Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Customs and Excise Duty Citation (Amendment) Regulations, 1980.
2. Regulation 22 of the Customs and Excise Duty Regulations Amendment of regulation 22 (Cap. 50:01 Sub. Leg.) (hereinafter referred to as “the principal Regulations”) is hereby amended —
 - (a) by substituting for subregulation (10) thereof the following new subregulation —

“(10) Notwithstanding the provisions of subregulation (9), every manufacturer of sales duty goods or excisable goods of section B of Part 2 of Schedule No. 1, every owner of sales duty goods or such excisable goods manufactured for him partly or wholly from materials owned by such owner, and every manufacturer of and dealer in pearls, precious and semi-precious stones, precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones or precious metals, shall present quarterly an account, in accordance with the directions of the Director, in respect of any goods removed from their premises which have been licensed as special customs and excise warehouses for the purposes of sales duty or such excise duty. The said account shall be presented to the proper officer and the duty due paid to him on or before the 25th day of the month following the quarter to which the account relates:

Provided that, in the case of motor vehicles, accounts shall be presented and the duty paid at the times prescribed in subregulations (5) and (9) respectively.”; and
 - (b) by inserting, immediately after subregulation (11), the following new subregulation —

“(12) On any duty paid after the dates mentioned in subregulations (9) and (10) interest shall be paid at the rate of ten per cent per annum for every full month the amount is in arrear, a portion of a month being calculated as a full month:

Provided that the Director may, in his discretion, remit such interest if he is of the opinion that circumstances exist on account of which such arrear payment was unavoidable.”.

Amendment
of regulation
33 of principal
Regulations

3. Regulation 33 of the principal Regulations is hereby amended by substituting for subregulation (1) thereof the following new subregulation –
“(1) At least 24 hours before any brew is begun the manufacturer shall record the day and hour of brewing, together with the date of making the entry, and at least two hours before commencing to mash he shall record the quantity and kind of materials to be used. The manufacturer shall also record the quantity of worts collected and the relative density of the worts before fermentation, the numbers and description of the vessels in which the worts were collected, and the time when the entry is made. Such entry shall be made not later than one hour after the collecting has been completed. The manufacturer shall record the aforementioned particulars in a brewing book, in a form approved by the Director, within 48 hours after the brew has been collected.”.

Substitution
of regulation
37 of
principal
Regulations

4. The principal Regulations are amended hereby by substituting for regulation 37 thereof the following new regulation –

“Manufacture of motor vehicles 37. (1) The manufacture of any motor vehicle liable to excise duty under tariff items 117.05, 117.10 and 117.15 shall be subject to the provisions of regulations 53 to 59 but the Director may exempt any person who manufactures a vehicle for his personal use from any such regulation or all such regulations.

(2) A manufacturer who intends manufacturing any excisable vehicle shall, before he commences such manufacture, notify the proper officer of the type and model of such vehicle and shall furnish the proper officer with such particulars as he may require.

(3) A manufacturer of any excisable vehicle shall notify the proper officer in advance of the intended manufacture of any new model of such vehicle or the discontinuation of manufacture of any excisable vehicle or of any additions or alterations affecting the mass of any such vehicle.

(4) Except with the permission of the proper officer, no manufacturer shall remove any excisable vehicle manufactured by him from his customs and excise manufacturing warehouse until the mass of such vehicle has been determined in terms of Note 1 (f) to item 117.00 of Part 2 of Schedule No. 1.

(5) For the purposes of item 609.17 the Director may in respect of rubber pneumatic tyres and tubes determine an average mass for each size.

(6) Invoices reflecting particulars as the Director may require shall be completed by every manufacturer to cover all excisable vehicles removed from any customs and excise manufacturing warehouse and copies of such invoices shall at all times be available for inspection by the proper officer. Consignment notes, shipping documents and any other documents and returns as the proper officer may require shall be made available on demand.

(7) In the case of any removal of an excisable vehicle ex-warehouse for a purpose other than payment of duty, the invoice referred to in subregulation (6) shall, for the purposes of regulation 22 (2), be deemed to be a certificate for removal of excisable/specified goods (form CE.32) but copies of such invoices shall not be deposited in the entry box unless required in writing by the Director on the date for the period mentioned in regulation 22 (7). The number of vehicles so removed shall, however, be declared quarterly in terms of the provisions of regulation 22 (5).

(8) In the case of removal of an excisable vehicle ex-warehouse for a purpose other than payment of duty, the invoice referred to in subregulation (6) shall not be accepted as a certificate for removal of excisable/specified goods and such removal shall be subject in all respects to the provisions of regulation 22 (1) to (9).”.

5. The Fourth Schedule to the principal Regulations is hereby amended –

Amendment
of Fourth
Schedule to
principal
Regulations

(a) by substituting for paragraph 10 (7) (d) thereof the new subparagraph following –

“(d) power kerosene shall contain a dye which gives it a clear, bright and distinctive green colour which is permanent; and”;

(b) by inserting, immediately after paragraph 14 (7) thereof, the following new subparagraphs –

“(8) Goods admitted in terms of the provisions of item 470.03 must be cleared on form CE 18 at the time of importation and the processed or manufactured goods on form CE 23 or CE24, as the case may be, at the time of export.

(9) Goods admitted in terms of the provisions of item 470.03 must be used in the processing or manufacture of goods for export and such processed or manufactured goods must be exported within 12 months of the date of entry of the imported goods or within such further period as the Director, in exceptional circumstances, allows. Applications for such extension must be in writing and must reach the Director prior to expiry of the 12 month period.

(10) Goods entered in terms of the provisions of item 470.03 or goods processed or manufactured from such goods may not be diverted for consumption in the common customs area unless the prior permission of the Director is obtained.

(11) Where permission in terms of subparagraph (10) is obtained to divert such entered goods or such processed or manufactured goods for consumption in the common customs area, such imported goods or the imported content of such processed or manufactured goods shall be subject to duty based on the value for customs duty purposes at the time of importation and calculated at the rates applicable at the time of payment of such duty.

(12) Liability for the duty on any goods admitted in terms of item 470.03 shall cease on presentation of a certificate that such goods have been processed or used in the manufacture of

goods intended for export only, together with documentary proof that such processed or manufactured goods have been exported, or that due entry thereof has been made in terms of subparagraph (11).”.

Amendment
of Fifth
Schedule to
principal
Regulations

6. The Fifth Schedule to the principal Regulations is hereby amended –
- (a) by substituting for paragraph 16 (3) and (4) thereof the following new subparagraphs –
 - “(3) such evidence of exportation as the Director may require shall be produced; and
 - (4) item 522.00 shall not apply to goods which have already gone into use in the common customs area except where there has been limited use in cases where such use is indispensable to reveal any inherent defect or to establish that the goods do not conform to the conditions of the contract. The period of limited use may be determined by the Director.”; and
 - (b) by inserting, immediately after paragraph 19 thereof, the following new paragraph –
 - “19A The provisions of paragraph 12 (4) of the Fourth Schedule shall *mutatis mutandis* apply in respect of any refund of duty claimed under the provisions of item 522.02 as the result of abandonment of the goods.”.

Amendment
of Sixth
Schedule to
principal
Regulations

7. The Sixth Schedule to the principal Regulations is hereby amended –
- (a) by substituting for paragraph 2 (1) thereof the following new subparagraph –
 - “(1) Paragraph 2 (1) to (8) of the Fourth Schedule shall *mutatis mutandis* apply in respect of any goods specified in and entered under item 601.01 but for that purpose any reference in paragraph 2 (4) (e) of the Fourth Schedule to full duty shall be deemed to be a reference to the full excise duty rebated in terms of item 601.01 to the State body concerned (excluding any duty rebated in terms of item 609.17).”;
 - (b) by substituting for paragraph 3 thereof the following new paragraph –
 - “3. Item 602.00
 - Paragraph 6 (1) to (3) of the Fourth Schedule shall *mutatis mutandis* apply in respect of any goods specified in and entered under item 602.01 but for that purpose any reference in paragraph 6 (3) of the Fourth Schedule to full duty shall be deemed to be a reference to the full excise duty rebated in terms of item 602.01 to the representative in question (excluding any duty rebated in terms of item 609.17).”;
 - (c) by substituting for paragraph 8 (3) (g) the following new subparagraph –
 - “(g) No spirits may be kept unused by the registrant for a period longer than 120 days without the special permission, in writing, of the proper officer.”; and
 - (d) by substituting for paragraph 10 (9) and (10) thereof the following new subparagraph –
 - “(9) (a) The provisions of regulation 37 (1) and (2) shall *mutatis mutandis* apply in respect of any motor vehicle specified in and entered under the provisions of item 609.17/117.00.

- (b) A rebate of duty shall only be allowed under the provisions of items 609.17/117.05, 609.17/117.10 and 609.17/117.15 if any excisable motor vehicles specified therein were manufactured in a customs and excise manufacturing warehouse under the provisions of Part IV of the Act and in terms of these Regulations.
- (c) A manufacturer of any excisable motor vehicle qualifying for a rebate of duty under the provisions of items 609.17/117.05, 609.17/117.10 and 609.17/117.15 shall establish the mass of any locally manufactured parts and materials incorporated or used in such motor vehicle to the satisfaction of the proper officer.
- (d) Any part or material shall only qualify as net local content if it is supported by a valid certificate of origin.
- (e) In respect of any excisable motor vehicle qualifying for a rebate of excise duty under the provisions of items 609.17/117.05, 609.17/117.10 and 609.17/117.15 the manufacturer shall furnish a record thereof to the proper officer detailing parts and materials which qualify as net local content in terms of Note 1 (d) to item 117.00 of Part 2 of Schedule No. 1.
- (f) A manufacturer shall notify the proper officer in advance of the replacement of any component manufactured in Botswana by an imported component.
- (g) A manufacturer of any excisable motor vehicle qualifying for a rebate of excise duty shall keep working records, which shall reflect the date of incorporation of any locally manufactured component, or of an imported component replacing a locally manufactured component, in such motor vehicle and shall keep stock records showing the dates of receipt and of issue of parts and materials manufactured in Botswana for incorporation in such motor vehicle. Likewise, the manufacturer shall maintain a record of any component deleted from a motor vehicle as well as the effective date of such deletion.
- (h) For the purpose of Note 1 (h) to tariff item 117.00 of Part 2 of Schedule No. 1 the following changes in a motor vehicle shall constitute the manufacture of a new or additional model:
 - (i) (a) body style (relating to motor cars), for example, two-door, four-door and station-wagon;
 - (b) body style (relating to other motor vehicles), for example, minibuses, panel vans, short-wheel base, long-wheel base, double cab or four-wheel drive light goods vehicles, ambulances, hearses, motorized caravans, prison vans and security vans;
 - (ii) engines, for example, compression ignition, spark ignition or rotary, cubic displacement and number of cylinders;
 - (iii) steering, power-assisted or manual;
 - (iv) transmission, automatic or manual;

- (v) braking equipment, powerassisted or manual.
- (i) For the purpose of Note 2 to item 609.17 of Schedule No. 6 the following components are regarded as —
 - (i) *variations to standard equipment:*
 - rubber pneumatic tyres and tubes;
 - paint;
 - tinted windshield;
 - steering-wheel;
 - steering-wheel cover;
 - interior body trim (for example, seats, carpets, door panels);
 - road wheel;
 - interior rear-view mirror;
 - rear axle; and
 - interior instruments and controls (for example, revolution counter, speed control);
 - (ii) *additional to standard equipment:*
 - cigar lighter;
 - heating or air conditioning equipment;
 - plastic roof covering;
 - exterior rear-view mirror;
 - fog lamp;
 - radio and other sound receiving and reproduction apparatus;
 - exterior body trim (for example, additional chrome);
 - wheel trim;
 - roof rack;
 - mud flap; and
 - sunroof."

MADE this 20th day of June, 1980.

Q.K.J. MASIRE,
*Vice-President and
Minister of Finance and Development Planning.*