

Payment of  
tax and filing  
of returns.

15. A Customs Clearing and Forwarding Agent shall –
- (a) file annual income tax returns and other periodic returns including GST and PAYE; and
  - (b) pay taxes on profits and other earnings, in accordance with the Income Tax Act, 2000 and other tax legislation administered by the Authority.

MADE this *23rd day of March, 2015.*

KAIFALA MARAH (DR.)  
*Minister of Finance and Economic Development.*

## STATUTORY INSTRUMENT

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*THE CUSTOMS ACT, 2011  
(ACT NO. 9 OF 2011)*

THE CUSTOMS, CLEARING AND FORWARDING AGENCY, Short title  
REGULATIONS, 2015

IN EXERCISE of the powers conferred upon the Commissioner-General by subsection (2) of section 85 of the Customs Act, 2011, the Minister responsible for Finance hereby makes the following Regulations–

### PART I–PRELIMINARY

1. In these Regulations unless the context otherwise requires– Interpretation

“Act” means the Customs Act, 2011 (Act No. 9 of 2011);

“Agency” means customs clearing agency;

“Authority” means the National Revenue Authority established by the National Revenue Authority Act 2002;

“Commissioner” means the person in charge of the Department of Customs Services (formally Customs and Excise Department) appointed under Section 22 of the National Revenue Authority Act, 2002;

“Commissioner-General” means the person in charge of the National Revenue Authority appointed under section 19 of the National Revenue Authority Act, 2002;

“Customs” means the Department of Customs Services – formally Customs and Excise Department of the National Revenue Authority;

“Customs Clearing and Forwarding Agency” means a registered business entity holding a valid customs clearing and forwarding agent’s licence that is authorized to transact business on behalf of an importer or exporter;

“Customs Clearing and Forwarding Agent” means a person who is the holder of a valid Customs Clearing and Forwarding Agent’s licence and is authorized to transact business on behalf of an importer or exporter;

“Customs Services Department” means the department within the National Revenue Authority responsible for revenue assessment, collection, enforcement, trade facilitation and border control.

PART II – CUSTOMS CLEARING AND FORWARDING AGENTS’ LICENCE

Import or export may be direct or by agent.

2 (1) An importer or exporter may, pursuant to section 84 of the Act, transact the business of importation, exportation, movement and carriage of goods with Customs either –

- (a) directly on his own account; or
- (b) through a designated third party acting as a Customs Clearing and Forwarding Agent.

(2) Pursuant to subsection (3) of section 12 of the Act, an importer or exporter and his designated Customs Clearing and Forwarding Agent shall be jointly and severally responsible for the performance of any obligation under the Act.

(3) The designation of a third party as a Customs Clearing and Forwarding Agent under clause (b) of sub-regulation (1) shall be in writing.

(4) Any declaration submitted to Customs by a designated Customs Clearing and Forwarding Agent shall be deemed to have been made with the full knowledge of the importer or exporter.

3. (1) No person shall be designated as a Customs Clearing and Forwarding Agent unless that person is a holder of a Customs Clearing and Forwarding Agent’s licence issued by the Commissioner-General for that purpose.

Customs Clearing and Forwarding Agent’s licence.

(2) A Licence issued by the Commissioner-General under sub-regulation (1), shall be based on the recommendation of the Licence Committee referred to in Regulation 9.

(3) Any person who wishes to operate the business of a Customs Clearing and Forwarding Agency shall apply to the Commissioner-General for a Customs Clearing and Forwarding Agent’s licence.

(4) An application for a Customs Clearing and Forwarding Agent's licence under sub-regulation (2) shall be accompanied by-

- (a) proof of payment of a non-refundable application fee as prescribed by the Commissioner-General;
- (b) Taxpayer Identification Number;
- (c) current tax clearance certificate;
- (d) valid business licence;
- (e) business registration certificate;
- (f) statement of business address; and
- (g) proof that the applicant had not been an employee of the Sierra Leone Customs and Excise Department in the immediate 12 months prior to the application.

(5) A Customs Clearing and Forwarding Agent's licence issued by the Commissioner-General under this Regulation shall not be transferable.

Terms and conditions of licence.

4. Subject to the Act and these Regulations, the Commissioner-General may, subject to such terms, conditions and restrictions as shall be specified in the licence, grant a Customs Clearing and Forwarding Agent's licence to an applicant under Regulation 3, if he is satisfied that the applicant-

- (a) is registered as a business entity under the Laws of Sierra Leone;

- (b) has a bond guarantee of twenty million Leones (Le20Million) from a reputable commercial bank or such other value as may be prescribed by the Commissioner-General at both initial registration and renewal;
- (c) has not been convicted of a criminal offence by a Court of competent jurisdiction;
- (d) has at least three employees one of whom is a qualified Customs Clearing and Forwarding Agent certified by the Commissioner-General in accordance with criteria set out by the Licence Committee;
- (e) is resident in Sierra Leone; and
- (f) has a permanent business address in Sierra Leone with facility to access the operating software system used by the Customs Services Department.

5. (1) A Customs Clearing and Forwarding Agent's licence that has not been renewed by close of business on the date of expiration shall no longer be valid. <sup>Renewal of licence.</sup>

(2) Renewal of a Customs Clearing and Forwarding Agent's licence shall be a two part process requiring-

- (a) completion of an application for renewal; and
- (b) payment of an annual licence fee.

Duration of licence.

6. A license issued under these Regulations shall be valid for a period of one year from the date of issue and may be renewed by the Commissioner-General on such terms and conditions as prescribed under Regulation 5.

Withdrawal or suspension of licence.

7. The Commissioner-General may on the advice of the Licence Committee referred to in Regulation 9, revoke or suspend any Customs Clearing and Forwarding Agent's licence granted under Regulation 4—

- (a) if the licensee is in violation of any provisions of the Customs Act, 2011;
- (b) if there is a change in the financial status of the Customs Clearing and Forwarding Agent that may render the Customs Clearing and Forwarding Agent incapable of carrying out his functions under the Customs Act, 2011;
- (c) in the event of any proven act of impropriety, fraud, dishonesty by an agent; or
- (d) in the event of any reckless and careless discharge of duty by an agent.

Surrender of licence

8. A Customs Clearing and Forwarding Agent shall surrender his licence to the Commissioner-General if—

- (a) the licence has been suspended or withdrawn under Regulation 7; or
- (b) he has ceased to transact business as a customs clearing and forwarding agent.

9. (1) There shall be a Licence Committee appointed by the Commissioner-General to advise on issuance, suspension and withdrawal of licences which shall comprise the following—

- (a) the Head of Revenue and Intelligence Unit, National Revenue Authority, who shall be Chairman;
- (b) the Commissioner, Customs Services Department;
- (c) the Director, Monitoring, Research and Planning Department, National Revenue Authority;
- (d) the Head, Legal Department, National Revenue Authority;
- (e) a representative of the Sierra Leone Importers Association;
- (f) the Chairman, Board of Directors, Clearing and Forwarding Association;
- (g) the Director of Operations, Sierra Leone Port Authority

(2) Notwithstanding the generality of sub-regulation (1), the Licence Committee appointed by the Commissioner-General under sub-regulation (1) shall—

- (a) set criteria for eligibility of applicants for Customs Clearing and Forwarding Agents' examinations;

- (b) set criteria for review of licence applications and advise the Commissioner General on approval or rejection; and
- (c) investigate and report on issues relating to the issuance, suspension and withdrawal of licences.

(3) The Chairman shall preside at every meeting of the Committee, if present, and in his absence, the members present shall elect one of their number to preside.

(4) The Chairman, or in his absence, the person presiding, and any other three members shall form a quorum.

#### PART III – RIGHTS AND OBLIGATIONS OF LICENCEE

Rights and  
Obligations.

10. A holder of a Customs Clearing and Forwarding Agent's licence issued by the Commissioner-General under Regulation 3 shall—

- (a) transact business in any Customs Station either personally or through an employee duly approved by the Commissioner-General;
- (b) obtain an authorization from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Clearing and Forwarding Agent and produce such authorization whenever required by the Commissioner-General~
- (c) advise his client to comply with the Act and in case of noncompliance, to bring the matter to the notice of the Commissioner-General;

- (d) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
- (e) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Commissioner-General, from a client who is entitled to such information;
- (f) promptly pay over to the Authority, when due, sums received for payment of any duty, tax, other debt or obligations owing to the Authority and promptly account to his client for funds received for him from the Authority or received from him in excess of the Authority or other charges payable in respect of the clearance of cargo or baggage on behalf of the client;
- (g) not attempt to, or influence the conduct of any official of the Customs Services Department in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favor or other thing of value;

- (h) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Clearing and Forwarding Agent which is sought or may be sought by the Commissioner-General;
- (i) maintain up-to-date records and correspondences and other papers relating to his business as a Customs Clearing and Forwarding Agent and accounts including financial transactions in an orderly and itemized manner as may be specified by the Commissioner-General and in accordance with Regulation 13;
- (j) immediately report the loss of licence granted to him to the Commissioner-General;
- (k) discharge his duties as a Customs Clearing and Forwarding Agent with utmost speed and efficiency and in good faith;
- (l) verify antecedent, correctness of importer exporter Taxpayer Identification Number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information; and
- (m) inform any change of postal address, telephone number, email etc. to the Commissioner-General within one month of such change.

11. (1) A Customs Clearing and Forwarding Agent, who is aggrieved by any decision relating to the Customs, Clearing and Forwarding activities, the issuance, suspension or withdrawal of a licence under these Regulations, may appeal to the Commissioner-General in writing within 30 days of such decision. <sup>Right of appeal.</sup>

(2) The Commissioner-General may constitute an Appeals Committee comprising himself as chairman and two other members appointed from the senior management of the National Revenue Authority, within 14 days of the receipt of an appeal under sub regulation (1), to review the appeal and thereafter notify the appellant, in writing of the decision of the Appeals Committee within 7 days of such decision.

(3) An aggrieved party to any decision by the Appeals Committee may seek redress in a court of competent jurisdiction.

12. (1) A Customs Clearing and Forwarding Agent shall display his licence in a conspicuous position in his place of business. <sup>Licence to display licence.</sup>

(2) A Customs Clearing and Forwarding Agent who fails to display his licence as required under sub-regulation (1) shall be liable to a fine of not more than 1 million Leones and subsequent failure may lead to the suspension or withdrawal of the licence.

13. A Customs Clearing and Forwarding Agent shall keep proper books of Accounts consistent with generally acceptable accounting principles and such records shall be maintained for a minimum of 6 years. <sup>Records keeping.</sup>

14. The books of Accounts of a Customs, Clearing and Forwarding Agency shall be audited by the Commissioner-General or an auditor appointed or authorised by the Commissioner-General for that purpose. <sup>Auditing of accounting records.</sup>