

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 44 OF 1994

The Bank of Zambia Act
(Act No. 24 of 1985)

The Bank of Zambia (Foreign Currency) Regulations, 1994

IN EXERCISE of the powers contained in section *sixty-four* of the Bank of Zambia Act, 1985, the following Regulations are hereby made:

PART I
PRELIMINARY

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| 1. These Regulations may be cited as the Bank of Zambia (Foreign Currency) Regulations, 1994. | Title |
| 2. In these Regulations— | Interpreta-
tion |
| "bureau de change" means a company licensed under these Regulations to carry on a business of buying and selling foreign currency; | |
| "commercial bank" has the meaning ascribed to it in the Banking Act; | Cap. 700 |
| "foreign currency" includes the Unit of Account of the Preferential Trade Area (UAPTA); | |
| "ZCCM" means Zambia Consolidated Copper Mines Limited. | |

PART II
OFFENCES RELATING TO FOREIGN CURRENCY

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| 3. (1) Income obtained by ZCCM or any of its subsidiaries in the form of foreign currency shall be disposed of in accordance with directions given in writing by the Bank. | Sale of
foreign
currency by
ZCCM |
| (2) If this regulation is contravened, ZCCM shall be guilty of an offence. | |
| 4. (1) Payments for the servicing of any foreign currency debt contracted by any person before 29th January, 1994 shall be made only in accordance with arrangements approved by the Bank. | Servicing of
foreign
currency
debts |
| (2) A person who makes a payment in contravention of this regulation shall be guilty of an offence. | |

Unlicensed
currency
business

5. Any person, other than a commercial bank or a bureau de change, who carries on a business of buying or selling foreign currency shall be guilty of an offence.

PART III

LICENSING OF BUREAUX

Application for
licence
Cap. 686

6. (1) A company registered under the Companies Act may apply to the Governor for a licence as a bureau de change.

(2) The application shall be made in a form prescribed by the bank and shall be accompanied by a non-refundable application fee of five hundred United States Dollars or its equivalent in kwacha at the Bank's ruling rate of exchange.

Determination
of applications

7. (1) Within thirty days after receipt of an application for a licence, the Governor shall cause an inspection to be made of the place where the applicant company proposes to carry on its business.

(2) If the Governor is satisfied that the premises comply with the requirements of these Regulations he shall, on payment to the Bank by the company of a licence fee of one thousand five hundred United States Dollars, issue the company with a licence to carry on business as a bureau de change.

(3) A licence shall not be issued to any company that—

(a) is bankrupt or in liquidation or has entered into a composition or a scheme of arrangement with its creditors by which it is still bound; or

(b) was, within a period of five years immediately preceding the date of the application, convicted of an offence under the Exchange Control Act (as in force at any time before 29th January, 1994) or the Banking Act.

Cap. 700

Scope and
duration of
licence

8. (1) A licence authorises its holder to carry on a business of buying and selling foreign currency at the place or places of business specified in the licence.

(2) The licence shall remain in force for a period of twelve months from the date of issue.

Renewal of
licence

9. The Governor may, on application made in the form prescribed by the Bank, and on payment of the fee prescribed by paragraph (2) of regulation 7, renew the licence for a further period of twelve months.

Licence not
transferable

10. (1) A licence shall not be transferred, assigned or incumbered in any manner.

(2) Any purported transaction in contravention of this regulation is void and of no effect.

11. (1) Where—

Revocation
of licence

(a) after issue of a licence, it is found that the application for the licence was false or misleading in a material particular; or

(b) there has been a serious or persistent failure by a bureau to comply with the requirements of these Regulations or the conditions of its licence;

the Governor may, by notice in writing, require the bureau to show cause, within seven working days, why its licence should not be revoked.

(2) If the bureau fails to respond to such a notice, or if the Governor is not satisfied with the cause shown, he may revoke the licence, and shall so inform the bureau in writing.

PART IV

MODE OF OPERATION OF BUREAUX

12. (1) A bureau de change may—

Authorised
transactions

(a) buy and sell foreign currency in cash or travellers cheques; and

(b) buy personal cheques, bank drafts and other inward transfers, but not sell them.

(2) The bureau shall, for every sale or purchase of foreign currency, issue an accurate official receipt in such form as the Bank may prescribe, and shall not issue such a receipt for a purpose other than to cover an actual purchase or sale of foreign currency.

(3) The bureau shall not, nor shall any of its officers or staff—

(a) deposit or accept kwacha with intent to obtain or supply the foreign currency equivalent either wholly or in part at a date more than two days later; or

(b) deposit or accept foreign currency with the intent of obtaining or supplying the kwacha equivalent either wholly or in part at a date more than two days later.

13. A bureau de change shall display, in a conspicuous place at any premises at which it carries on business, its foreign currency buying and selling rates.

Display of
exchange
rates

Duty to sell
foreign
currency

14. (1) A bureau de change shall not refuse to sell foreign currency to any customer at the indicated price if the currency required by the customer is available at the bureau or in its account with a commercial bank.

(2) Without limiting the generality of regulation 11, a failure to comply with this regulation shall constitute grounds for action by the Governor under that regulation.

Sale of
excess
foreign
currency

15. (1) The maximum open foreign currency position, consisting of currency available at the bureau and the balances in its foreign currency accounts with any commercial bank or banks, that a bureau de change may maintain at the close of business on any day shall be one hundred thousand United States Dollars.

(2) The Bank may direct a bureau to sell any foreign exchange above the open position prescribed by this regulation.

PART V MISCELLANEOUS

Submission
of returns

16. A bureau de change shall submit to the Bank returns of purchases and sales of foreign currency, and of open foreign currency position, in a form and manner determined by the Bank.

Powers of
inspection

17. (1) The Governor, or any officer of the Bank authorised by him, may at any time cause an inspection to be made of any bureau de change and its books and accounts at any place where the bureau carries on business.

(2) The bureau shall cause its books and accounts to be produced to the Bank's inspector and shall ensure that its staff furnish such information as the inspector may reasonably require for the purposes of his investigation.

(3) A person who obstructs or hinders any such inspection of a bureau de change or its books and accounts shall be guilty of an offence.

Offences by
bodies
corporate

18. If ZCCM or any other body corporate is convicted of an offence under these Regulations, every person who is a director of, or who is concerned in the management of, the body corporate shall be deemed to have committed the same offence if the person knowingly authorised or permitted the act or omission constituting the offence.

Penalty

19. A person who commits an offence under these Regulations shall be liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding ten thousand kwacha; and

- (b) in the case of an individual, to a fine not exceeding ten thousand kwacha or to imprisonment for a term not exceeding twelve months, or to both.

PART VI

PROVISIONS RELATING TO FORMER BUREAUX

20. (1) In this Part—
- Interpretation
- " former bureau " means a company that, on 28th January, 1994, was licensed as a bureau de change under the former Rules;
- " the former Rules " means the Exchange Control (Bureau de Change) Rules, 1992, as in force on 28th January, 1994.
21. A former bureau shall be deemed to hold a licence under these Regulations until the date when the licence last issued to it would, under the former Rules, have expired.
- Former bureaux deemed to be licensed under these Regulations
22. A former bureau may surrender its licence by delivering the same to the Governor together with a notice in writing stating that it does not desire to carry on trading as a bureau.
- Surrender of licence
23. (1) On surrender of its licence, the former bureau shall be entitled to a refund of an amount that bears to the amount of the bureau's last licence fee the same proportion as the unexpired portion of its licence (as at the date of surrender) bears to twelve months.
- Refund of portion of licence fee
- (2) In this regulation, " last licence fee " means the fee last paid by the former bureau for the issue or renewal, as the case may be, of its licence.

LUSAKA
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R. D. S. PENZA,
Minister of Finance