

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 16 of 2004

**The Customs and Excise Act
(Laws, Volume 18, Cap. 322)****The Customs and Excise (Spirit) (Refunds, Rebates
and Remissions) Regulations, 2004**

In exercise of the powers contained in section *ninety-eight* of the Customs and Excise Act, the following Regulations are hereby made:

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| 1. | These Regulations may be cited as the Customs and Excise (Spirit) (Refunds, Rebates and Remissions) Regulations, 2004. | Title |
| (2) | These Regulations shall come into operation on 7th February 2004. | |
| 2. | In these Regulations, unless the context otherwise requires— | Interpretation |
| | "authorised user" means a person authorised under regulation 7 to use spirits under rebate for a purpose in respect of which a rebate of duty is granted by these Regulations; | |
| | "coloured methylated spirits" means spirits to every one hundred litres of which has been added three-eighths of a litre of mineral naphtha (petroleum oil) and not less than one hundred and fifty-six milligrammes by weight of powdered methyl dye; | |
| | "Industrial methylated spirits" means unsweetened and unflavoured spirits to which have been added five parts by volume of wood naphtha to every nine-five parts by volume of spirits; | |
| | "Industrial methylated spirits (R grade)" means unsweetened and unflavoured spirits of the British Pharmacopoeia standard for ninety-five per centum ethyl alcohol to which has been added five parts by volume of pure methyl alcohol to every ninety-five parts by volume of such spirits and to which mixture has been added— | |
| | (a) one part of quassin solution to every one hundred parts of the mixture; | |
| | (b) one part of quassin powder to every one thousand parts of the mixture; or | |

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- (c) one part of benzyldiethyl (2.6 xylylcarbonyl methyl) ammonium benzoate to every one hundred thousand parts of the mixture;

"methylated spirits" includes coloured methylated spirits, industrial methylated spirits and industrial methylated spirits (R grade);

"official requisition" means an official requisition issued by an authorised user in terms of sub regulation (2) or regulation 8; and

"rebated" means under rebate of duty granted by these regulations.

(2) Any reference in these Regulations to the letters "B.P.", "B.P.C." or "N.F.", in relation to a preparation, shall be construed as a reference to the formula of that preparation as set out in the most recent edition of the British Pharmacopoeia, British Pharmaceutical Codex or National Formulary, as the case may be, in which it is published.

3. (1) Subject to the provisions of these Regulations, a refund or remission of the whole duty paid or payable shall be granted on spirits for use solely for scientific, teaching and experimental purposes or manufacture of any medical preparation, reagent, microscopic stain or indicator.

(2) Subject to the provisions of these Regulations, a remission of the whole excise duty shall be granted on spirits specified in Part II of the Second Schedule when manufactured in Zambia by a distiller—

(a) on the removal of such spirits from licensed premises to an authorised user in pursuance of the terms of—

(i) an official requisition; and

(ii) a removal warrant issued by an officer;

(b) on the clearance in terms of regulation 53 of the Customs and Excise (General) Regulations, and removal of such spirits from a warehouse under the control of a licensed distiller to an authorised user in pursuance of the terms of an official requisition;

(c) on the methylation of such spirits by a distiller on licensed premises in accordance with Regulation 5; or

(d) on the removal from one authorised user to another authorised user.

Provided that nothing contained in this subregulation shall be construed as prohibiting the removal of spirits on which the duty has not been paid—

- (i) from one distillery to another; or
- (ii) from a licensed distillery to a warehouse if the warehouse is under the control of and is licensed in the name of the same person as the distillery; for use or disposal.

4. (1) Methylated spirits shall only be manufactured in the form of— Methylation
of spirits

- (a) coloured methylated spirits;
- (b) industrial methylated spirits or
- (c) industrial methylated spirits (R grade).

(2) Spirits shall be methylated only—

- (a) in the presence of an officer;
- (b) in a room or store approved by the Commissioner-General for purposes of methylation; and
- (c) in such fixed mixing vessels as may be approved by the proper officer for purposes of methylation, being vessels which are—
 - (i) equipped with means of taking account of the spirits;
 - (ii) capable of being properly secured; and
 - (iii) clearly marked to show the type of methylated spirits contained therein.

(3) The only spirit to be used in methylation shall be unsweetened and unflavoured spirits of a strength of not less than ninety percent of alcohol by volume determined by Gay Lussac's hydrometer.

(4) No substance shall be added to or mixed with spirits in the course of methylation except—

- (a) denaturants as provided for in these Regulations; or
- (b) water in such quantities as will not reduce the strength of the methylated spirits below ninety per cent of alcohol by volume determined by Gay Lussac's hydrometer.

(5) Except with the written permission of the Commissioner-General, the quantity of spirits used for methylation at any one time shall not be less than thousand litres.

(6) Coloured methylated spirits be manufactured in accordance with either of the following formulae:

	<i>Litres</i>
(a) spirit	95.0
wood naphtha	3.5
crude pyridine	1.5
	100.0

	<i>Litres</i>
(b) spirits	95.0
crude butyl alcohol	4.0
crude pyridine	1.0
	100.0

(7) Wood naphtha, crude butyl alcohol, crude pyridine, mineral naphtha, methyl violet dye, pure methyl alcohol, quassin solution, quassin powder and benzyldiethyl (2:6 xylycarbamoyl methyl) ammonium benzoate used in the methylation of spirits shall conform to the standards set out in the Third Schedule.

(8) No denaturants shall be used in the methylation of spirits unless they have been stored in a place or vessels secured to the satisfaction of the proper officer and opened only with the approval of an officer.

Obligation of distillers to keep books

5. A distiller who methylates spirits shall keep a book in which shall be clearly recorded, daily or at any time when required to do so by an officer, in litres and proof litres, the quantities and strengths of each type of methylated spirits manufactured and disposed of by the distiller.

Grant of authority to use spirits

6. (1) Subject to provisions of these Regulations, the Commissioner-General may, in writing, authorise any person to use spirits for the purpose in respect of which a refund or remission of duty is granted by these Regulations.

(2) Every authority granted in terms of subregulation (1) shall specify—

- (a) the premises on which the spirits are to be used;
- (b) the purposes for which the spirits are to be used; and
- (c) the manner in which the spirits are to be used.

(3) The Commissioner-General shall not authorise any person to use rebated spirits for any purpose unless the Commissioner-General is satisfied that the use of industrial methylated spirits or industrial

with

... spirits (R grade) would be unsuitable for or detrimental to

(4) The Commissioner may require an authorised user, before approval, to furnish a form of bond, guarantee or similar undertaking for such amount and such duration as the Commissioner-General may require for compliance with the provisions of the Act and these Regulations;

(5) Any bond required by the Commissioner-General in terms of this subregulation (4) shall be in Form CE 121 set out in the Eighth Schedule of the Customs and Excise (General) Regulations.

S.I. No. 54 of 2000

7. (1) Subject to the provisions of this regulation, a refund or remission of duty on spirits, shall be granted to an authorised user only where the spirits are—

Manner of obtaining spirits

(a) imported directly by the authorised user in accordance with the provisions of the Act;

(b) taken out of a bonded warehouse in accordance with the provisions of Regulations 53 of the Customs and Excise (General) Regulations;

S.I. No. 54 of 2000

(c) from a distiller; or

(d) from an authorised user in such quantities as may be determined by the Commissioner-General.

(2) Any entry or application made pursuant to this regulation shall be accompanied by a duly completed declaration in Form CE 25 set out in the Eighth Schedule of the Customs and Excise (General) Regulations made by the authorised user and attesting to the use of the spirits.

S.I. No. 54 of 2000

(3) Any entry required to be lodged, by an authorised user in accordance with the provisions of these Regulations shall be made in Form CE 20 set out in the Eighth Schedule of the Customs and Excise (General) Regulations.

S.I. No. 54 of 2000

8. An authorised user shall ensure that—

Lodgement of entry

(a) any spirits obtained in accordance with these Regulations are kept in a secure place under the control of the authorised user;

(b) any spirits are withdrawn from stock only under the supervision of such user or person and in such quantities as are required for immediate use; and

(c) all provisions of these Regulations regarding the location and security or such spirits are complied with.

Special provisions with respect to authorised user of spirits

9. (1) An authorised user shall not use spirits for the purpose of—
(a) manufacturing a medicinal preparation unless such preparation is manufactured under the personal supervision of a pharmacist; or

(b) manufacturing any preparation other than a medical preparation; except in accordance with such formula as the Commissioner-General may from time to time approve.

(2) Where the Commissioner-General so directs an authorised user shall not carry out any manufacturing operation in which spirits are used unless the operation is supervised by an officer.

(3) Notwithstanding the provisions of these regulations, where an unauthorised user uses large quantities of spirits continuously, in relation to the particular nature of the operation, the Commissioner-General may make such special arrangements as the Commissioner-General deems necessary to protect revenue.

Obligation of authorised user to keep records

10. (1) Every authorised user shall keep records, in a form approved by the Commissioner-General, showing full particulars of all receipts and disposals of spirits in respect of each month and the stock on hand at the end of each month, in such manner that the spirits can readily be accounted for to the satisfaction of the Customs Division:

Provided that, where an authorised user is licenced in terms of section *ninety-three* of the Act, the Commissioner-General shall allow the authorised user to keep such books as will comply with the provisions of section *one hundred and eight* of the Act.

(2) Subject to the provisions of subregulation (1) where an authorised user fails to keep a record in the approved manner, any spirits received by the authorised user during the period when the records were not so kept shall be deemed to have been used for a purpose other than that for which the approval was granted and the duties due on such spirits shall become payable unless the authorised user satisfies the Commissioner-General that the spirits were used for the purpose for which the approval was granted.

Obligation of authorised users to render returns

11. (1) Every authorised user shall submit—

(a) a return in duplicate on or before the fourteenth day of each month, indicating—

(i) the spirits on hand at the beginning of the month;

- (ii) the quantity of spirits and received during the previous months;
- (iii) the quantity of spirits used, sold or otherwise disposed of during that month;
- (iv) the quantity on hand at the end of that month; and
- (v) the manufacturing and business activities undertaken during the month:

Provided that, if the authorised user is licenced in terms of section *ninety-three* of the Act, the Commissioner-General may allow the authorised user to render such returns as will comply with the provisions of section one hundred and eight of the Act and this subregulation without duplication of work.

12. (1) An authorised user shall—

- (a) on authorisation in terms of these Regulations, pay a fee of five thousand fee units; and
- (b) on or before the 31st January, in each year following the year in which the authorised user was authorised in terms of these Regulations, pay an annual fee of five thousand fee units.

Prescribed fees

(2) Notwithstanding the provisions of this regulation, an authorised user who is authorised to use spirits solely for scientific, teaching or experimental purposes or in a hospital shall not be liable to any fee.

(3) Any authorised user whose authority is revoked by the Commissioner-General shall not be entitled to a refund of the whole or any portion of the fee paid under this regulation.

13. Except with the consent of the Commissioner-General an authorised user shall not use or dispose of spirits other than in accordance with the terms of the Commissioner-General's authority or the provisions of these Regulations.

Disposal of rebated spirits by authorised users

14 (1) Where an authorised user ceases to use spirits in accordance with the terms of the authority granted to the authorised user under these Regulations, the authorised user shall notify the Customs Divisions accordingly.

Notification of cessation

(2) The Commissioner-General may revoke any authority granted to an authorised user under these Regulations if the authorised user—

- (a) ceases to use spirits in accordance with the terms of that authority; or

--(b) contravenes or fails to comply with any of the provisions of these Regulations and the Act.

(3) Where in accordance with these Regulations the Commissioner-General revokes the authority granted to an authorised user, such user shall, within a period of time fixed by the Commissioner-General, dispose of any spirits obtained by virtue of such authority in such manner as the Commissioner-General may direct.

Remission
of duty on
rebated
spirits
which are
lost or
destroyed

15. (1) Subject to the provisions of this regulations, a refund or remission of the whole of the duty shall be granted, where the spirits—

- (a) are lost in course of and by reason of the process of manufacture on the premises of an authorised user;
- (b) are lost, without going into consumption, in the course of manipulation on licensed premises deemed to be a warehouse in terms of section fifty-five of the Act, to the extent that the losses do not exceed the maximum allowances for deficiencies prescribed by Regulation 54 of the Customs and Excise (General) Regulations;
- (c) are lost, without going into consumption, whilst stored in a place on licensed premises set aside for the storage of such spirits; or
- (d) are lost, without going into consumption—
 - (i) in the course of manipulation; or
 - (ii) whilst stored:

Provided that such refund or remission shall be granted only if the Commissioner-General is satisfied that every reasonable effort was made and precaution taken to prevent their loss or destruction.

(2) An authorised user who wishes to claim a refund or remission of duty in terms of this regulation shall submit a written explanation of the circumstances in which the destruction or loss occurred to the Commissioner-General.

LUSAKA
5th February, 2004
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N. P. MAGANDE,
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National Planning*

S.I. of 2000