

Government Notice No. 38 of 1997.

THE CUSTOMS ACT

Regulations made by the Minister under section 163 of the Customs Act 1988

1. These regulations may be cited as the Customs (Use of Computer) Regulations 1997.

2. In these regulations —

“Act” means the Customs Act 1988;

“approved computer system” means the computer system of a TradeNet user operated by the TradeNet software, duly approved by the Director- General;

“CMS” stands for Customs Management System and any reference to CMS computer and CMS Software shall be construed accordingly;

“computer” has the same meaning as in the Customs (Computer Document) Regulations 1994;

“Customs Management System” means the system operated by the CMS software and the TradeNet interface;

“EDI” stands for Electronic Data Interchange;

“Electronic Data Interchange” means exchange of electronic structured business information;

“electronic declaration”—

(a) means a declaration made electronically to the Director- General by a TradeNet user, whether in his own name or on behalf of any person for whom he acts as agent or broker, of the particulars of a consignment of goods imported or exported or any other declaration authorised by the Director- General in connection with the import or export of goods under the Act in such manner as specified in regulation 7; and

(b) includes-

(i) a declaration of the particulars of excisable goods under

the Excise Act 1994; and

(ii) payment instructions given by a TradeNet user for the payment of duty, excise duty and taxes;

(iii) an application for a Movement Certificate EUR 1 in the manner provided for under the Customs (Movement Certificate EUR 1) Regulations 2005

Amended GN 16-2006

“principal regulations” means the Customs Regulations 1989;

“specified documents”—

- (a) means the documents specified in section 16 of the Act; and
- (b) includes any authorisation, permit or other document required under the Act or any other enactment;

“TradeNet” means the EDI network system operated by an organisation approved by the Minister for processing and clearance of trade documentation and related transactions in connection with the import or export of goods under the Act and with the making of entries in respect of excisable goods under the Excise Act and for payment of duty, excise duty and taxes;

“TradeNet interface” means the software which is a component to the CMS software to enable Customs—

- (a) to receive electronic declarations from TradeNet users;
- (b) to receive electronic authorisations, approvals and messages from Ministries, Departments and agencies in connection with the import or export of goods; and
- (c) to transmit electronic responses including Customs authorisations, approvals, requirements and messages to the TradeNet users;
- (d) to receive notifications of payment instructions for the payment of duty, excise duty and taxes;

“TradeNet software” means the software approved by the Director-General to be used in the computer of the TradeNet user for the purposes of making electronic declarations to Customs and receiving electronic responses including authorisations as appropriate :

“TradeNet user”—

- (a) means an agent, a broker, an importer or exporter; and
- (b) includes a manufacturer under the Excise Act 1994, who uses an approved computer system to effect electronic declarations to Customs through the TradeNet.

3. Any person who intends to transact business at Customs through the TradeNet shall first make an application to the Director- General in such manner and in such form as may be approved by him specifying—

- (a) his full name and address;
- (b) the location of his computer system;
- (c) the technical specifications of the TradeNet software and the full name and address of the supplier;

- (d) the full name and designation of each of the persons authorised to operate the computer together with the appropriate login identification; and
- (e) such other particulars as may be required by the Director- General.

4. Where an application under regulation 3 is made by an agent or broker, it shall be accompanied by a list of persons for whom he acts as agent or broker together with their particulars in such manner and in such form as may be approved by the Director-General.

5. Where, upon receipt of an application under regulation 3, the Director- General is satisfied that the computer system of the applicant meets the requirements of Customs, he shall approve the computer system on such conditions as he thinks fit and give notice thereof to the applicant in writing or electronically as appropriate.

6. Where there is any subsequent change in the information or particulars provided under regulation 3 or 4, the person making the application shall forthwith notify the Director- General in writing or electronically as appropriate of the change.

7. An electronic declaration made by a TradeNet user to the Director- General shall be made from an approved computer system to the CMS computer through the TradeNet.

8. (a) Where a manifest or report is required to be submitted under sections 49 and 95 of the Act and regulations 20 and 58 of the principal regulations, the Director- General may allow such manifest or report to be submitted electronically through the TradeNet.

(b) Where a manifest or report is submitted through the TradeNet under paragraph (a), it shall be submitted from a computer system operated by a software, approved by the Director-General, to the CMS computer through the TradeNet.

9. The Director- General may require a hard copy of the manifest or report referred to in regulation 8 to be submitted within such time as he may specify.

10. No person shall effect an electronic declaration unless it is made—

- (a) from an approved computer system;
- (b) by a TradeNet user or his employee, duly authorised to make the declaration after he has identified himself by entering into the computer his own login and password; and
- (c) in accordance with the information and particulars obtained from the original of the specified documents.

11. Where the TradeNet user is an agent or broker, he shall not make an electronic declaration on behalf of any person for whom he acts as agent or broker unless he has complied with Regulation 4.

12. The TradeNet user shall be solely responsible for his login and password and all consequences arising from its use or misuse.

13. Where any declaration through the TradeNet is made using the computer system of a TradeNet user, it shall be deemed to have been made by the TradeNet user.

14. Where an electronic declaration sent through the TradeNet has been rejected, the TradeNet user shall receive an electronic response from the Director- General giving reason for the rejection of the declaration.

15. Where an electronic declaration sent to the TradeNet has been accepted—

(a) the goods specified shall be deemed to have been entered for the purposes of section 36 of the Act; and

(b) the declaration shall be deemed —

(i) to be the bill of entry in respect of those goods, duly validated, for the purposes of section 9 of the Act; or

(ii) to be the entry in respect of those goods for the purposes of section 4 of the Excise Act 1994.

15A Except with the prior approval of the Director- General, no TradeNet user shall, in respect of a consignment of goods, make another electronic declaration in respect of that same consignment of goods

(31/7/2003 GN of 2003)

16. (1) For the purposes of section 16B of the Act, any TradeNet user who wishes to be a qualified TradeNet user, and obtain the facilities referred to in that section, shall make a request to the Director- General, in such medium and in such form as may be approved by the Director- General, to follow a programme which shall be known as Customs Compliance Monitoring (Delivery of Documents) Programme.

(2) Where the Director- General gives his acceptance in writing to a request under paragraph (1), the monitoring of the compliance level of the TradeNet user shall take effect as from a date to be specified by the Director- General.

(3) The monitoring under paragraph (2) shall take effect for successive periods of 3 months starting from the date specified by the Director- General under paragraph (2), and shall take into account -

- relating to -
- (a) the number of electronic declarations
 - (i) incorrect tariff classification;
 - (ii) undervaluation of goods;
 - (iii) goods not declared to Customs;
 - (iv) goods found in excess of the quantity declared;
 - (v) removal of goods from Customs control without authority or without payment of duties and taxes;
 - (vi) incorrect country of origin;
 - (vii) incorrect freight;
 - (viii) incorrect rate of exchange;
 - (ix) importation of goods without appropriate permit or authorisation;
 - (x) validation by Customs but payment not effected within 21 working days of the date of validation;
 - (xi) **shortpayment of duties and taxes following post audit checks; (Deleted GN.173.of 2007)**
 - (xii) importation of prohibited goods;
 - (b) the number of amendments made to electronic declarations previously validated for reasons other than those specified in subparagraph (a);
 - (c) **the number of cheques or payment instructions not honoured by the bank; (Deleted GN.173.of 2007)**
 - (d) the number of forms (Form No 30) relating to request for exemption or refund of duty under the Customs Regulations 1989 not returned to Customs within due date.
 - (e) the internal control system of the TradeNet user **(Added GN.173.of 2007)**
- (4) The compliance level of a TradeNet user for any period of 3 months shall be the difference between 100 percent and the percentage arrived at by taking the number of electronic declarations, and referred to in paragraph (3) to the total number of Customs declarations passed by the TradeNet user for that period.

(5) Where the compliance level is 90 percent or over, and the TradeNet user has been discharging his obligations under the Revenue Laws as defined in the Mauritius Revenue Authority Act 2004, he shall be deemed to have satisfied the prescribed conditions for the purpose of section 16B(1) of the Act.

(Updated GN.173.of 2007)

(6) The Director- General shall, on request in writing by the TradeNet user, communicate to him in writing the compliance level of the TradeNet user.

(7) For the purposes of section 16B of the Act, the qualified TradeNet user shall keep, in respect of every electronic transaction, a hard copy of the electronic declaration duly signed and dated on the day the electronic declaration is made together with the documents referred to in that section in chronological order and in batches of 20 electronic declarations, each batch being serially numbered.

(8) The documents under paragraph (7) shall be kept for a period of at least 5 years as from the date the electronic declaration is made and shall be preserved in a safe place and be properly secured.

16A Where, in respect of a consignment of goods, an electronic declaration is made, the TradeNet user shall keep at his business premises for a period of at least 5 years from such date -

- (a) a data log providing a complete historical record of data interchanged as they are sent and received; and
- (b) the TradeNet software.

17. On receipt of an electronic declaration, the Director-General may, at any time by electronic message or otherwise, require a TradeNet user to submit to him, within such time as may be specified by him the original of the specified documents together with the hard copy of the electronic declaration duly signed by the TradeNet user, other than a qualified TradeNet user.

18. The hard copy of the electronic declaration referred to in regulation 17 shall be—

- (a) in such form as may be approved by the Director- General; and
- (b) obtained from and endorsed by an organisation approved by the Minister.

19. Unless otherwise authorised by the Director- General, no TradeNet user shall, either in his own name or on behalf of any person for whom he acts as agent or broker, submit a bill of entry

under the Act or an entry under the Excise Act 1994 otherwise than by electronic declaration.

20. The Director- General may direct that every bill of entry under the Act or every entry under the Excise Act 1994 submitted by a person otherwise than through the TradeNet shall, as from a date to be notified in writing by the Director- General, be submitted by way of electronic declaration.

21. The Director- General or a proper officer may, at all reasonable times, for the purposes of these Regulations enter the business premises of a TradeNet user and —

(a) require the TradeNet user or any of his authorised employees to —

(i) retrieve any electronic declaration in respect of a consignment of goods and submit a print-out of same;

(ii) produce the specified documents relating to those goods; and

(iii) retrieve the data log relating to a specified period and submit a print-out certified by the TradeNet user as being true and correct;

(b) retain any document or record and take copies or extracts therefrom; and

(c) require any person on those premises to give him all reasonable assistance and to answer all proper questions either orally or in writing.

22. Where a TradeNet user ceases business, he shall —

(a) forthwith notify the Director- General in writing of the cessation; and

(b) make available for inspection to the Director-
General

or a proper officer the records and documents specified in regulation 16.

23. (1) Any person who contravenes any of these regulations shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

(3) the Court, before which a person is convicted of an offence under paragraph (2), may in addition to any fine imposed, order the forfeiture of any goods which are the subject matter of the offence.

Made by the Minister on 11 th April 1997.
