

Customs (Use of Computer) Regulations 1997

GN 38/1997

THE CUSTOMS ACT 1988

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" – **Deleted by [GN No. 160 of 2010]**

"cargo community system" has the same meaning as in the Customs (Cargo Community System) Regulations 2008;

Added by [GN No. 160 of 2010]

"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 Trade Net 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 Comptroller by a Trade Net 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 Comptroller in connection with the import or export of goods under the Act; and

(b) includes-

(i) a declaration of the particulars of excisable goods under the Excise Act;

- (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;
- (iv) a Certificate of Origin under the IOC Trade Protocol, in the manner provided for under the Customs (Certificate of Origin under the IOC Trade Protocol) Regulations 2009; and
- (v) a SADC Certificate of Origin, in the manner provided for under the Customs (SADC Certificate of Origin) Regulations 2000.

Amended by [GN No. 126 of 2002]; [GN No. 16 of 2006]; [GN No. 183 of 2009]; [GN No. 160 of 2010]

“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;

“Trade Net” means the EDI network system or such other electronic system operated by an organisation approved by the Minister for the secure transmission of electronic declarations 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.

Amended by [GN No. 160 of 2010]

“Trade Net interface” means the software which is a component to the CMS software to enable Customs-

- (a) to receive electronic declarations from Trade Net users;
- (b) to receive electronic authorisations, approvals and messages from Ministries, Departments and agencies in connection with the import or export of goods;
- (c) to transmit electronic responses including Customs authorisations, approvals, requirements and messages to the Trade Net users; and

(d) to receive notifications of payment instructions for the payment of duty, excise duty and taxes;

“Trade Net software” – Deleted by [GN No. 160 of 2010]

“Trade Net user” -

(a) means an agent, a broker, an importer or exporter; and

(b) includes a manufacturer under the excise Act 1994, who effects electronic declarations to Customs through the TradeNet.

Amended by [GN No. 126 of 2002]; [GN No. 160 of 2010]

3. Every TradeNet user shall make an electronic declaration through the TradeNet and shall, for this purpose, make an application for registration with the Director-General in such manner and in such form as may be approved by the Director-General specifying -

(a) his full name and the address of his principal place of business;

(b) the full name and designation of each of the persons authorised to make electronic declaration; and

(c) such other particulars and information as may be required in the application form.

Amended by [GN No. 160 of 2010]

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 Comptroller.

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

Amended by [GN No. 160 of 2010]

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 Comptroller in writing or electronically as appropriate of the change.

6A. A TradeNet user who or which has recourse to the services provided by an organization approved by the Minister under these regulations shall, in respect of an electronic declaration relating to a bill of entry, pay to the organisation a processing fee at the appropriate rate specified in the Schedule.

Added by [GN No. 16 of 2013]

7. Revoked by [GN No. 160 of 2010]

8. Where a manifest or report is required to be submitted under sections 49 and 95 of the Act and under regulations 20, 20A and 58 of the Customs Regulations 1989, the manifest or report shall be submitted electronically through the TradeNet which receives the manifest or report electronically from the cargo community system.

Amended by [GN No. 160 of 2010]

9. The Comptroller 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) **Repealed by [GN No. 160 of 2010]**

(b) by a Trade Net 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.

10A. A Trade Net user may, pursuant to regulation 8, effect an electronic declaration before the arrival of goods.

Amended by [GN. 244 of 2016]

11. Where the Trade Net 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 Trade Net 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 Trade Net is made using the login of a TradeNet user or the login of any person acting on behalf of that TradeNet user, duly registered under regulation 5, it shall be deemed to have been made by the Trade Net user.

Amended by [GN No. 160 of 2010]

14. Where an electronic declaration sent through the Trade Net has been rejected, the Trade Net user shall receive an electronic response from the Comptroller giving reason for the rejection of the declaration.

15. Where an electron declaration sent to the Trade Net 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. For the purpose of an electronic declaration –

(a) electronic payment –

(i) shall be made where the amount per bill of entry is 50,000 rupees or more; or

(ii) may be made where the amount per bill of entry is less than 50,000 rupees;

(b) payment may, in exceptional or unforeseen circumstances, be made in such other manner as the Director-General may determine.

(Amended by GN. 244 of 2016)

15B. Except with the prior approval of the Comptroller, no TradeNet user shall, in respect of a consignment of goods, make another electronic declaration in respect of that same consignment of goods.

Added by [GN No. 122 of 2003] (Amended by GN. 244 of 2016)

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 Comptroller, in such medium and in such form as may be approved by the Comptroller, to follow a programme which shall be known as Customs Compliance Monitoring (Delivery of Documents) Programme.

(2) Where the Comptroller 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 Comptroller.

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

(a) the number of electronic declarations relating to -

- (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) **Revoked by [GN No. 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 sub-paragraph (a);

(c) **Revoked by [GN No. 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 Custom within due date;

(e) the internal control system of the TradeNet user.

Amended by [GN No. 173 of 2007]

(4) The compliance level of a TradeNet user for any period of 3 months shall be the difference between 100per cent and the percentage arrived at by taking the number of electronic declarations referred to in paragraph 3 to the total number of Customs declarations passed by the TradeNet user for that period.

Amended by [GN No. 173 of 2007]

(5) Where the compliance level is 90 per cent 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.

Amended by [GN No. 173 of 2007]

(6) The Comptroller 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.

Amended by [GN No. 126 of 2002]

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 not less than 5 years after the completion of the transaction to which it relates, a data log providing a complete historical record of data interchanged as they are sent and received.

Amended by [GN No. 126 of 2002]; [GN No. 160 of 2010]

17. On receipt of an electronic declaration, the Comptroller may, at any time by electronic message or otherwise, require a Trade Net user other than a qualified 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 Trade Net user.

Amended by [GN No. 126 of 2002]

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 Comptroller; and
- (b) obtained from and endorsed by an organisation approved by the Minister.

19. Unless otherwise authorised by the Comptroller, no Trade Net 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. Revoked by [GN No. 160 of 2010]

Amended by [GN No. 126 of 2002]

21. The comptroller or a proper officer may, at all reasonable times, for the purposes of these Regulations enter the business premises of a Trade Net user and-

- (a) require the Trade Net 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 Trade Net 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 Trade Net user ceases business, he shall –

- (a) forthwith notify the Comptroller in writing of the cessation; and
- (b) make available for inspection to the Comptroller 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 200,000 rupees and to imprisonment for a term not exceeding 5 years.

(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.

Amended by [GN No. 126 of 2002]; [GN No. 173 of 2007]

Made by the Minister on 11th April 1997.

SCHEDULE

[Regulation 6A]

PROCESSING FEE

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|--------------------------------|--|
| 1. Import bill of entry | 140 rupees for each multiple of 11 items or less |
| 2. Export bill of entry | 70 rupees for each multiple of 11 items or less |
| 3. Every amended bill of entry | 50 rupees |

Added by [GN No. 16 of 2013]