

[LEGAL NOTICE NO. 66]

CUSTOMS ACT OF 1986
(ACT NO. 11 OF 1986)

Customs (Amendment) (No. 2) Regulations 2016

IN exercise of the powers conferred upon me under section 63O of the Customs Act 1986, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Customs (Amendment) (No. 2) Regulations 2016.

(2) These Regulations come into force on 1 August 2016.

(3) In these Regulations, the Customs Regulations 1986 are referred to as the “Principal Regulations”.

Regulation 47 amended

2. Regulation 47 of the Principal Regulations is amended by—

(a) in subregulation (4)—

(i) deleting “claimed and collected” and substituting “paid”; and

(ii) deleting “lodgment” and substituting “assessment”; and

(b) in subregulation (5), deleting “lodgment” and substituting “assessment”.

Regulation 73 amended

3. Regulation 73 of the Principal Regulations is amended by—

(a) in subregulation (3)—

(i) deleting “claimed and collected” and substituting “paid”; and

(ii) deleting “lodgment” and substituting “assessment”; and

(iii) deleting “10” and substituting “4”; and

(b) in subregulation (4), deleting “lodgment” and substituting “assessment”.

New regulations inserted

4. The Regulations are amended by inserting the following new regulations after regulation 79A—

“Interpretation

79B. For the purpose of regulations 79A to 79S, unless the context otherwise requires—

“approved form” means the form approved by the Comptroller;

“authorised person” means any person who is authorised by the downtown duty free shop owner and Comptroller to act on their behalf to enter customs areas and transport goods under customs control to the downtown duty free shop;

“duty free” means no duty is payable on import or excise goods;

“downtown duty free shops” means a downtown duty free licensed under the Customs Act 1986; and

“relevant traveller” means a person who intends to make an international flight or voyage whether, as a passenger on, or as the pilot or a member of the crew of, an aircraft or ship.

Downtown duty free shop licence

79C.—(1) A person who applies for a downtown duty free licence shall fill in the approved form.

(2) The approved form shall be accompanied with a fee specified in regulation 79A.

(3) The security to be given by a downtown duty free shop owner shall be by way of bond or other form of security.

(4) If an annual licence fee has not been paid by within 7 days from the date of approval by the Comptroller, the Comptroller may refuse to allow any customs transaction or business relating to the selling of duty free goods to be carried out by the downtown duty free shop owner until such fee is paid.

Condition to downtown duty free shop licence

79D.—(1) All duty free goods that are meant to be sold by a licensed downtown duty free shop shall be intended for sale to a relevant traveller for exportation from Fiji.

(2) No duty free goods may be sold to a relevant traveller without the production of—

- (a) a current passport in the name of the relevant traveller;
- (b) an airline or shipping ticket which indicates that the relevant traveller will be departing Fiji; and
- (c) other prescribed conditions relating to sales to the relevant traveller which must be adhered to and despite anything to the contrary contained in these Regulations, the Comptroller may impose further conditions to meet the urgent cases to which the provision of these Regulations may not be strictly applicable.

(3) A downtown duty free shop shall—

- (a) have a bonded or export warehouse;
- (b) for each sale of duty free goods a receipt shall be issued and shall have such particulars as the Comptroller may direct;
- (c) the receipt shall be attached to the special packing containing the duty free goods;
- (d) only release the purchased duty free good by the relevant traveller from the bonded or export warehouse; and
- (e) ensure that the purchased duty free good is delivered directly to the allocated customs counter at any designated International airport or wharf intended for export.

Marks on duty free goods

79E. The Comptroller may direct that duty free goods be suitably marked.

Packaging of duty free goods

79F.—(1) A duty free good shall be wrapped in a special packing to ensure the packaging cannot be opened without damage to the seal.

(2) The package under subregulation (1) must bear in clear print instructions to the relevant traveller that the package is not to be opened before the aircraft or vessel departs Fiji.

Control of stocks and records to be kept by the downtown duty free shop owners

79G. The downtown duty free shop owner shall maintain current records of duty free goods in stock and shall make available such records to the Comptroller upon request or inspection, where applicable.

Security to cover duty on stocks

79H.—(1) The downtown duty free shop owner shall deposit with the Comptroller a sum equivalent to the amount of duty payable on the quantity of goods stored in the duty free shop or shall give an alternative security as the Comptroller may require.

(2) The amount of any security consisting in a monetary deposit or bank guarantee shall be reconstituted to the original amount wherever any part of it is deducted for the recovery of any amount of duty claimed under regulation 79I.

Liability for payment of duty on shortage

79I. Where the Comptroller, on examination of the goods in a downtown duty free shop, finds that such goods are less than the quantity recorded under regulation 79G, the Comptroller shall inform the downtown duty free shop owner, and the latter shall forthwith pay the amount of duty payable on the shortages.

Delivery of goods from bonded, customs, export warehouse

79J. An authorised person who transports or causes to be transported within Fiji duty free goods in customs areas but have not been released, is liable for all duty payable on the goods unless the authorised person proves, within the time that may be prescribed, that the goods were received in a downtown duty free shop.

Price of goods sold in downtown duty free shop

79K. The downtown duty free shop owner shall ensure that the prices of goods offered for sale at the downtown duty free shop reflect the extent to which the goods have not been subject to duties.

Evidence of export

79L. Where a downtown duty free shop owner does not produce the proof of evidence that the goods delivered by him or her to the relevant traveller have been exported by that relevant traveller, the goods shall be deemed to have been entered, and delivered, for home consumption by the downtown duty free shop owner, as the owner of the goods, on the day on which the goods were delivered to the relevant traveller.

Liability of the downtown duty free shop owner

79M. The downtown duty free shop owner is liable for all duties or taxes levied under the Customs Tariff Act 1986, the Excise Act 1986c or any other law relating to customs on goods that have been received in the downtown duty free shop, unless the downtown duty free shop owner proves that the goods—

- (a) are still in the downtown duty free shop;
- (b) have been destroyed while in the downtown duty free shop; or
- (c) have been removed from the downtown duty free shop.

Rates

79N. The rates of duties or taxes payable on goods that have been received in a downtown duty free shop, shall be the rates applicable to such goods at the time they were removed therein.

Release

79O.—(1) No goods shall be released from a downtown duty free shop by any person, other than the authorised person.

(2) The authorised person shall ensure that goods released under subregulation (1), are delivered directly to the area within the airport or seaport approved by the Comptroller.

Unclaimed goods

79P.—(1) Goods that have not been removed from a downtown duty free shop within 30 consecutive days may be deposited by the authorised person in a customs warehouse.

(2) Any unclaimed goods may be disposed of in any manner determined by the Comptroller.

Risk and storage charges

79Q. Goods that are deposited in a customs warehouse shall be kept there at the risk of the downtown duty free shop owner, and the licensee is liable for any storage charges or expenses incurred in moving the goods from the downtown duty free shop to the customs warehouse and any expenses as determined by the Comptroller.

Unlawful removal of goods from downtown duty free shops

79R. Any person who unlawfully removes goods from a downtown duty free shop commits an offence and is liable upon conviction to a fine not exceeding \$200,000 or imprisonment for a term not exceeding 10 years, or both.

Opening and unpacking goods; breaking seals

79S. Any person who, without lawful authority or excuse, the proof of which lies on him or her, breaks or tampers with, or causes to be broken or tampered with, any seals, locks or fastenings that have been placed on goods sold by downtown duty free shops pursuant to the Act or regulations, commits an offence and is liable upon conviction to a fine not exceeding \$200,000 or imprisonment for a term not exceeding 10 years, or both.”

Regulation 82 amended

5. Regulation 82 of the Principal Regulations is amended by—
- (a) in subregulation (2) and (4), deleting “lodgment” and substituting “assessment”; and
 - (b) in subregulation (3)—
 - (i) deleting “claimed and collected” and substituting “paid”; and
 - (ii) deleting “lodgment” and substituting “assessment”.

Regulation 91 amended

6. Regulation 91 of the Principal Regulations is amended by—
- (a) in subregulation (3)—
 - (i) deleting “claimed and collected” and substituting “paid”; and
 - (ii) deleting “lodgment” and substituting “assessment”; and
 - (b) in subregulation (4), deleting “lodgment” and substituting “assessment”.

Made this 29th day of July 2016.

A. SAYED-KHAIYUM
Attorney-General and Minister for Finance
Public Enterprises, Civil Service and Communications
