

Freeport Regulations 2005

GN No. 33 of 2005

THE FREEPORT ACT 2004

Regulations made by the Minister under section 24 of the Freeport Act 2004

1. These regulations may be cited as the **Freeport Regulations 2005**.

2. In these regulations -

"Act" means the Freeport Act 2004;

"Board of Investment" means the Board of Investment established under the Investment Promotion Act;

"Commissioner for Value Added Tax" means the Commissioner for Value Added Tax under the Value Added Tax Act;

"Comptroller" has the same meaning as in the Customs Act;

"duty" has the same meaning as in the Customs Act;

"excise duty" has the same meaning as in the Excise Act;

"hazardous goods" means goods which are by their nature dangerous or which may cause a hazard or affect other goods;

"Managing Director" means the Managing Director of the Board of Investment;

"perimeter fence" means the perimeter fence required to be erected under regulation 3;

"prohibited area", in relation to a freeport zone, means the area between any building or structure and the perimeter fence;

"value added tax" has the same meaning as in the Value Added Tax Act.

3. (1) For the purposes of section 5 of the Act, a freeport developer shall, at his own expense, cause to be erected and maintained a perimeter fence along the boundary of his freeport zone in compliance with specifications laid down by the Comptroller.

- (2) Any building or structure to be erected by a freeport developer within the freeport zone allocated to it shall, subject to paragraphs (3) to (6), be erected with the approval of the Board of Investment after consultation with the Comptroller.
- (3) (a) The Comptroller may, for control and security purposes, cause buildings or other structures to be erected in a freeport zone and shall have access to the devices and control systems installed therein.
- (b) The buildings or other structures referred to in paragraph (a) shall be erected by the freeport developer at its own expense.
- (4) No approval under paragraph (2) or (3) shall be given unless the plans for the building or structure are submitted to the Board of Investment or the Comptroller, as the case may be, for approval.
- (5) The Board of Investment may, before giving its approval under paragraph (3) impose such conditions as it thinks fit and in particular -
- (a) for compliance with conditions attached to the freeport licence;
- (b) that the building or structure shall not be erected at less than 10 metres of the perimeter fence;
- (c) for the pulling down of the building or structure, on the expiry or revocation of the freeport licence, by the freeport developer or by competent authorities at the expense of the freeport developer; or
- (d) that the abandonment of the building structure after the expiry or revocation of the licence shall not give rise to a claim by the freeport developer.
- (6) Except with the approval of the Comptroller and the Managing Director, no building or structure shall be erected on, and no freeport activity or other activity shall be carried out in, a prohibited area.
- (7) Every freeport developer shall, in relation to a freeport zone allocated to it
- (a) affix at the entry gate of the freeport zone, a notice, in a manner and form determined by the Comptroller, bearing the following words -

WARNING
FREEPORT ZONE #
NO ACCESS WITHOUT AUTHORISATION

- (b) furnish to the Comptroller or any officer duly authorised by him in writing, the Managing Director or any employee of the Board of Investment duly authorised by him in writing, or an independent qualified auditor or his staff for the purpose of section 21 of the Act, appropriate equipment such as

weighing, gauging, and measuring equipment, protective equipment and protective clothing for cold storage for the purposes of conducting or causing to be conducted checks or audits;

- (c) provide proper office facilities to the satisfaction of the Comptroller equipped with all necessary amenities for the exclusive use of Customs including information and communication equipment;
 - (d) provide access to information systems and databases used to manage its operational activities to enable the Comptroller and the Managing Director to exercise their functions under the Act;
 - (e) be responsible for the payment of overtime fees to the Comptroller for the attendance of Customs officers in a freeport zone to perform any duty outside the normal working days and hours;
 - (f) keep and maintain an occurrence book, in a manner and form determined by the Comptroller, to record the movement of all persons other than those attending international exhibitions and trade fairs and vehicles entering or leaving the freeport zone;
 - (g) immediately inform the Comptroller in the event of any goods found missing in the freeport zone, or pilferage or theft;
 - (h) submit not later than one month after its accounting period, the annual return referred to in section 14(5)(a) of the Act in a manner and form determined by the Comptroller;
 - (i) on the basis of the annual return referred to in section 14(5)(a) of the Act or at the request of the Comptroller, review and amend its systems relating to internal control and security, inventory control or any other control put in place by it;
 - (j) allow online access to its computerised inventory control system to the Comptroller and the Managing Director; and
 - (k) at the written request of the Comptroller or the Managing Director, carry out at his own expense an audit of any of his software applications by an independent and recognised auditing firm.
- (8) (a) No person shall enter a freeport zone without proper authorisation.
- (b) Where persons attend international exhibitions and trade fairs in the freeport zone, special arrangements shall be made in conformity with the conditions of the licence as far as access to the freeport zone is concerned.
- (c) The hours of business in a freeport zone shall be determined by the freeport developer in consultation with the Comptroller.

4. (1) Any person who wishes to obtain a certificate as private freeport developer or third party freeport developer shall make an application to the Managing Director in a manner and form determined by the Managing Director.
- (2) Any person who wishes to obtain a certificate as freeport operator shall make an application to the Managing Director through a third party freeport developer in a manner and form determined by the Managing Director.
5. (1) Any-
 - (a) third party freeport developer who wishes to obtain an authorisation under section 7(3)(a)(i) or (iv) of the Act; or
 - (b) private freeport developer who wishes to obtain an authorisation under section 7(3)(a)(iii) or 8(2) of the Act,shall make an application to the Managing Director in a manner and form determined by the Managing Director.
- (2) Any freeport operator who wishes to obtain an authorisation under section 7(3)(a)(iii) or 8(2) of the Act shall make an application to the Managing Director through a third party freeport developer, in a manner and form determined by the Managing Director.
- (3) On receipt of an application under regulation 4(2) or 5(2), the third party freeport developer shall ensure that the applicant has submitted all the required information and particulars and shall forthwith transmit the application to the Managing Director.
- (4) Any private freeport developer or freeport operator who has obtained an authorisation under section 8(2) of the Act shall -
 - (a) not later than 20 days after the end of every month, submit to the Managing Director, a return, in a manner and form determined by the Managing Director, showing the value of the paper trading transactions during that month; and
 - (b) not later than 6 months after the end of his accounting period, submit to the Managing Director, a statement duly certified by a qualified auditor showing the value of the paper trading transactions and the customs value of the goods exported during that accounting period.
6. Every non-citizen engaged in any freeport activity shall, on making an application under regulation 4, comply with
 - (a) the Immigration Act;
 - (b) the Non-Citizens (Property Restriction) Act;

- (c) the Non-Citizens (Work Permits) (Deposits) Regulations 1994;
 - (d) the Non-Citizens (Work Permits) (Fees) Regulations 1982.
- 7.
- (a) Any application for a work permit, residence permit or for the acquisition of property under the Non-Citizens (Property Restriction) Act by a non-citizen engaged in a freeport activity shall be made to the competent authorities through the Managing Director.
 - (b) On receipt of an application under paragraph (a), the Board of Investment shall act as a one-stop service to ensure that the application is processed expeditiously.
- 8.
- (1) No hazardous goods shall be entered in a freeport zone unless the Comptroller is satisfied that the safety measures for the handling, transportation and storage of such goods have been complied with in accordance with existing laws and regulations governing such goods.
 - (2) No goods in respect of a freeport activity shall enter or leave a freeport zone unless the owner or his agent holds a valid licence under the Act.
 - (3) No goods shall enter a freeport zone for storage by any person unless the person holds a valid authorisation under section 7(3)(a) of the Act.
 - (4) Where goods are transferred from an export enterprise to a freeport zone for storage pursuant to section 7(3)(a)(i)(A) of the Act, the goods shall be entered in a manner and form determined by the Comptroller.
 - (5) Where an enterprise other than an export enterprise has been authorised by the Board of Investment to store locally manufactured goods and duty paid goods in a freeport zone pursuant to section 7(3)(a)(i)(B) of the Act, the goods shall be entered in a manner and form determined by the Comptroller.
 - (6) Goods entered in a freeport zone pursuant to paragraph (2), (3), (4) or (5), may, at the request and written confirmation of the freeport developer, be disposed of by the Comptroller, as abandoned goods under the Customs Act.
 - (7) Where goods or services are supplied in accordance with section 16(2) of the Act, the licensee shall comply with such procedures as may be laid down by the Commissioner for Value Added Tax.
- 9.
- (1) Where a licensee ceases his freeport activities or where a freeport licence has not been renewed or has been revoked, the licensee shall, within 3 months of the cessation or expiry or revocation of the licence, dispose of his goods or remove his goods from the freeport zone upon payment of any duty, excise duty and value added tax.

(2) Where a licensee fails to comply with paragraph (1), the goods shall be deemed to be abandoned goods and may be disposed of by the Comptroller in the same manner as is provided for under section 61 of the Customs Act.

10. The Freeport Regulations 2001 are revoked.

11. These regulations shall be deemed to have come into operation on 1 January 2005.

Made by the Minister on 18th February 2005