
The Tobacco Act
(Cap. 237)

The Tobacco (Importation of Auctionable Tobacco for Sale) Regulations,
2020

IN EXERCISE of the powers contained in section 64 of the Tobacco Act, the following Regulations are hereby made:

Title 1. These Regulations may be cited as The Tobacco (Importation of Auctionable Tobacco for Sale) Regulations, 2020.

Interpretation 2. (1) In these Regulations, unless the context otherwise requires –
“applicant” means a holder of an auction floor licence who submits a complete application for a permit in accordance with the Act and these Regulations;
“complete application” means an application for a permit consisting of the applicable form, set out in the Schedule, with all questions in the form duly answered, and accompanied by the prescribed fee;
“permit” means a permit for the sale of auctionable tobacco, not grown in the Republic, on the licensed auction floor of a holder of an auction floor licence;
“permit requirements” means the requirements, conditions, criteria and standards that an applicant shall meet or file, before a grant of a permit; and

“processing fee” means an administrative charge, not exceeding four fee units, for processing a complete application by the Board.

(2) A word or term defined in the Act and used in these Regulations, but not defined in these Regulations, shall have the same meaning assigned to the word or term in the Act, unless the context otherwise requires.

Importation of
auctionable
tobacco for
sale in
Republic

3. (1) The classes of auctionable tobacco as specified in the Tobacco (Prescribed Classes) Regulations No. 140 of 1968 shall apply to auctionable tobacco not grown in the Republic but imported by any person for purposes of sale on licensed auction floors in Zambia.

(2) The following conditions apply to the importation of auctionable tobacco, as specified in sub-regulation (1):

(a) the person importing the auctionable tobacco shall have an agreement for the sale of the auctionable tobacco with –

(i) a holder of an auction floor licence for the sale of the auctionable tobacco on the licensed auction floor; and

(ii) a licensed buyer who is to purchase the imported auctionable tobacco;

(b) the person importing the auctionable tobacco must –

(i) obtain a phytosanitary certificate in accordance with the Plant Pests and Diseases (Importation) Regulations; and

(ii) ensure that the auctionable tobacco is not treated or reaped from tobacco plants

treated with any noxious substance listed under the Tobacco (General) Regulations.

Application for permit and consequences

4. (1) An applicant intending to sell auctionable tobacco, not grown in the Republic, on a licensed auction floor, shall file a complete application for a permit in Form 1 set out in the Schedule.

(2) A complete application for a permit, referred to in sub-regulation (1), shall be made in duplicate to the Board Secretary and accompanied by the processing fee.

(3) A complete application may be filed by hand, through postal communication or licensed courier company.

(4) The date of filing of a complete application shall be the date the Board Secretary receives the complete application, except that -

(a) all permit requirements have been complied with; and

(b) the processing fee has been paid.

Permit requirements

5. (1) The constituent documents of a complete application shall be signed by the person authorised to sign such documents.

(2) Where any space in a form is insufficient, a statement may be attached, and marked as an addendum, cross-referencing each statement to the item in the complete application to which it pertains, provided it is manually initialed by the applicant.

(3) A document pertaining to be an answer to any question in a form shall be attached to the form and shall be properly marked.

(4) The applicant shall comply with any request or notification by the Board made in accordance with regulation 6, and such other conditions specified in the Act relating to selling auctionable tobacco not grown in the Republic.

(5) The Board shall not process an application where the applicant fails or neglects to comply with any permit requirement.

Consideration
for
application of
permit

6. (1) The Board Secretary shall, within seven days from the date of receipt of an application, submit it to the Board for consideration and determination.

(2) The Board shall consider and determine a complete application within thirty days of it being submitted to the Board.

(3) The Board shall, where an application is incomplete, notify the applicant and give the applicant a period within which to re-submit a complete application.

(4) Where an applicant, to whom a notice is sent, in accordance with sub-regulation (3), fails or neglects to submit a complete application within the period specified by the Board, the Board shall reject the application.

(5) In addition to the information expressly required in a complete application, there shall be submitted to the Board, such additional information, as may be considered necessary or appropriate for a decision to be made.

(6) The Board shall, where additional information is required, notify the applicant and give the applicant a period within which to re-submit the additional information.

(7) Where an applicant to whom a notice is sent, in accordance with sub-regulation (6), fails or neglects to

submit the additional information as requested by the Board within the period specified, the Board shall reject the application.

(8) An applicant, whose application is rejected under sub-regulations (7), may re-submit another complete application.

Granting of permit

7. (1) If the Board is satisfied that an applicant meets the permit requirements, the Board shall grant the applicant the permit in Form 2 set out in the Schedule.

(2) The Board Secretary shall ensure that the following details are specified in a permit –

(a) the date of issue and expiry of the permit;
and

(b) the terms and conditions of the permit.

(3) The Board Secretary shall, where the Board grants a permit, in accordance with sub-regulation (1), specify in the minutes of the meeting the following:

(a) the name and address of the holder of the auction floor licence;

(b) the name and address of the licensed buyer;

(c) the period for which the permit is valid;

(d) any condition imposed on the permit; and

(e) that the Board shall not be liable for any damage, loss or inconvenience of any nature suffered as a result of the activities conducted under the permit.

Refusal to grant permit

8. (1) The Board shall refuse to grant a permit if -

(a) the sale of auctionable tobacco not grown in the Republic contravenes or is likely to

contravene any other written law or the conditions relating to auctionable tobacco; or

- (b) the applicant submits materially fraudulent information in relation to the application, which the Board has knowledge of.

(2) The Board Secretary shall, where the Board refuses to grant a permit, as specified in sub-regulation (1), inform the applicant in writing, within seven days from the date of its decision, giving reasons.

Duration of permit

9. A permit granted in accordance with regulation 6 shall be valid for a period not exceeding seven months.

Variation of permit

10. (1) Subject to sub-regulation (3), where a variation is required to be made to a permit, the permit holder of an auction floor licence shall apply to the Board, in Form 3 set out in the Schedule, setting out the reasons for the variation and outlining the variation required, accompanied by a processing fee.

(2) Where an application to vary a permit is made, in accordance with sub-regulation (1), the Board shall consider the reasons given for the variation and communicate the decision to the holder of an auction floor licence.

(3) The Board shall, in considering an application for a variation of a permit, take into account the extent to which the holder of an auction floor licence complied with the Act, these Regulations, and the terms and conditions of the permit.

(4) The Board shall vary the permit, where it is satisfied with the reasons given by the holder of an auction floor licence for the variation.

(5) Where the Board refuses to vary the permit, the Board Secretary shall, within thirty days of the decision, give reasons for the refusal and notify the holder of an auction floor licence of the Board's refusal to vary the permit.

Cancellation
of permit

11. (1) Subject to the Act and these Regulations, the Board may cancel a permit, if the permit holder of an auction floor licence-

- (a) obtained the permit by submission of materially fraudulent information;
- (b) transfers or otherwise assigns the permit;
- (c) contravenes the Act and these Regulations or any other written law;
- (d) contravenes any term or condition of the permit;
- (e) is convicted of fraud or repeated contravention of the Act and Regulations; or
- (f) fails to co-operate in any inspection conducted by the Board.

(2) The Board shall, before cancelling a permit, in accordance sub-regulation (1), give the permit holder thirty days written notice of the intention to cancel the permit, and require the holder of an auction floor licence to -

- (a) put in place measures, within a period of not more than thirty days, that will ensure compliance with the Act and Regulations, and the terms and conditions of the permit; or

(b) give reasons why the permit should not be cancelled.

(3) The Board shall not cancel a permit, if remedial measures are taken, to the satisfaction of the Board, that ensure compliance with the Act and these Regulations or any other law, and the terms and conditions of the permit within the period of thirty days referred to in sub-regulation (2).

(4) The Board may, after giving the holder of an auction floor licence an opportunity to be heard, in person or in writing, cancel the permit, if the holder of an auction floor licence -

(a) fails to give reasons, to the satisfaction of the Board, why the permit should not be cancelled; or

(b) does not take remedial measures, to the satisfaction of the Board, within the time specified in sub-regulation (2).

(5) The Board shall notify a holder of an auction floor licence of the cancellation of a permit, as specified in sub-regulation 4.

(6) From the date of cancellation of a permit, the holder of an auction floor licence shall, with immediate effect, cease to sell auctionable tobacco not grown in the Republic.

Register

12. (1) A register of all holders of auction floor licences who hold permits shall be maintained by the Board which shall contain key information provided in a complete application filed by a holder of an auction floor licence, as determined by the Board.

(2) The register, in sub-regulation (1), shall be in such form as constituting a permit information system which –

- (a) tracks and monitors applications for permits;
- (b) tracks and monitors variations for permits; and
- (c) maintains an auditable trail of the outcomes of applications and reasons for decisions to grant, refuse or vary a permit.

(3) Without prejudice to sub-regulation (1), the register shall indicate the –

- (a) names and addresses of the holders of auction floor licences holding permits;
- (b) unique permit reference numbers and details of the unique reference number;
- (c) contact details of the holder;
- (d) date of grant of the permit; and
- (e) any other relevant detail.

(4) The Board shall maintain an electronic register of holders of auction floor licences holding permits, with adequate back-up facilities.

(5) The back-up facilities, specified in sub-regulation (4), shall be located in a safe place.

(6) The Board Secretary shall ensure proper and accurate entries into the electronic register of holders of auction floor licences holding permits, which shall correspond with the entries in the manual register, if any.

(7) All entries in the register shall be maintained in a sequential order.

(8) A manual register shall be in hardbound cover books and the pages shall be serially numbered.

Inspection of documents

13. (1) The Board shall make the information specified in the registers, maintained in accordance with these Regulations, available to appropriate authorities.

(2) Every document filed with the Board shall be open to inspection by any person.

(3) A person who intends to inspect any document, as specified in sub-regulation (2), shall, prior to the inspection, give notice to the Board.

(4) A person may obtain copies or certified true copies of any document filed with the Board, on payment of a prescribed fee.

General penalty

Cap 2

14. A person who contravenes a provision of these Regulations shall be liable, upon conviction, in accordance with section 20 (5), of the Interpretation and General Provisions Act.

SCHEDULE

PRESCRIBED FORMS

(Regulations 4(1), 7(1) and 11(1))

Form 1

(Regulation 4 (1))

(To be completed in duplicate)



The Tobacco Act

(Cap. 237)

The Tobacco (Importation of Auctionable Tobacco for Sale) Regulations, 2020

APPLICATION FOR A PERMIT TO IMPORT GREEN LEAF TOBACCO			
Please complete in block letters	<i>Shaded fields for official use only</i>	Application No.	
		Date and Time	
<i>Information Provided</i>	<i>Information Required</i>		✓
A. PARTICULARS APPLICANT			
1	Name		
2	Type of entity		
3	Business Premises		
	a) Physical address		
	b) Plot No:		
	c) Street:		
	d) Postal address		
	e) Telephone No:		
	f) Email address		
	g) Town		

B. INFORMATION TO BE ATTACHED

1. Copy of Certificate of Registration		2. Names of Directors, shares held, Nationality and NRC/Passport No.	
3. Names of Shareholders shares held, Nationality and NRC/Passport No.		4. The Name of the Chief Executive officer and nationality.	
5. Name of Company Secretary and Nationality.		6. The country of origin of the green leaf tobacco intended for importation into the country.	
7. Brief description of the green leaf tobacco intended for importation into the country.		8. The auction floor intended to be used to sale the green leaf tobacco once imported into the country.	
9. Location of storage facilities where the green leaf tobacco will be kept once in the country before it is taken to an auction floor.		10. A summary of measures to be put in place to minimise environmental risks and to control pest while the green leaf tobacco is in storage facilities.	

Declaration: I declare that all the information I have stated in this application is correct and truthful to the best of my knowledge and belief. I understand that submission of false information shall render the application void and that if granted, the permit shall be cancelled.

.....
Name

.....
Designation

FOR OFFICIAL USE ONLY

Date of submission:.....

Application Number:.....

Payment Receipt Number:.....

COAT OF
ARMS/BOARD
LOGO

The Tobacco Act

(Cap. 237)

The Tobacco (Importation of Auctionable Tobacco for Sale) Regulations, 2020

PERMIT No.

PERMIT TO SALE AUCTIONABLE TOBACCO NOT GROWN IN THE REPUBLIC ON A
LICENSED AUCTION FLOOR

(Section 64 of the Tobacco Act, Cap 237 of the Laws of Zambia)

Registration No.:.....

Holder's name.....of (Physical
Address)

This Permit is granted for a period of.....commencing on
the.....day of20.....

The terms and conditions of grant of the Permit are as shown in the Annexures
attached hereto.

Issued at.....this.....day
of.....20.....

ENDORSEMENT OF REGISTRATION

This Permit has thisday of20.....

.....
Board Secretary

OFFICIAL
STAMP

COAT OF ARMS/BOARD LOGO

The Tobacco Act

(Cap. 237)

The Tobacco (Importation of Auctionable Tobacco for Sale) Regulations, 2020

APPLICATION FOR VARIATION OF PERMIT			
Please complete in block letters	<i>Shaded fields for official use only</i>	Application No.	
		Date and Time	
<i>Information Provided</i>	<i>Information Required</i>		✓
PARTICULARS OF APPLICANT			
1	Name		
2	Type of entity		
3	Business Premises		
	h) Physical address		
	i) Plot No:		
	j) Street:		
	k) Postal address		
	l) Telephone No:		
	m) Email address		
	n) Town		

4.	PROPOSED AMENDMENTS	REASONS FOR AMENDMENT

Declaration: I declare that all the information I have stated in this application is correct and truthful to the best of my knowledge and belief. I understand that submission of false information shall render the application void and that if approved, it shall be revoked and the Permit cancelled.

.....
Name

.....
Designation

FOR OFFICIAL USE ONLY

Date of submission:.....
 Application Number:.....
 Payment Receipt Number:.....

DRAFT

,
Minister of Agriculture

LUSAKA

, 2020

(MOA/)

DRAFTS!