

Exchange Control (Payment for Electricity and Related Services in Foreign Currency by Exporters and Partial Exporters) Order, 2019

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IT is hereby notified that the Reserve Bank of Zimbabwe has, in terms of section 40 as read with section 4(2) of the Exchange Control Regulations, 1996, and with the approval of the Minister of Finance and Economic Development, made the following order:—

*Title*

1. This order may be cited as the Exchange Control (Payments for Electricity and Related Services in Foreign Currency by Exporters and Partial Exporters) Order, 2019.

*Interpretation*

2. (1) In this order—

“customs territory” and “licensed investor” bear the meanings assigned to those terms by section 2 of the Export Processing Zones Act [Chapter 14:07];

“Exchange Control Order” means the Exchange Control Order, 1996, published in Statutory Instrument 110 of 1996;

“export proceeds” means money received or receivable from the export of goods and services—

- (a) outside the customs territory by a licensed investor;
- (b) to countries outside Zimbabwe by a business organisation referred to in paragraph (b) of the definition of “exporter”;

and includes a right to receive money;

“exporter” means—

- (a) a licensed investor; or
- (b) a business organisation which exports on average eighty *per centum* or more per quarter of its total output of goods or services produced or provided by it in Zimbabwe, for which it lawfully receives any foreign currency;

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“partial exporter” means a business organisation which exports on average less than eighty *per centum* per quarter of its total output of goods or services produced or provided by it in Zimbabwe, for which it lawfully received any foreign currency;

“quarter” means a period of three months ending on the 31st March, 30th June, 30th September and 31st December in each year;

“ZERA approved tariff” means an electricity tariff based on the latest approval by ZERA from time to time;

“ZESA” means the companies incorporated pursuant to section 68 of the Electricity Act [*Chapter 13:19*] engaged in the business of generation, transmission and distribution of electricity and related services;

“Zimbabwe Energy Regulatory Authority” or “ZERA” means the body corporate established in terms of the Energy Regulatory Authority Act [*Chapter 13:23*] of 2011.

(2) Any word or expression to which has a meaning assigned in the Exchange Control Regulations shall have the same meaning when used in this order.

*Payment of electricity bills in foreign currency by exporters and partial exporters*

3. (1) Notwithstanding subsection (1) of section 4 of the principal regulations, but subject to subsection (2) of section 4 of those regulations and further notwithstanding section 2 of Statutory Instrument 142 of 2019 Reserve Bank of Zimbabwe (Legal Tender) Regulations, 2019, ZESA shall be allowed to bill in United States dollars or the equivalent in Euro or any other currency for the supply of electricity by ZESA to the exporters, and partial exporters earning their revenue or receiving their income in foreign currency.

(2) Notwithstanding subsection (1) of section 4 of the principal regulations, but subject to subsection (2) of section 4 of those regulations, an exporter billed in United States dollars in terms of subsection (1) shall pay the bill for the supply of electricity by ZESA in United States dollars or the equivalent in Euros or in any other currency denominated under the Exchange Control Order at the international cross rate prevailing on the date of payment.

(3) Subsections (1) and (2) shall apply to every partial exporters and other customers, except that ZESA shall not bill exporter to the extent of more than thirty-five *per centum* of the electricity supplied by ZESA to the partial exporter with the balance settled at the prevailing local currency equivalent at the date of payment.

(4) Notwithstanding the foregoing any partial exporter or other customers may enter into a contract or memorandum of agreement with ZESA to pay for the electricity consumed in whole in United States dollars, Euros or any other currency as provided in section (2).

(5) A copy of the contract or memorandum of agreement referred to in subsection (4) above shall be submitted to ZERA and the Reserve Bank prior to implementation.

*Manner of payment by exporters of electricity bills in foreign currency*

4. Subject to subsection (2) of section 3, an exporter or partial exporter or customer billed in terms of section 3 shall pay for the supply of electricity supplied by ZESA—

- (a) from its export proceeds deposited in a foreign currency account operated by it, as may be permitted by the Reserve Bank of Zimbabwe after retentions have been applied; or
- (b) from the share of its export proceeds permitted by the Reserve Bank to be credited to its foreign currency account held by it with the authorised dealer, which processes Form CD 1 in respect of its exports, in the case of a partial exporter or business organisation referred to in paragraph (b) of the definition of “exporter”; or
- (c) from income or revenue received from any source outside Zimbabwe in foreign currency held as free funds by the customer.

*Prepayment of electricity bills by exporters and partial exporters*

5. (1) Subject to subsection (2), any designated consumer of electricity may enter into a contract or memorandum of agreement

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with ZESA to pay in advance for the supply of electricity by ZESA in foreign currency.

(2) A copy of the contract or memorandum of agreement referred to in subsection (1) shall be submitted to the ZERA and Reserve Bank prior to implementation.

*Accounting of foreign currency obtained by ZESA under this order*

6. (1) All foreign currency received by ZESA in terms of this order shall be deposited in a foreign currency account opened and operated with any authorised dealer:

Provided that ZESA may open and operate separate foreign currency accounts with the same or different authorised dealers in respect of each of the foreign currencies in which it received payment in terms of this order.

(2) ZESA shall not make any withdrawals or payments from any foreign currency account referred to in subsection (1) without prior written approval of the Reserve Bank and the amount accrued in the account shall be used and applied for and to the—

- (a) purchasing of electricity outside Zimbabwe;
- (b) importation of spare parts, critical assets and components needed to maintain the local generation, transmission, distribution and retail infrastructure of electricity network to ensure sustainable supply;
- (c) payment of external insurance for critical infrastructure;
- (d) payment of external loan repayments.

*Expiry of order*

7. This order shall cease to have effect in relation to exporters and partial exporters six months after it is published, unless earlier renewed for a period not exceeding six months.