

Customs and Excise (Fertilizer Manufacturers') (Rebate)
Regulations, 2021

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IT is hereby notified that the Minister of Finance and Economic Development has, in terms of section 235, as read with section 120, of the Customs and Excise Act [*Chapter 23:02*], made the following regulations:—

Title

1. (1) These regulations may be cited as the Customs and Excise (Fertilizer Manufacturers)(Rebate) Regulations, 2021.

(2) These regulations shall be deemed to have been effective from 1st January, 2021.

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Interpretation

2. In these regulations—

“applicant” means a person applying for registration as a manufacturer of fertilizer in terms of these regulations;

“Form” means the appropriate form referred to in the First Schedule;

“manufacturer” means any person who is registered as a manufacturer of fertilizer in terms of section 5;

“goods” means any goods or raw materials referred to in the Second Schedule used in the manufacturing of fertilizer.

Completion and use of prescribed forms

3. (1) All forms in terms of these regulations and copies therefore shall be completed indelibly in a legible manner.

(2) The Commissioner may refuse to accept any form if he or she considers that any part of it is illegible and that it has not been properly completed.

(3) Any person who wishes to obtain any form for purposes of these regulations may obtain a copy from the offices of the Authority.

Grant of rebate

4. Subject to these regulations, a rebate of duty shall be granted on goods referred to in the Second Schedule, imported or taken out of bond by a registered manufacturer for use in the manufacturing of fertilizer.

Registration of manufacturers

5. (1) Only approved manufacturers shall be eligible to apply for a rebate in terms of these regulations.

(2) Any person who wishes to claim a rebate of duty in terms of these regulations shall apply to the Commissioner in Form FertMR 1 for registration as a manufacturer of fertilizer.

(3) An application referred in sub section (2) shall be supported by such additional information or documents as the Commissioner

may require and shall be made before the importation or removal from bond of any goods intended for the manufacture of fertilizer.

(4) The applicant must be registered with National Employment Council and must be an approved fertilizer manufacturer.

(5) On receipt of an application in terms of this section the proper officer shall, before referring the application for consideration by the Commissioner, inspect the applicant's premises and machinery and report his or her findings to the Commissioner.

(6) If the Commissioner approves the application, he or she shall call on the applicant to

- (a) erect on his or her premises the stores provided for in section 6; and
- (b) enter into a bond on the prescribed form, with sufficient surety in an amount determined by the Commissioner, for the securing of duty and compliance with the requirements of these regulations; and
- (c) pay the fee referred to in sections (8) and (9).

(7) When the applicant has complied with the requirements of subsection (5), the Commissioner shall register the applicant.

(8) The fee for registration as a manufacturer shall be the prescribed amount.

Provided that where the registration of an applicant is approved after the 30th of June in any year, the fee shall be half of the fee referred to in this subsection.

(9) The prescribed fee for renewal of registration of a manufacturer shall be payable annually on or before the 31st January.

(10) The Commissioner may reject an application for registration if he or she is of the opinion that:

- (a) adequate control of goods imported or taken out of bond under rebate of duty is not likely to be maintained; or
- (b) any provision of these regulations will not be complied with.

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Storage of rebated goods

6. (1) The applicant shall provide on his or her premises secure stores for the safe storage of goods on which duty has been rebated and shall, at his or her own expense, provide the necessary fastenings so that the stores may be secured with customs locks.

(2) No goods on which duty has been rebated may be stored elsewhere than in the stores provided for in subsection (1), and no such store shall, without the prior written permission of the Commissioner, be used for any other purposes.

Clearance of goods

7. (1) Goods to be entered under the rebate of duty provided for in these regulations shall be entered for consumption at the port of entry nearest to the premises of the manufacturer.

(2) A manufacturer shall, when effecting entry on importation or on removal from bond of goods intended for manufacture under rebate, submit with the relevant bill of entry, a declaration signed by him or her, to the effect that the goods are to be used solely in the manufacture of fertilizers.

Manufacturer to keep stock-book

8. (1) A manufacturer shall keep a stock-book, in a form approved by the Commissioner, showing full particulars of all receipts and disposals of goods entered for the manufacturer of fertilizer in such a manner that the rebated goods can readily be accounted for to the satisfaction of the Commissioner.

(2) If a manufacturer fails to keep a stock-book in the manner approved in terms of subsection (1), any rebated goods received by the manufacturer during the period when the stock-book was not so kept shall be deemed to have been used for a purpose other than that for which the rebate was granted unless the manufacturer satisfies the Commissioner that the rebated goods were used for the purpose for which the rebate was granted.

(3) The stock-book and premises of a manufacturer shall be open for inspection by a proper officer at any time.

Disposal of rebated goods

9. (1) Subject to subsections (2) and (3), a manufacturer shall not, except with the written authority of the Commissioner, and on payment of the duty rebated, dispose of any rebated goods otherwise than in accordance with these regulations.

(2) The Commissioner may authorise the disposal of rebated goods on payment of such duty, not exceeding the amount of duty rebated, as he or she thinks fit, if in the opinion of the Commissioner, the goods cannot be economically used for the purpose for which they were entered under rebate.

(3) A manufacturer shall, when required by the Commissioner to do so, carry out under the supervision of a proper officer, at such time as the Commissioner may consider necessary, any manufacturing operation in which goods entered under rebate are used.

(4) Duty on rebated goods which are accidentally destroyed before being used in the manufacture of fertilizers may be remitted if the Commissioner is satisfied that every reasonable effort was made and precaution taken to prevent their destruction.

Eligibility of goods for rebate.

10. Only the goods listed in the Second Schedule shall be eligible for rebate if imported under the tariff heading indicated opposite thereto.

Cancellation of registration

11. (1) The Commissioner may cancel or suspend the registration of a manufacturer if such manufacturer:

- (a) Ceases to manufacture fertilizer; or
- (b) Fails to comply with or contravenes any of the provisions of these regulations; or
- (c) Fails to pay the fee for the renewal of registration in accordance with subsection (7) of section 5; or
- (d) so requests.

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(2) If any registration is cancelled in terms of subsection (1), any duty rebated shall immediately become due and payable.

*Transparency and accountability in the utilisation of
rebate facility*

12. (1) A manufacturer shall be required to present to the Minister responsible for Finance, an annual report in a form approved by the Minister, showing full particulars of all the benefits achieved in the utilisation of the rebate facility granted in terms of these regulations. The report shall be in such a manner that the effect on the following aspects on the manufacturer's business can be readily ascertained or accounted for to the satisfaction of the Minister:

- (a) the incremental employment levels achieved by the manufacturer;
- (b) capacity utilisation levels attained from the use of the rebate;
- (c) value of new investment received since the implementation of the rebate;
- (d) growth in the manufacturer's output; and
- (e) research and development initiatives carried out by the manufacturer.

(2) If a manufacturer fails to produce the annual report in the manner approved in terms of subsection (1), the rebate shall be immediately withdrawn and any rebated goods received by the manufacturer during the period when the report was not so produced shall be deemed to have been used for a purpose other than that for which the rebate was granted. The manufacturer shall be required to pay the rebated revenue forthwith and the penalty for failure to keep records.

(3) The annual report by the manufacturer shall be submitted within 30 days from the end of the twelve months period calculated from:

First Schedule (Section 5)

Approve Manufacturers

1. ZFC (Private) Limited
2. Windmill (Private) Limited
3. FSG (Private) Limited
4. Omnia (Private) Limited
5. Grow Agriculture (Private) Limited
6. Nufert (Private) Limited
7. ETG/PHI Consortium
8. FertMap (Private) Limited
9. Damara (Private) Limited
10. Orgfert (Private) Limited
11. Sable Chemical Industries Limited
12. Zimphos (Private) Limited
13. Dorowa Mineral (Private) Limited

Second Schedule (Section 10)

GOODS ELIGIBLE FOR REBATE

The goods listed below shall be imported under rebate only by manufacturers registered in terms of Section 5.

<i>Commodity Code</i>	<i>Description of goods</i>
2603.00.00	Copper ores and concentrates
2809.20.00	Phosphoric acid and polyphosphoric acids
2814.10.00	Anhydrous ammonia
3102.60.00	Double salts and mixtures of calcium nitrate and ammonium nitrate

