

# THE CUSTOMS AND EXCISE (AMENDMENT) BILL, 2010

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## MEMORANDUM

The object of this Bill is to amend the Customs and Excise Act so as to—

- (a) increase the threshold at which an importation requires a bill of entry;
- (b) enhance procedures for entry of goods prior to importation;
- (c) remove provisions dealing with licensing of service providers;
- (d) re-name the Customs Division as the Customs Services Division;
- (e) revise the rates of customs and excise duty payable on certain goods;  
and
- (f) provide for matters connected with, or incidental to, the foregoing.

M. M. KONDOLO,  
*Solicitor-General*

# A BILL

ENTITLED

## An Act to amend the Customs and Excise Act.

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Customs and Excise (Amendment) Act, 2010, and shall be read as one with the Customs and Excise Act, in this Act referred to as the principal Act.

Short title and commencement  
Cap. 322

(2) This Act shall come into operation on 1st January, 2011.

2. The principal Act is amended by the repeal of section *thirty-two B* and the substitution therefor of the following new section:

Repeal and replacement of  
section 32B

**32B.** (1) The Commissioner-General shall, subject to such rules as the Commissioner-General may prescribe—

Entry of  
goods prior  
to  
importation

(a) require a person intending to import goods to describe, in writing, the goods intended to be imported, for duty assessment purposes, at least seven days before the goods arrive at a port of entry where customs formalities are to be conducted;

(b) where a person accompanies any imported goods, for which a description has not been made under paragraph (a), require the person to describe the goods, in writing, for duty assessment purposes, within twenty-four hours of the arrival of the goods at a port of entry where customs formalities are to be conducted; and

(c) accept the entry of any goods for customs purposes five days prior to the arrival of the goods at a customs port;

on condition that the importer undertakes to present to the Customs Services Division, within twenty-four hours of the arrival of the goods at the port of entry, goods which match the goods so declared in all material particulars.

(2) The Commissioner-General shall, subject to section *eighty seven*, where goods are entered under subsection (1), make an assessment of the duties due on the goods, and the importer of the goods or the agent of the importer shall pay the duties so assessed within five days of such assessment unless the goods are entered to be warehoused or removed in bond.

(3) The importer of the goods or the agent of the importer may, prior to the examination of the goods, request the Customs Services Division to amend the declaration made under subsection (1) and where the declaration is amended, the Commissioner-General shall make an assessment of the duties due and the importer of the goods or the agent of the importer shall pay the duties so assessed within the period specified in subsection (2) unless the goods are entered to be warehoused or are removed in bond.

(4) Where no request to amend a declaration is received or where the request is received after the examination of the goods has commenced, and if the reasons given by the importer or the agent of the importer for not amending the declaration or for submitting the request late are treated as invalid, the goods shall be liable to seizure.

(5) Subject to the provisions of sections *thirty one*, *thirty two*, *thirty four* and *thirty seven*, goods entered under this section shall be released from Customs control on the issuance of a release order by the Customs Services Division.

(6) An importer, importers agent or other person who makes any declaration to the Customs Services Division with respect to the pre-entry of the goods under this section which that person knows to be false or incorrect in a material particular commits an offence.

(7) A person who, without reasonable excuse, fails or neglects to declare or present goods as required under subsection (1) commits an offence.

Amendment  
of section 34

3. Section *thirty-four* of the principal Act is amended in paragraph (d) of subsection (2) by the deletion of the words " five hundred " and the substitution therefor of the words " two thousand ".

Repeal and  
replacement  
of Part XIA

4. The principal Act is amended by the repeal of Part XIA and the substitution therefor of the following:

## PART XIA

## MANAGEMENT OF EXCISE DUTY ON SERVICES

139A. In this Part, unless the context otherwise requires—

Interpretation

5 “airtime” means the minutes of voice calls, short message service (sms), multi media service (mms), internet band width or such other service as a subscriber may consume through mobile cellular telephone or any other electronic communications service;

10 “electronic communications service” has the meaning assigned to it in the Information and Communication Technologies Act, 2009;

Act No. 15 of 2009

“licence” means a service licence issued under the Information and Communication Technologies Act, 2009;

Act No. 15 of 2009

15 “rendering a service” means providing an electronic communications service;

“service” means an electronic communications service liable to excise duty; and

25 “service provider” means an electronic communications service provider licensed in terms of the Information and Communication Technologies Act, 2009.

Act No. 15 of 2009

139B. (1) A person shall not render services except in accordance with this Part.

Provision of services liable to excise duty

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

(3) Notwithstanding the penalty prescribed in subsection (2), all the machinery, equipment and materials used in rendering services in contravention of subsection (1) shall be liable to seizure in accordance with the provisions of section *one hundred and sixty-two*.

139C. (1) Notwithstanding section *one hundred and thirty nine B*, the Commissioner-General may, subject to the provisions of this Part and any rules made thereunder, authorise a service provider to render services on an experimental or trial basis:

Commissioner General may authorise service provider to render services without payment of duty

Provided that the services so rendered shall not be for sale or disposal for profit and shall be rendered without the payment of duty.

(2) A service provider who being authorised by the Commissioner-General to render services in terms of subsection (1) sells or disposes of such services for profit commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Duties of  
service  
provider

**139D.** (1) Every service provider shall—

(a) maintain in such form and manner as may be required by, or under, this Act, a record of—

(i) all airtime sold;

(ii) all airtime consumed, lost or otherwise disposed of, during any process of rendering the service; and

(iii) all excise duty paid or payable; and

(b) submit in such form and manner as may be determined by the Commissioner-General, a return of all airtime consumed, lost or otherwise disposed of, in the preceding month and duly completed entry in the prescribed form accounting for all airtime disposed of during that month.

(2) The return and entry required under this section shall be submitted on or before the twentieth day of the month following the month to which the return relates and any amount of duty on the return shall be due and payable within five days of issuance of a notice of an assessment thereof.

(3) A service provider who fails to lodge a return within the time allowed by, or under, this Act shall pay a penalty of—

(a) one thousand penalty units; and

(b) an additional one hundred penalty units for each day the return is not lodged.

(4) Where a return has not been lodged within the time allowed by, or under, this Act, the Commissioner-General may assess the amount of duty that is due and may, by written notice to a service provider, require payment of the duty specified in the assessment.

(5) An assessment made by the Commissioner-General under subsection (4) shall be deemed to be the correct assessment for the purposes of *section one hundred and thirty nine E* and shall be due and payable within five days following the issue of the notice of assessment thereof.

5 (6) Where a service provider fails to make payment as required under subsection (5) the duty specified in the assessment made under subsection (4) shall constitute a debt due to Government which debt shall be dealt with in accordance with the provisions of this Act.

10 **139E.** The duty payable in respect of any service shall, from the time when it is due, constitute a debt due to the Government from the service provider concerned, and shall, any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Authority. Duty payable to constitute debt to Government

15 **139F.** The records maintained pursuant to *section one hundred and thirty nine D* shall be kept on the service providers premises, whether or not in electronic or written form and shall be made available to the Customs Services Division at any time on request by an officer. Records to be kept on licensed premises

20 **139G.** (1) For the purposes of verifying the information submitted by a service provider under this Part, an officer may, at any time, enter any part of the service providers premises and take stock of, or value, all the equipment and materials at hand. Powers of officers

(2) An officer may, at any time, enter and search the premises of a service provider or the premises of any person who renders services liable to excise duty and who is suspected of providing such services in contravention of, or without complying with, the provisions of this Part, and may—

(a) take extracts from, or make copies of, any book or document found on the premises that has a bearing on the investigations; or

30 (b) use any computer system on the premises, or require assistance of any person on the premises to use that computer system, to—

(i) search any data contained in, or available to the computer system;

(ii) reproduce any record from the data; or

35 (iii) seize any output from the computer for examination and copying.

	(3) An officer may remove all the machinery, equipment and materials used in rendering services in contravention of, or without complying with the provisions of, this Part or pending removal, seal the premises in which the services are so rendered.	
Obligation of service provider	<b>139H.</b> A service provider shall, at the premises specified in their licence, provide free of charge, such accommodation and other facilities as the Commissioner-General may determine to enable officers to exercise their powers of inspection and supervision under this Act.	5
Procedure on cessation of service provider to render service	<b>139I.</b> (1) Where a service provider intends to cease the provision of the service, the service provider shall give to the Commissioner-General not less than one months prior written notice of that intention and shall—	10
	(a) within twenty days from the date of ceasing to provide the service, lodge with the Customs Services Division a true and complete return of all airtime disposed of in whatever manner and business activity since the last monthly return; and	15
	(b) submit to the Customs Services Division an entry in the prescribed form accounting for all airtime disposed of on which excise duty has not been paid together with a payment for the amount of excise duty payable.	20
	(2) Nothing contained in this section shall be deemed to deprive the Republic of any right it may have against the property or estate of the service provider or those of its sureties in respect of any duty which may remain unpaid after cessation of business activity and shall not relieve the service provider of liability to prosecution under this Act.	25
Amendment of First Schedule	<b>5.</b> The First Schedule to the principal Act is amended as set out in Appendix I.	30
Amendment of Second Schedule	<b>6.</b> The Second Schedule to the principal Act is amended—	35

(a) in heading 1, by the deletion of the word “ dekalitre ” in the Statistical Unit of Quantity column and the substitution therefor of the word “ litre ”; and

(b) by the insertion in the appropriate place, of the heading set out in Appendix II.

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7. The principal Act is amended by the repeal of the Fourth Schedule and the substitution therefor of the Schedule set out in Appendix III.

Repeal and replacement of Fourth Schedule

8. The principal Act is amended by the deletion of the words “Customs Division ” wherever they appear and the substitution therefor of the words “ Customs Services Division ”.

Amendment of principal Act

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## APPENDIX I

(Section 5)

## AMENDMENT OF FIRST SCHEDULE

1. Chapter 15 is amended by the insertion, in the appropriate place, of the following new subheading:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
1511.90.20	---palm olein when imported in bulk for futher processing	kg	5%	

2. Chapter 27 is amended in the duty rate column, opposite subheading 2716.00.00, by the deletion of the figure "15%" and the substitution thereof of the word "free".

3. Chapter 29 is amended—

(a) by the deletion of subheading 2903.19.00 and the substitution thereof of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
2903.19.10	--Other: ---Trichloroethane (methyl chloroform)	kg	free	
2903.19.90	---Other	kg	free	

(b) by the deletion of subheading 2903.39.00 and the substitution thereof of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
2903.39.10	--Other: ---Bromomethane (methyl bromide)	kg	free	
2903.39.90	---Other	kg	free	

(c) by the deletion of subheading 2903.45.00 and the substitution thereof of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
2903.45.10	--Other: --- Chlorotrifluoromethane, pentachlorodifluoroethane, tetrachlorodifluoroethanes, heptachloropropanes, hexachloropropanes, pentachlorotrifluoropropanes, tetrachlorotetrafluoropropanes, trichloropentafluoropropanes, dichlorohexafluoropropanes, chloroheptafluoropropanes	kg	free	
2903.45.90	--- Other derivatives perhalogenated only with fluorine and chlorine	kg	free	

(d) by the deletion of subheading 2903.49.00 and the substitution therefor of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
2903.49.10	--Other: --- Chlorotrifluoromethane, dichlorotrifluoromethane, chlorotetrafluoroethane, dichlorofluoroethane, chloro difluoroethane, dichloropentafluoropropane, other derivatives of methane, ethane or propane halogenated only with fluorine and bromine derivatives pre-halogenated only with fluorine and chlorine.	kg	free	
2903.49.90	--- Other	kg	free	

4. Chapter 38 is amended—

(a) by the insertion in an appropriate place of the following new subheading:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3808.91.20	--- Containing bromomethane (methylbromide) bromochloromethane	kg	free	

(b) by the insertion in an appropriate place of the following new subheading:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3808.92.20	--- Containing bromomethane (methyl bromide) bromochloromethane	kg	free	

(c) by the deletion of subheading 3808.93.00 and the substitution therefor of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3808.93.10	--Other: --- Herbicides, anti-sprouting products and plant- growth regulators	kg	free	
3808.93.20	--- Containing bromomethane (methyl bromide) bromochloromethane	kg	free	

(d) by the deletion of subheading 3813.00.00 and the substitution therefor of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3813.00.10	--- Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoromethane	kg	15%	
3813.00.20	--- Containing methane ethane or propane hydrobromofluorocarbons(HBFCs)	kg	15%	
3813.00.30	--- Containing methane ethane or propane hydrochlorofluorocarbons(HBFCs)	kg	15%	
3813.00.40	--- Containing bromochloromethane	kg	15%	
3813.00.90	--- Other	kg	15%	

(e) by the deletion of subheading 3814.00.90 and the substitution therefor of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3814.00.91	---Other: --- -Containing methane, ethane or propane chlorofluorocarbons (CFCs) whether or not containing hydrochlorofluorocarbons(HCFCs)	litre	15%	
3814.00.92	---- Containing methane ethane or propane hydrobromofluorocarbons(HBFCs) but not containing chlorofluorocarbons(CFCs)	litre	15%	
3814.00.93	---- Containing carbon tetrachloride, bromochloromethane or 1, 1, 1-trichloroethane(methyl chloroform)	litre	15%	
3814.00.99	---- Other	litre	15%	

5. Chapter 39 is amended—

(a) by the deletion of subheading 3923.21.90 and the substitution therefor of the following new subheadings:

HS Code	Description of Goods	Statistical Unit of Quantity	Customs Duty Rate	Remarks
3923.21.91	----bags	kg	25%	
3923.21.99	----Other	kg	25%	

(b) by the deletion of subheading 3923.29.90 and the substitution therefor of the following new subheadings:

<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit of Quantity</i>	<i>Customs Duty Rate</i>	<i>Remarks</i>
3923.29.91	----bags	kg	25%	
3923.29.99	----Other	kg	25%	

6. Chapter 72 is amended by—

- (a) the deletion in the customs duty rate column opposite subheadings 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.00, 7209.25.00, 7209.26.00, 7209.27.00, 7209.28.00 and 7209.90.00 respectively, of the word "free" and the substitution therefor of the figure " 15% ";
- (b) the deletion in the customs duty rate column opposite subheadings 7210.11.00, 7210.12.00, 7210.20.00, 7210.30.00, 7210.50.00, 7210.61.00, 7210.69.00, 7210.70.00 and 7210.90.00 respectively, of the word " free " and the substitution therefor of the figure " 25% ";
- (c) the deletion in the customs duty rate column opposite subheadings 7210.41.00 and 7210.49.00, of the figure " 15% " and the substitution therefor of the figure " 25% "; and
- (d) the deletion in the customs duty rate column opposite subheadings 7213.10.00, 7213.20.00, 7213.91.00 and 7213.99.00 respectively, of the word " free " and the substitution therefor of the figure " 25% ".

APPENDIX II

(Section 6)

AMENDMENT OF SECOND SCHEDULE

<i>HS Code</i>	<i>Description of Goods</i>	<i>Harmonised Commodity Description and Coding System Heading</i>	<i>Customs Duty Statistical Unity of Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
1	(1) Bags	3923.21.91	kg	10%	
	(2) Bags	3923.29.91	kg	10%	

## APPENDIX III

(Section 7)

## FOURTH SCHEDULE

(Section 77)

## SURTAX TARIFF

<i>Description of Good</i>	<i>Engine Capacity</i>	<i>Unit Tax (ZMK Surtax rate</i>
Vehicle of headings Ex 87.01 Tractors	motor cycles	50,000
(Mechanical horses and similar tractive units)	0-1500cc	50,000
8702, 8703, and 8704 excluding emissions from	1501-2000cc	100,000
vehicles propelled by non-pollutant energy	2001-3000cc	150,000
sources, ambulances and prison vans	3001cc+	200,000