

No. S 22

CUSTOMS ORDER, 2006
(S 39/2006)

CUSTOMS (CUSTOMS RULINGS) REGULATIONS, 2013

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CUSTOMS ORDER, 2006
(S 39/2006)

CUSTOMS (CUSTOMS RULINGS) REGULATIONS, 2013

In exercise of the power conferred by section 152(2)(zj) of the Customs Order, 2006, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation and commencement.

1. These Regulations may be cited as the Customs (Customs Rulings) Regulations, 2013 and shall commence on the same date as the Customs (Amendment) Order, 2013.

Application for customs ruling.

2. (1) Subject to sub-regulation (3), any person concerned in the importation of any goods may apply to the Controller for a ruling on one or more of the following matters —

(a) the classification of goods;

(b) the country of origin of the goods;

(c) the application of a provision of the Customs (Valuation of Imported Goods) Rules, 2001 (S 53/2001) to the goods.

(2) Where any goods are the subject of any Free Trade Agreement to which Brunei Darussalam is a party, and that Free Trade Agreement identifies the person who may apply for a ruling in relation those goods, only that person may apply under sub-regulation (1) or (2) for a ruling in relation to those goods.

(3) An application for a ruling shall —

(a) be made in such form as the Controller may determine;

(b) comply with the disclosure requirements of regulation 5; and

(c) be made at such time as the Controller may determine.

Controller may decline to make ruling.

3. (1) The Controller may decline to make a ruling if —

(a) the application for the ruling would require the Controller to determine any question of fact;

(b) the Controller considers that the correctness of the ruling would depend on the making of assumptions, whether in respect of a future event or any other matter;

(c) the application is frivolous or vexatious;

(d) the matter on which the ruling is sought involves the interpretation of any foreign law;

(e) after the Controller has requested further information —

(i) the applicant fails to provide the information within the time specified by the Controller for the provision of the information; or

(ii) in the Controller's opinion, the applicant has not provided sufficient information in relation to the application;

(f) an appeal under these Regulations involving the subject-matter referred to in the application is pending.

(2) The Controller shall, where he has declined to make a ruling, notify the applicant in writing of his decision and the reasons therefor.

Duration of ruling.

4. A ruling shall apply in relation to a matter only for such period as may be stated in the ruling.

Information to be provided to Controller.

5. (1) An application for a ruling shall —

(a) identify the applicant; and

(b) disclose all relevant facts and documents relating to the matter in respect of which the ruling is sought.

(2) The Controller may, at any time, request further information from an applicant for the purpose of making a ruling.

(3) An applicant for a ruling shall provide the Controller with the information referred to in sub-regulation (2) within such time as the Controller may determine.

Controller may make assumptions.

6. If the Controller considers that the correctness of a ruling would depend on assumptions being made about any future event or other matter, the Controller may make the assumptions that he considers to be most appropriate.

Making of ruling.

7. (1) A ruling made by the Controller shall state —

(a) that it is a ruling made under section 22A;

(b) the identity of the person or class of persons to whom, and the particulars of the matters to which, the ruling applies;

(c) any material assumptions about the future events or other matters made by the Controller; and

(d) the conditions (if any) applicable to the ruling.

(2) The Controller shall notify the person to whom the ruling applies of the making of the ruling by sending him a copy of the ruling.

(3) Where there is any Free Trade Agreement applicable to the matter to which a ruling applies, and the Free Trade Agreement specifies the period within which the ruling shall be made, the Controller shall make the ruling within that period.

(4) The Controller may make a ruling notwithstanding that no application has been made under sub-regulation 1.

Modification or withdrawal of ruling.

8. (1) The Controller may, on his discretion or on application of a person to whom a ruling applies, at any time, modify or withdraw a ruling by notifying the person to whom the ruling applies in such manner as the Controller may determine of the modification or withdrawal and the reasons therefor.

(2) Subject to sub-regulations (3) and (4), a ruling is modified or withdrawn from the date specified in the notice of modification or withdrawal, as the case maybe.

(3) The Controller may, on the application of a person to whom a ruling applies, postpone the date the ruling is modified or withdrawn to such later date as the Controller may determine, if that person shows that —

(a) he had relied in good faith on the ruling; and

(b) the modifications and withdrawal, as the case may be, of the ruling would be detrimental to him.

(4) The Controller may postpone the date the ruling is modified or withdrawn to such later date as he may determine notwithstanding that no application has been made under sub-regulation (3).

(5) If the Controller withdraws a ruling, the ruling shall not apply in relation to any goods, the subject-matter of the ruling, which are imported or manufactured locally, on or after the date of the withdrawal.

(6) If —

(a) the Controller withdraws a ruling made pursuant to application by a person under regulation 1; and

(b) the person to whom the ruling applies has not acted in accordance with any condition applicable to the ruling,

the ruling shall cease to apply to that person in relation to any goods, the subject-matter of the ruling, which are imported or manufactured locally before the date of the withdrawal.

(7) If the Controller modifies a ruling, the modified ruling shall apply in relation to any goods, the subject-matter of the modified ruling, which are imported or manufactured locally, on or after the date of the modification.

(8) If —

(a) the Controller modifies a ruling made pursuant to an application by a person under sub-regulation 1; and

(b) the person to whom the original ruling applies has not acted in accordance with any condition applicable to the original ruling,

the modified ruling shall apply to that person in relation to any goods, the subject-matter of the modified ruling, which are imported or manufactured locally, before the date of modification.

(9) The Controller may modify or withdraw a ruling if —

(a) the ruling is based on an error of fact;

(b) there is a change in the circumstances after the ruling was made;

(c) any information provided by the applicant in support of his application for the ruling is false, inaccurate or misleading;

(d) there is a change in the basis of the classification of the goods after the ruling was made;

(e) there is a change in the circumstances relating to the sale and import or local manufacture of goods after the ruling was made;

(f) an offence is suspected to have been committed in relation to the goods; or

(g) it is one of the grounds of modification or withdrawal provided under any Free Trade Agreement applicable to the matter to which the ruling applies.

Typographical or minor error in ruling.

9. The Controller does not have to withdraw and re-issue a ruling to correct any typographical or minor error, if the correction does not change the meaning of the ruling.

Application of ruling if S 39/2006 amended.

10. A ruling does not apply from the date a provision of the Customs Order, 2006 is repealed or amended to the extent that the repeal or amendment changes the way the provision applies in the ruling.

Controller to declare rulings void.

11. The Controller shall by a notice declare a customs ruling made under section 22A to be void and of no effect if the ruling has been obtained by the applicant by way of fraud, misrepresentation or falsification of facts.

Receiving two customs rulings.

12. Where an applicant receives two or more different customs ruling on the same subject-matter, such rulings shall be treated as being void and such applicant shall immediately notify the Controller who shall, within 30 days from the date of the notification, issue a new customs ruling.

Made this 9th. day of Jamadilawal, 1434 Hijriah corresponding to the 21st. day of March, 2013.

PEHIN ORANG KAYA LAILA SETIA
DATO SERI SETIA AWANG HAJI ABDUL RAHMAN
BIN HAJI IBRAHIM,
Minister of Finance II,
Office of the Prime Minister.