

CUSTOM ORDER, 2006
(S39/06)

CUSTOMS (CUSTOMS TRANSIT) RULES, 2006

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CUSTOM ORDER, 2006

CUSTOMS (CUSTOMS TRANSIT) RULES, 2006

In exercise of the power conferred by paragraphs (zc) and (ze) of subsection 2 of section 152 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 Rules-

PART I PRELIMINARY

Citation.

1. These Rules may be cited as the Customs (Customs Transit) Rules, 2006.

Application.

2. These Rules shall apply to goods subjected to customs transit by the authority of the Royal Customs and Excise Department within Brunei Darussalam.

Interpretation.

3. In these Rules, unless the context otherwise requires –

“authorised consignee” means a person authorised by a proper officer of customs to receive goods directly at his premises without having to present them at the office of destination;

“authorised consignor” means a person authorised by a proper officer of customs to send goods directly from his premises without having to present them at the office of departure;

“customs transit” means the customs procedure under which goods in transit are transported under customs control from one customs office to another within Brunei Darussalam;

“dangerous goods” means those substances and articles which may affect the interest of health, safety and national security;

“office of departure” means any customs office where a customs transit operation commences;

“office of destination” means any customs office where a customs transit operation terminates;

“sealable transport unit” means a transport unit that is constructed and equipped such that –

- a) Customs seal can be easily and effectively affixed to it;
- b) No goods can be removed from or introduced into the transport unit without leaving visible traces of tampering or without breaking the customs seal;
- c) It contains no concealed space where goods may be hidden; and
- d) All spaces capable of holding goods are readily accessible for customs inspection;

“transport unit” includes –

- a) Containers having an internal volume of one cubic metre or more, including demountable bodies of such containers;
- b) Road vehicles, including trailers and semi-trailers;
- c) Railway coaches or wagons;
- d) Lighters, barges and other vessels; and
- e) Aircrafts.

PART II

ADMINISTRATION AND PROCEDURE

Transportation of goods under customs transit.

4. (1) The Controller shall allow goods, other than prohibited and dangerous goods, to be transported under customs transit in Brunei Darussalam –

- a) From an office of departure to an office of destination;
- b) From an office of departure to an inland clearance depot;
- c) From an inland clearance depot to an office of destination;
- d) From one inland clearance depot to another inland clearance depot.

(2) In relation to prohibited and dangerous goods and any other goods subject to specific control under any written law, sub-rule (1) shall only apply where a permit has been issued thereto by the relevant competent authority.

Exemption of duty.

5. Goods transported under customs transit shall not be subjected to the payment of customs duties, taxes and other charges, except those charges levied for specific services rendered in relation to such activity.

Permission to act as agents of authorised consignor or authorised consignee and other related matters.

6. (1) No person shall act as an agent for transacting any business relating to customs transit operations, except with the permission of a senior officer of customs.

(2) Where a person applies to a senior officer of customs for permission to act as an agent on behalf of the authorised consignor or authorised consignee, the applicant may be required to produce a written authority from such consignor or consignee on whose behalf he is to act and failure to produce such authority may result in a refusal to grant the permission applied for.

(3) Permission granted under sub-rule (1) may require the agent to provide such security as considered adequate by a senior officer of customs for ensuring the proper and lawful conduct of the agent and his employees in matters related to the provisions of these Rules and any other written law.

(4) Permission granted under sub-rule (1) may be suspended or cancelled by a senior officer of customs if the authorised consignor or authorised consignee, or their respective agent or the agent's employee –

- a) Commits a breach of any of the provisions of these Rules or any other written law; or
- b) Fails to comply with any directions given by a proper officer of customs with regard to the customs transit operation made by such consignor or consignee, or their agent or the agent's employee.

(5) Where a person is aggrieved by the decision of a senior officer of customs, other than the Controller, in respect of the following –

- a) A refusal to grant permission under sub-rule (1);
- b) The nature or amount of security requested for under sub-rule (3); or
- c) The suspension or cancellation of the permission under sub-rule (4),

he may, within one month from the date of notification of the decision in writing to him, appeal to the Controller whose decision shall be final.

Other persons authorised to act on behalf of employer.

7. (1) For the purposes of these Rules, a person, being the employee, may be allowed by a senior officer of customs to transact any business relating to customs transit operations generally at any office of departure or office of destination on behalf of his employer subject to the production and deposit of a signed authority to do so to the senior officer of customs.

(2) The signed authority required under sub-rule (1) must identify specifically the employee concerned to the satisfaction of the senior officer of customs.

Goods declaration and obligations of declarant.

8. (1) Where an authorised consignor or authorised consignee, or agent, is involved in transacting business in relation to a customs transit operation, such person shall submit a declaration in such form and manner as the Controller may determine in respect of the goods involved in the operation.

(2) The declarant, together with any other persons having control over the goods, shall be responsible for the compliance with the obligations incurred under customs transit, in

particular for ensuring that the goods are produced intact to the office of destination in accordance with the conditions imposed by the customs authority.

Failure to declare and interference.

9. (1) Notwithstanding anything declared in rule 8, the customs authority shall take all necessary actions to enable the officer of customs on duty at the office of destination to identify the goods in transit and to detect any unauthorised interference.

(2) Where any unauthorised interference is detected, the person responsible for the interference and the person responsible for the commission of such interference shall be guilty of an offence and liable on conviction to a fine not exceeding \$16,000, imprisonment for a term not exceeding 8 months or both.

Commercial vehicles.

10. (1) With regard to a commercial vehicle, the proper officer of customs shall allow a transport unit that has a valid permit issued by the Director of Land Transport for the purpose of customs transit.

(2) For the purpose of sub-rule (1), the driver of the transport unit shall have a valid driving license by a competent authority of the respective country.

Requirement of seal.

11. Goods transported under customs transit shall, as far as possible, be conveyed in a sealable transport unit –

(a) and where goods customs transit are conveyed in sealable transport unit, the customs authority may allow the original shipper seal to be used as a means of securing the sealable transport unit;

(b) and where goods in customs transit are not conveyed in a sealable transport unit, the officer of customs at the office of departure shall affix relevant markings or seals on individual packages for the purpose of identification of the goods by the goods by the customs authority at the office of destination.

General provision.

12. (1) If it is considered that such measure is indispensable, the Controller may determine –

- (a) itinerary routes, where goods are required to be transported by following a prescribed itinerary;
- (b) whether customs escort is required during the transportation of goods in transit; and
- (c) time limits which are sufficient for the purposes of customs transit operations.

(2) In circumstances where escorts of the relevant authorities are required or considered necessary, the relevant authorities may impose prescribed charges for such services.

Security.

13. Where security is required to ensure that obligations arising from the customs transit operation will be fulfilled, the security shall be provided in such form and manner as the Controller may determine.

Seal.

14. (1) A proper officer of customs may allow customs seals and identification marks affixed by the original shipper or foreign customs authority for the purposes of identification.

(2) Subject to sub-rule (1), original shipper or foreign customs seals shall be deemed national seals and fastening and shall be treated accordingly in respect of any legal provisions applicable to them.

Removal and breaking of seals.

15. Any person who removes or causes any breaking of seals or fastening except by a proper officer of customs is guilty of an offence and shall be liable on conviction to a fine not exceeding \$16,000, imprisonment for a term not exceeding 8 months or both.

Activities outside office hours.

16. (1) At the request of the person concerned, and for the reasons deemed valid by a senior officer of customs, the senior officer of customs may, insofar as administrative circumstances permit, perform the functions laid down for the purposes of customs transit outside normal office hours, provided that it is conducted within a customs control post and any decision made in respect of the request shall be recorded.

(2) Any expenses incurred upon the request made under sub-rule (1) shall be borne by the person requesting such functions to be performed.

PART III FORMALITIES EN-ROUTE.

Changes in office of destination.

17. A proper officer of customs shall allow a change in the office of destination without prior notification, except where such officer has specified that prior approval is necessary.

Accident.

18. (1) Where an accident or any other unforeseen event directly affecting a customs transit operation occurs involving any transport unit or goods, being part of the subject of a customs transit operation, the person concerned shall immediately make a report of a such accident or event to the nearest police station and take reasonable steps to inform customs authority of the same.

(2) If the transport unit is rendered unserviceable due to an accident or any other unforeseen event, the customs authority shall allow the goods to be loaded onto another transport unit, subject to supervision by customs or other competent authorities.

(3) The supervising authority in sub-rule (2) shall forthwith submit such report of the transfer of goods from one transport unit to another for the purpose of confirmation of such transfer to the Controller.

Investigation of goods lost in transit.

19. (1) In the event of an accident or any other unforeseen event affecting the customs transit operation, the customs authority shall have the power to continue a complete investigation to determine whether any of the goods in transit are lost during such customs transit operation.

(2) The investigation shall be carried out in accordance with the powers of the customs authority under the Customs Order, 2006 or any regulations made thereunder, and shall be subject to administrative notices with the Contracting Parties.

(3) The power to investigate shall not derogate the obligation of the Contracting Parties under Article 28 Protocol 7 of the ASEAN Framework Agreement on the Facilitation of Goods in Transit.

PART IV

TERMINATION OF CUSTOMS TRANSIT OPERATION

Termination of customs transit operation.

20. (1) For the purpose of terminating a customs transit operation, the person concerned shall present the goods and the relevant declaration for such goods to a proper officer of customs at the office of destination within any time limit fixed, without the goods having undergone any change and without having been used, and with the customs seals or fastening marks intact.

(2) When goods under customs transit are placed under another customs procedure with the approval of the relevant customs authority, the proceeding customs transit operations will be deemed terminated thereon.

Made this 8th day of Safar 1427 Hijriah corresponding to the 8th day of March 2006.

Permanent Secretary,
Ministry of Finance.