Statutory Instrument 127 of 2008

Exchange Control (Payment of Salaries by Exporters in Foreign Currency for Critical Skills Retention) Order, 2008

IT is hereby notified that the Re Bank of Zimbabwe, in terms of section 40 of the Exchange Control Regulations, 1996, and with the approval of the Minister of Finance, has made the following order:—

1. Short title

This order may be cited as the Exchange Control (Payment of Salaries by Exporters in Foreign Currency for Critical Skills Retention) Order, 2008.

2. Interpretation

In this order—

"critical", in relation to an exporter, means necessary for the exporter to retain in order to continue its operations;

"critical skill" means an employment skill that is— (*a*) scarce within the country; and

(b) not easily replaceable; and

(c) highly mobile; and (*d*) critical;

"exporter" means a company or other entity that generates foreign currency through the export of goods or services from Zimbabwe and which—

(*a*) is notified to the Reserve Bank by the exporter's authorised dealer as being an exporter; and

(*b*) is listed in the Reserve Bank's records as an exporter;

"highly mobile", in relation to a critical skill, means enabling any employee who has it to emigrate easily;

"Reserve Bank" means the Reserve Bank of Zimbabwe's department or division responsible for administering exchange control policies.

3. Exporter to seek Reserve Bank authority to pay salaries in foreign currency

(1) Where an employee has a critical skill and an exporter wishes to pay such employee in foreign currency for the purposes of retaining the services of such employee, the exporter shall make a written application to the Reserve Bank through the exporter's authorised dealer.

(2) The application shall be accompanied by—

(a) a certified copy of a resolution of the exporter's board wherein the decision to pay the employee in foreign currency was passed; and

(b) a certified copy of the proposed employment contract between the exporter and the employee providing for the payment of the employee's salary in foreign currency and stating the amount thereof; and

(c) a written submission justifying the need to pay the employee's salary in foreign currency showing in particular, by reference to the definition of "critical skill" in section 2, how the skill of the employee in question is critical.

(3) Upon receiving the application, the Reserve Bank shall, within fourteen days—

(a) grant the application on such terms and conditions as it may deem fit and notify the exporter accordingly through the authorised dealer; or

(b) refuse the application and notify the exporter of such refusal, giving the reasons for the refusal; or

(c) request the exporter to furnish such further information as the Reserve Bank may require, in which case the Reserve Bank shall make a decision and advise the exporter in accordance with paragraph (*a*) or (*b*) within fourteen days from the date of receiving such further information.

(4) Where an exporter has been granted authority in terms of this section to pay an employee's salary in foreign currency, the exporter shall not pay the employee in cash but shall pay the salary into an individual foreign currency account opened by the employee with an authorised dealer for that purpose.

(5) The funds so credited to the employee's foreign currency account in terms of subsection (4) shall be treated as free funds.