

CHAPTER 14:22

TRADE DEVELOPMENT SURCHARGE ACT

Act 25/1991, 3/1998 (s. 30), 22/2001 (s. 4), 29/2001 (s. 17).

AN ACT to provide for the raising of funds to promote the export trade of Zimbabwe and to provide for matters connected therewith or incidental thereto.

[Date of commencement: 30th December, 1991.]

1 Short title

This Act may be cited as the Trade Development Surcharge Act [*Chapter 14:22*].

2 Interpretation

(1) In this Act—

“authorized dealer” means a bank or other financial institution which is authorized in terms of the Exchange Control Act [*Chapter 22:05*] to deal in foreign currency;

“foreign currency” means—

- (a) any currency, other than Zimbabwean currency, which is legal tender outside Zimbabwe; or
- (b) any document which is intended to enable the holder or the person to whom it is issued to obtain, directly or indirectly, currency referred to in paragraph (a);

“free on board value”, in relation to—

- (a) goods that are or will be imported into Zimbabwe, means the price of such goods to the importer, including all costs, charges and expenses incidental to their purchase or to their being placed on board the means of transport by which they will be removed from the country of exportation, but excluding any subsequent costs, charges or expenses incurred in connection with the delivery of such goods to Zimbabwe;
- (b) goods that are or will be exported from Zimbabwe, means the price of such goods to the purchaser, including all costs, charges and expenses incidental to their sale or to their being placed on board the means of transport by which they will be removed from Zimbabwe, but excluding any subsequent costs, charges or expenses incurred in connection with the delivery of such goods to their destination;

“goods” means any movable property, whether corporeal or incorporeal, which is capable of being imported into or exported from Zimbabwe;

“Minister” means the Minister of Industry and Commerce or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“surcharge” means a surcharge imposed in terms of subsection (1) of section *three*;

“trade development organization” means—

- (a) the Competition and Tariff Commission established in terms of section 9 of the tariff Competition Act, 1996.

[Definition substituted by section 17 of Act 29 of 2001]

(2) If the Minister is satisfied that any organization has or will be established in order to achieve all or most of the following objects—

- (a) to promote trade between Zimbabwe and other countries;
- (b) to develop new exports, by market and product, for Zimbabwe;
- (c) to promote export-related investment in Zimbabwe;
- (d) to advise the Government on matters related to international trade, exports and investment; he

may, by statutory instrument, declare that organization to be a trade development organization for the purposes of this Act.

(3) The Minister may at any time amend or revoke a declaration in terms of subsection (2).

3 Imposition of surcharge

(1) For the purpose of financing any trade development organization, the Minister, with the approval of the Minister responsible for finance, may prescribe that a surcharge shall be paid, subject to this Act, by persons who import goods into or export goods from Zimbabwe.

(2) A statutory instrument imposing a surcharge in terms of section (1) shall specify—

- (a) subject to subsection (4), the rate or amount of the surcharge; and
- (b) the trade development organization that is to be financed by the surcharge.

(3) A surcharge shall not be imposed in respect of—

(a) the import or export of—

- (i) gold or articles made wholly from gold; or
- (ii) currency; or
- (iii) electricity; or
- (iv) petroleum or fuels and oils derived from petroleum; or

(b) any export of minerals—

- (i) by the Minerals Marketing Corporation of Zimbabwe; or
- (ii) pursuant to a contract negotiated by the Minerals Marketing Corporation of Zimbabwe; in terms of the Minerals Marketing Corporation of Zimbabwe Act [*Chapter 21:04*]; or

(c) any import of goods, commonly known as a “no currency involved” transaction, under which payment for the imported goods is effected outside Zimbabwe; or (d) such other imports or exports as may be prescribed.

(4) A surcharge shall not exceed 0,1 *per centum* of the free on board value of the goods concerned.

4 Payment of surcharge

(1) Every person who, in terms of the Exchange Control Act [*Chapter 22:05*]—

- (a) purchases foreign currency from an authorized dealer on the basis of an application that goods are to be imported into Zimbabwe; or
- (b) sells to an authorized dealer foreign currency derived from the export of goods from Zimbabwe; shall pay to the authorized dealer the surcharge imposed in respect of that importation or exportation, as the case may be.

(2) Every authorized dealer that receives payment of a surcharge in terms of subsection (1) shall forthwith remit the surcharge to the trade development organization for whose benefit the surcharge was imposed.

(3) An authorised dealer that contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

5 Accounts to be kept by trade development organization

(1) A trade development organization shall keep proper books of account, together with adequate financial records in relation thereto, in which it shall record all amounts remitted to or received by it in terms of this Act.

(1a) A trade development organisation that contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

(2) A trade development organization shall cause the accounts and records referred to in subsection (1) to be audited at least once a year by one or more persons who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

6 Recovery of surcharge

A surcharge shall be a debt due to the trade development organization for whose benefit the surcharge was imposed and may be recovered by proceedings in any court of competent jurisdiction at the suit of the trade development organization.

7 False statements

Any person who knowingly makes a false statement to an authorized dealer as to the value of any goods imported or exported by him, in order to avoid the payment of any surcharge in terms of this Act, shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001]

8 Regulations

(1) The Minister may make regulations prescribing anything which by this Act is required or permitted to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) provide for—

- (a) the manner in which a surcharge is to be paid and remitted in terms of section *four*;
- (b) the appointment and powers of inspectors to ensure the due payment or remitting of any surcharge in terms of section *four*.