

**CUSTOMS, EXCISE AND PREVENTIVE SERVICE (AUTOMATION) REGULATIONS, 2002, (LI 1704).**

IN exercise of the powers conferred on the Minister responsible for Finance by section 335 (1) of the Customs, Excise and Preventive Service (Management) Law, 1993, (PNDCL 330) these Regulations are made this 13th day of May, 2002.

Regulation 1—Application through Trade Net.

- (1) Any person who intends to transact business through the TradeNet with the Customs, Excise and Preventive Service shall apply to the Commissioner.
- (2) The application shall be in such form as the Commissioner shall determine and shall state;
  - (a) the full name and address of the applicant;
  - (b) the location of the computer system to the applicant;
  - (c) the technical specifications of the TradeNet software and the full name and address of the supplier;
  - (d) the full name and designation of each of the persons authorised to operate the computer together with the appropriate login identification; and
  - (e) such other particulars as the Commissioner may determine.
- (3) Where the application is made by an agent or broker, it shall be accompanied with a list of persons for whom the agent acts as agent or broker together with the particulars in such manner and in such form as may be approved by the Commissioner.

Regulation 2—Approval of Computer System.

- (1) The Commissioner shall approve the computer system of the applicant if satisfied that it meets the requirement of the Customs, Excise and Preventive Service.
- (2) The approval of the system shall be signified in writing or electronically by the Commissioner.

Regulation 3—Change of Particulars.

Where there is a change in the particulars provided in sub-regulation (2) and (3) of regulation 1, the application shall notify the Commissioner in writing or electronically as soon as the change occurs.

Regulation 4—Mode of Electronic Declaration

- (1) An electronic declaration made by a TradeNet user to the Commissioner shall be made by electronic data interchange from an approved computer system to the GCMS computer through the TradeNet.
- (2) A person shall not effect an electronic declaration unless it is made
  - (a) from an approved computer system using the TradeNet software;

(b) by a TradeNet user or the employee of the user, duly authorised to make the declaration after the user or employee has been identified by entering into the computer a personal login and password; and

(c) in accordance with the information and particulars obtained from the original of the specified documents.

(3) Where the TradeNet user is an agent or broker, the agent or broker shall not make an electronic declaration on behalf of any person unless the provisions in sub-regulation (3) of regulation 1 have been complied with.

(4) The TradeNet user shall be solely responsible for the login and password and consequences arising from its use or misuse.

(5) Where any declaration through the TradeNet is made using the computer system of a TradeNet user; it shall be deemed to have been made by the TradeNet user.

(6) Where an electronic declaration sent through the TradeNet has been rejected, the TradeNet user shall receive an electronic response from the Commissioner giving reasons for the rejection of the declaration.

#### Regulation 5—Retention of Records.

(1) The TradeNet user shall keep

(a) hard copies of the electronic declarations;

(b) the specified documents in respect of those goods;

(c) a data log which provides a complete historical record of data interchanged as they are sent and received; and

at the business premises of the TradeNet user for a period of five years from the date the declaration was first made.

(2) The Commissioner may require the submission by a TradeNet user of the original documents and the hard copy of the electronic declaration signed by the TradeNet user.

(3) The hard copy of the electronic declaration shall be

(a) in such form as may be approved by the Commissioner; and

(b) obtained from and endorsed by an organisation approved by the Commissioner.

#### Regulation 6—Submission of Manifest or Report.

(1) Where a manifest or report is required to be submitted to the Commissioner under sections 97, 98 and 99 of the Customs, Excise and Preventive Service (Management) Law 1993 (PNDCL 330), it shall be submitted electronically through the TradeNet by the TradeNet user.

(2) The Commissioner may require that a hard copy of the manifest or report be submitted within such time as specified by the Commissioner.

#### Regulation 7—Validation of Electronic Declaration.

Where an electronic declaration sent to the TradeNet has been validated and duties and other taxes duly paid

- (a) the goods specified shall be deemed to have been entered for the purposes of section 45 of the PNDCL 330 and;
- (b) the declaration shall be deemed
  - (i) to be the bill of entry in respect of those goods, duly validated, or
  - (ii) to be the entry in respect of those goods for the purposes of the Value Added Tax Act, 1998 (Act 546) and PNDCL 330.

#### Regulation 8—Prohibition of Declaration other than Electronically.

- (1) No TradeNet user shall personally or on behalf of any other person acting as agent or broker submit a bill of entry under PNDCL 330 or under Act 546 to the Commissioner otherwise than by electronic declaration unless authorised to do so by the Commissioner.
- (2) The Commissioner shall direct that bill of entry submitted under PNDCL 330 otherwise than through the TradeNet shall be submitted electronically through the TradeNet as from a date to be notified in writing by the Commissioner.

#### Regulation 9—Inspection.

The Commissioner or an officer designated by the Commissioner may enter the business premises of a TradeNet user to require the TradeNet user or any authorised employee of the TradeNet user;

- (a) to retrieve an electronic declaration on a consignment of goods and submit a print out of the declaration;
- (b) to produce the specified documents relating to the goods;
- (c) to retrieve the data log relating to a specified period and submit a print out certified by the TradeNet user as correct;
- (d) to retain a document or record and take copies or extracts from it; and
- (e) to require any person on the premises to give assistance to the inspector and answer questions orally or in writing.

#### Regulation 10—Cessation of Business.

A TradeNet user who ceases business shall

- (a) immediately notify the Commissioner in writing of the cessation; and
- (b) make available to the Commissioner or an authorised officer the documents specified in sub-regulation (1) of regulation 5.

#### Regulation 11—Evidence of Electronic Declaration.

Subject to section 312 of PNDCL 330, a print out or hard copy of an electronic declaration may be used as evidence in court.

#### Regulation 12—Processing fee.

- (1) The Minister shall determine the fee to be charged as processing fee by a TradeNet.
- (2) The Minister may exempt individuals, organisations and agencies from the payment of processing fees.

#### Regulation 13—Offences.

Any person who

- (a) changes particulars submitted in an application to transact business through the TradeNet without notifying the Commissioner;
- (b) effects an electronic declaration contrary to regulation 4 (2);
- (c) fails to retain records contrary to any Regulations made under the Law;

commits an offence and is liable on summary conviction to a fine not exceeding 250 penalty units or a term of imprisonment not exceeding one year or to both.

#### Regulation 14—Interpretation.

In these Regulations, unless the context otherwise requires;

"Act 546" means the Value Added Tax Act, 1998.

"approved computer system" means the computer system of a TradeNet user operated by the TradeNet software duly approved by the Commissioner.

"CEPS" means the Customs, Excise and Preventive Service.

"Commissioner" means Commissioner of the Customs, Excise and Preventive Service;

"computer" is an electronic device that accepts data and processes it into information under a given set of instructions.

"EDI" means Electronic Data Interchange;

"Electronic Data Interchange" means the exchange of electronic structured data between two or more computers using international standard message formats;

"electronic declaration" means a declaration made electronically to the Commissioner by a TradeNet user, whether personally or on behalf of any person as agent or broker, of the particulars of a consignment of goods imported or exported or any other declaration authorised by the Commissioner in connection with the import or export of goods under the P.N.D.C. Law 330 in such manner as specified in regulation 7; and includes a declaration of the particulars of Value Added Tax and excisable goods under Act 546 and Part IV (a) of P.N.D.C.L. 330;

"GCMS" means Ghana Customs Management System;

"Ghana Customs Management System" means the system operated by the GCMS software and the TradeNet interface and includes any reference to the GCMS computer and GCMS software;

"P.N.D.C.L. 330" means the Customs, Excise and Preventive Service (Management) Law, 1993;

"specified documents" means the documents specified in section 319 of P.N.D.C. Law 330; and includes any authorisation, permit or other document required under P.N.D.C. Law 330 or any other enactment;

"TradeNet" means the EDI network system operated by an organisation approved by the Minister for processing and clearance of trade documentation and related transactions in connection with the import or export of goods under P.N.D.C. Law 330 and with the making of entries in respect of goods liable to VAT under Act 546 and excisable goods under Part IV (a) of P.N.D.C. Law 330.

"TradeNet software" means the software approved by the Commissioner to be used in the computer of the TradeNet user for the purpose of making electronic declaration to Customs and receiving electronic responses including authorisations as appropriate.

"TradeNet user" means an agent, broker or self declarant, licensed to operate as an agent, broker or self declarant under the Customs House Agents (Licensing) Decree 1978 (S.M.C.D. 188), who is an importer or exporter; and includes a manufacturer under Act 546 and Part IV (a) of P.N.D.C. Law 330 who uses an approved computer system to effect electronic declarations to CEPS through the TradeNet.

YAW OSAFO MAAFO (MP)

Minister Responsible for Finance

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