

Exchange Control (Amendment) Regulations, 2017 (No. 5)

IT is hereby notified that His Excellency the President, in terms of section 2 of the Exchange Control Act [*Chapter 22:05*], has made the following regulations:—

1. These regulations may be cited as the Exchange Control (Amendment) Regulations, 2017 (No. 5).

2. The Exchange Control Regulations, 1996, published in Statutory Instrument 109 of 1996 (hereinafter called “the principal regulations”), is amended in section 2 (“Interpretation”) by the insertion of the following definitions—

““currency”—

- (a) means the coin and paper money of Zimbabwe or of a foreign country that is designated as legal tender and which is customarily used and accepted as a medium of exchange in the country of issue;
- (b) includes—
 - (i) foreign currency that is designated as legal tender in the Republic of Zimbabwe by virtue of section 44A of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] (No. 5 of 1999);
 - (ii) for the purposes of these regulations, bond notes and coins as defined in section 44B of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] (No. 5 of 1999);
 - (iii) any bill of exchange, promissory note, traveller’s cheque or letter of credit or any draft or other document issued to obtain currency or credit for an amount of money;

“deal”, in relation to dealing in currency—

- (a) means to do any of the following (whether

tangibly or electronically), namely to buy, sell, barter, pledge, exchange, give or receive, or offer or expose for sale, barter, pledge or exchange, or engage in any transaction whatever whose commodity is currency, where the currency is transferred for a premium or at a discount, whether in a single transaction or a series of transactions, or as part of an activity or series of activities whose principal object is the transfer of currency for a premium or at a discount;

- (b) includes to do anything that is mentioned in section 4(1)(a) and (b) in relation to foreign currency;

“possess”, in relation to the possession of currency in the course of dealing in it, includes to be in control of any banking account in or through which such currency is held, and the “possessor” in relation to such an account includes the person in whose name or on whose behalf such an account is held;”.

3. Section 40 (“Orders”) of the principal regulations is amended by the insertion of the following subsections after subsection (2b)—

“(2c) In relation to any dealing in currency, an authorised officer or a police officer acting to enforce any order—

- (a) may, for the purpose of holding the currency as an exhibit in a subsequent prosecution, seize any currency upon a reasonable suspicion that the possessor thereof is dealing in it unlawfully, that is, in contravention of any order or any provision of the Act or these regulations by virtue of which the order is made:

Provided that the officer in question must, in doing so—

- (i) promptly produce, at the request of the possessor, his or her identification as such an officer; and
- (ii) promptly issue a full receipt to the possessor for the currency seized, which receipt shall cite the relevant contravention of the Act or of these regulations by virtue of which the seizure is justified:

Provided that it shall suffice for the citation to specify that an offence against section 5(1)(a)(ii) of the Act, as read with the relevant order, is being alleged;

and

- (iii) as soon as practicable (and in any event no later than the next business day) transmit the seized currency to a place of security under the control of the Reserve Bank for a period of twelve months or until criminal proceedings in connection with the currency are commenced, whichever is the earlier;
- (b) may, for the purpose of investigating, preventing or prosecuting the commission of any offence occasioned by the breach of an order concerning or involving the unlawful dealing in currency, obtain a warrant in the same way as any warrant for the seizure of property may be obtained under the Criminal Procedure and Evidence Act, the purport and effect of which warrant shall be to freeze any banking account of a possessor of currency therein credited, if in relation to such currency there is a reasonable suspicion that it is being or has been dealt in unlawfully:

Provided the warrant must specify an amount of currency which it is alleged the possessor

is unlawfully dealing in or has unlawfully dealt in, so that the possessor may operate the account with respect to any amount in excess of the frozen amount.

(2d) A warrant referred to in subsection (2c)(b) shall have effect for a period not exceeding six months or until a prosecution of the offence relating to the unlawful dealing in foreign currency is completed or abandoned, whichever is the later.

(2e) For the purpose of enforcing any order—

- (a) it is declared, for the avoidance of doubt, that any dealing in currency or foreign currency for which any licence, permit or other authority or permission is required by or under these regulations shall, if such dealing is done without such licence, permit or other authority or permission, constitute an offence against section 5(1)(a)(ii) of the Act;
- (b) if any person dealing in currency is unable to produce to an authorised officer or a police officer a valid licence, permit or other written authority or permission permitting such dealing granted by or under these regulations, then it shall be deemed that the person is doing so in a manner that contravenes any order or any provision of the Act or these regulations by virtue of which that order is made.”.