

Foreign Exchange Regulation Rules, 1974

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Foreign Exchange Regulation Rules, 1974

In exercise of the powers conferred by section 79 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and in supersession of the Foreign Exchange Regulation Rules, 1952, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement :-

- (1) These rules may be called the Foreign Exchange Regulation Rules, 1974,
- (2) They shall come into force at once.

2. Definitions :-

In these rules, unless the context otherwise requires-

- (a) "Act" means the Foreign Exchange Regulation Act, 1973 (46 of 1973);
- (b) "Schedule" means a schedule appended to these rules.

3. Service of direction, orders or notices made or issued under the Act, or these rules or under any order or notification made thereunder. :-

A direction, order or notice made or issued under the Act or these rules or any order or notification made thereunder shall be served on any person in the following manner, that is to say-

- (a) by delivering or tendering it to that person or to his duly authorised agent: or
- (b) by sending it to him by registered post with acknowledgement due to the address of his place of residence or his last known place of residence or the place where he carries on, or last carried on, business, or personally works, or last worked, for gain;
- (c) if it cannot be sent in any of the manners aforesaid, by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided or carries on, or last carried on, business, or personally works, or last worked, for gain and the written report whereof should be witnessed by two persons.

4. Indication of import-export code number :-

The import -export code number allotted by the Director-General of Foreign Trade under S.7 of the Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992). shall be indicated on all copies of the GR or PP or VP/COD forms completed and lodged by the exporter or his agent with the customs or the postal authorities and in all correspondence of the exporter with its bank or the Reserve Bank, as the case may be.]

5. Form of declarations :-

- (1) A declaration under section 18 of the Act shall be in one of the

forms set out in the Second Schedule and as specified therein according to the requirements of the case.

(2) Declarations shall be executed in sets of such number as indicated on the forms.

6. Authority to whom declaration is to be furnished :-

(1)(a) in the case of specified customs offices, wherein the specified categories of Shipping Bills are processed electronically, the declaration Form SDF in respect of such Shipping Bills shall be submitted in duplicate to the Commissioner of Customs having jurisdiction over such specified customs offices. After duly verifying and authenticating the declaration Form SDF, the Commissioner of Customs shall hand over to the exporter one copy of such Shipping Bill marked as "Exchange Control Copy" in which declaration Form SDF has been appended for being submitted to the authorised dealer and order one copy of such Shipping Bill in which Form SDF has been appended, to be kept in the records of the specified office.

(aa) in the case of customs offices other than those specified customs offices, and in respect of Shipping Bills other than the specified categories of Shipping Bills, the declaration Form GR shall be submitted in duplicate to the Commissioner of Customs. After duly verifying and authenticating the declaration form, the Commissioner of Customs shall forward the original declaration form to the nearest office of the Reserve Bank and hand-over the duplicate form to the exporter for being submitted to the authorised dealer,

Explanation.-For the purposes of this sub-rule, the expression,

(i) "specified customs office" means the office of the Commissioner of Customs specified by the Commissioner of Customs having jurisdiction to specify customs offices for the purposes of this sub-rule;

(ii) "specified categories of Shipping Bills" means the categories of Shipping Bills processed electronically and specified by the Commissioner of Customs having jurisdiction to specify customs offices for the purpose of this sub-rule.

(b)The declaration Form PP shall be submitted in duplicate to the authorised dealer in foreign exchange named in the form. The authorised dealer shall, after countersigning the declaration form, hand over the original to the exporter which shall be submitted to

the postal authorities through which the goods are being despatched. The postal authorities, after despatch of the goods, shall forward the declaration form to the nearest office of the Reserve Bank.

(c) On realisation of the export proceeds, the authorised dealer shall, after due certification, submit the duplicate declaration form to the nearest office of the Reserve Bank.

(d) In the case of exports on value payable/cash on delivery basis, the declaration Form VP/COD shall be submitted to the postal authority with the relative parcel at the time of despatch. The postal authority shall send the form to the nearest office of the Reserve Bank.

(2) The documents pertaining to export shall, within 21 days from the date of export, be submitted to the authorised dealer mentioned in the relevant declaration form, unless the Reserve Bank authorises otherwise.]

7. Evidence in support of declaration :-

(1) The Reserve Bank, or subject to such directions, if any, as may be given by Reserve Bank, the 1[Commissioner] of Customs or the postal authorities may, to satisfy themselves of due compliance with section 18 of the Act, require such evidence in support of the declaration as may satisfy them that the exporter is a person resident in India, and has a place of business of India.

(2) The Reserve Bank, or subject to such directions, if any, as may be given by the Reserve Bank, the 1 [Commissioner] of Customs, or the postal authorities may require any exporter to produce in support of the declaration such evidence as may be in his possession or power to satisfy them-

(a) that the destination stated in the declaration is the final place of destination of the goods exported;

(b) that the value stated in the declaration is-

(i) the full export value of the goods; or

(ii) where the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in the overseas market;

(c) that the full export value of the goods (whether ascertainable at the time of export or not) has been, or will within the prescribed period be, paid in the prescribed manner. Explanation: For the purpose of this rule, "final place of destination" means a place in a

country in which the goods are ultimately imported and cleared through the customs of that country.

1. Substituted for "Collector" by the Foreign Exchange Regulation (Amendment) Rules, 1996, w.e.f.31-10-1996.

8. Period within which export value of goods to be realised

:-

The amount representing the full export value of the goods exported shall be realised and be paid to the authorised dealer on the due date for payment or within six months from the date of shipment of the goods, whichever is earlier : Provided that, where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing full export value of the goods exported shall be paid to the authorised dealer as soon as it is realised and in any case within fifteen months from the date of shipment of goods : Provided further that the Reserve Bank may, for sufficient and reasonable cause shown, extend the said period.]

9. Manner of payment of export value of goods :-

Unless otherwise authorised by the Reserve Bank, the amount representing the full export value of goods exported to the countries specified in the Third Schedule shall be paid through an authorised dealer and in the manner specified in the said Schedule.

10. Application for permission to take or send out jewellery and precious stones :-

[Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1993, w.e.f. 27-12-1993.]

11. Application for permission to associate with or participation in concerns outside India :-

1 [Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1993, w.g..f. 27-72-7993.]

1 . Prior to omission, rule 11 was substituted by the Foreign Exchange Regulation (Amend- ment) Rules, 1986, w.e.f. 21 -3-1987.

12. Application for permission to practise any profession or carry on any occupation, trade or business in India :-

. [. An application for permission under section 30 of the Act by a national of a foreign state to practise any profession or to carry on any occupation, trade or business in India shall be submitted in Form EFN specified in the Sixth Schedule.]

SCHEDULE 1

FIRST SCHEDULE

[Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1996, w.e.f. 31-10-1996.]

SCHEDULE 2

SECOND SCHEDULE

PART A

PART B

SCHEDULE 3

THIRD SCHEDULE

[Rule 9] MANNER FOR REALISATION OF VALUE OF GOODS EXPORTED FROM INDIA

Group Manner of Realisation (1) All countries other than those listed (a) Payment in any freely convertible under (2) below foreign currency i.e. a currency that is permitted by the rules and regulations of the country concerned to be converted into major reserve currencies like US dollar, Pound Sterling, Deutsche Mark, Japanese Yen and for which a fairly active market exists for dealing against the major currencies. (b) Payment in rupees from the account of a bank situated in any country in this Group. (2) Member countries in the Asian Clearing Union (except Nepal), viz., Bangladesh, Myanmar, Islamic Asian Monetary Unit (AMU) or in Republic of Iran, Pakistan and Sri Lanka, the currency of the participating country in which the other party to the transactions is resident. or (b) Payment in any freely convertible foreign currency in all other cases.

SCHEDULE 4

FOURTH SCHEDULE

[Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1993, w.e.f. 27-12-1993]

SCHEDULE 5

FIFTH SCHEDULE

[Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1993, w.e.f. 27-12-1993].

SCHEDULE 6

SIXTH SCHEDULE

[See rule 12] FORM EFN Application for permission under section 30 of the Foreign Exchange Regulation Act, 1973 for practising any profession or carrying on any occupation, trade or business in India by a foreign national. Instructions 1. Please complete all columns in the application form. Write N.A. where not applicable. 2. If the space provided in the form is not sufficient, the required information may be given in an Annexure duly numbered and attached to the form. 3. The form, duly completed by the foreign national, should be submitted to the Reserve Bank of India in quadruplicate along with his current passport. If, however, the foreign national is not in India at the time of completion of this form, his passport should

be submitted to the Reserve Bank for verification within fifteen days of his arrival in India. 1. (i) Full name of the applicant (i) (ii) Address (ii) (a) Present (a) (b) Permanent (b) (iii) Nationality (iii) (iv) Academic/professional qualifications (iv) 2. Particulars of current passport (i) Passport Number (i) (ii) Date of issue (ii) (iii) Place of issue (iii) (iv) Issued by (iv) (v) Country of residence as stated in the passport (v) (vi) Country of birth (vi) (Note : In case you have in the past held a passport of any other country please furnish full particulars, including the name of the issuing authority.) 3. Particulars of visa (where necessary) obtained by the applicant for his entry into India. (i) Visa Number (i) (ii) Type of visa (e.g. Business, Tourist, etc.) (ii) (iii) Issued by (iii) (iv) Date of issue (iv) (v) Period of validity (v) 4. Whether the applicant is already resident in India; if so, since when and the purpose for which he has been staying in the country. 5. If the permission is required for practising any profession in India, please state: (i) Nature of the profession (i) (ii) Place where the profession is to be practised (ii) (iii) Duration of stay in India for practising the (iii) profession (iv) Estimated monthly/annual earnings (iv) (v) Approximate amount proposed to be remitted (v) abroad periodically out of the earnings in India, stating whether the remittances will be made on a monthly basis or otherwise. 6. If the permission is required for carrying on any occupation, trade or business in India, please state (i) Nature of occupation/trade/business (i) (ii) Place where the occupation/trade/business will be carried on (ii) (iii) Whether the Reserve Banks approval has been (iii) obtained under section 29 of the Foreign Exchange Regulation Act, 1973, to carry on the trading/business activity; if so, give the number and date of approval (iv) Initial capital/working funds required to carry (iv) on the occupation/trade/business stating the source from which the funds will be provided (v) Estimated monthly/annual earnings (v) (vi) Approximate amount proposed to be remitted (vi) abroad periodically out of the earnings in India, stating whether the remittances will be made on a monthly basis or otherwise. 7. Whether the applicant has made any remittance in the past from India. If so, give details of the last such remittance including particulars of Reserve Banks approval, if any, obtained therefor. 8. If the applicant is already in India and maintains an account with a local bank, give number and date of Form Q.A. 22 covering the amount. I hereby declare that the particulars given above are true and correct to the best of my knowledge and belief. Place..... Date..... (Signature of Applicant)

SCHEDULE 7

SEVENTH SCHEDULE

[Omitted by the Foreign Exchange Regulation (Amendment) Rules, 1993, w.e.f. 27-12-1993.]