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LEGAL NOTICE

74 Customs and Excise (Amendment) Regulations, 2022 1046

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LEGAL NOTICE NO. 74 OF 2022

Customs and Excise (Amendment) Regulations, 2022

Pursuant to section 123 of the Customs and Excise Act, 1982¹, I,

THABO SOPHONEA

Minister responsible for finance, make the following regulations:

Citation and Commencement

1. These regulations may be cited as the Customs and Excise (Amendment) Regulations, 2022 and shall come into operation on the date of publication in the Gazette.

Insertion of new regulation 39A

2. Regulation 39 of the Customs and Excise Regulations, 1984² (herein referred to as the Principal Regulations) is amended by inserting the following regulation immediately after subregulation (8):

“Registration of users

39A. (1) An application for registration made pursuant to section 40B (1) of the Act shall be as set out in Schedule 9 of these Regulations.

(2) Where an applicant intends to use a computer system, the applicant shall register as an importer or exporter.

(3) The application for registration shall be accompanied by the following:

- (a) type of business;
- (b) tax identification number;
- (c) names of individual who shall access the computer system;

- (d) proof that preferred traders and clearing agents have undertaken Customs Competency Test; and
- (e) any other additional information that the Commissioner General may require.

(4) The Commissioner General shall set out, in the user manual, terms and conditions regulating the use of a computer system by a registered user, including -

- (a) the computer equipment and facilities of a class or kind that allows the user to communicate with the Commissioner General; and
- (b) the use of access code.

(5) Where electronic declaration is made without the consent of a registered user, the Commissioner General shall consider the declaration to have been made by the registered user.

(6) Where an applicant suspects that the computer system has been misused, the applicant shall immediately inform the Commissioner General.

(7) The Commissioner General shall set out a procedure for use of access codes to the employees of a registered users.”

Insertion of a new regulation 46A, 46B, 46C, 46D, 46E and 46F

3. Regulation 46 of the Principal Regulations is amended by inserting the following new regulations immediately after subregulation (4)-

“Interpretation

46A. For purposes of this Part, unless the context indicates otherwise -

“accredited client” means a person on whom accredited status is conferred;

“applicant” means a person who intends to submit an application for accreditation;

“application” means an application made in terms of section 66A of the Act for -

- (a) accredited client status;
- (b) the renewal of an accredited client status certificate; or
- (c) the amendment of an accredited client status certificate;

“application form for accreditation” means an application form as prescribed by Schedule 10.

“Customs Accreditation Self-assessment form” means an evaluation by the applicant on a form prescribed by Schedule 10 for the purposes of establishing whether the applicant has the ability to comply with accreditation requirements;

“Customs Competency Assessment for Accreditation” or “Competency Assessment” means an assessment administered by the Commissioner General, to the applicant, to establish whether the representative of the applicant has sufficient knowledge of customs laws, guides, interpretation notes, operational manuals and practices;

“Customs Relationship Manager” means the LRA official tasked with facilitating the relationship between an accredited client and the Commissioner General; and

“sufficient knowledge” means knowledge in relation to customs laws, guides, operational manuals and practices and achieving a score of at least seventy percent in the customs Competency Assessment for Accreditation.”

Persons who may apply for accredited client status

46B. (1) The following persons may apply for accreditation status:

- (a) natural person or his representative;
- (b) a juristic entity; and
- (c) a licensed customs broker or a registered agent.

(2) An application by a registered importer or exporter who is a juristic entity may be made on behalf of the entity, where the applicant is -

- (a) a company or co-operative, by a director or a manager of the company or co-operative;
- (b) a close corporation or partnership, by a member or a partner or a manager of the close corporation or partnership;
- (c) an association, club or other body of persons, by the chairperson or manager of the association, club or other body of persons;
- (d) a trust or trust fund, by the administrator or a trustee of the trust or trust fund; or
- (e) an organ of state, by an official of the state in an executive position.

(3) Where the application is submitted by the person acting on behalf of the applicant, such application shall be accompanied by a written authorization from the applicant.

(4) The application made pursuant to subregulation (1) shall contain the following information:

- (a) Tax Identification Number of the applicant;
- (b) the name of the natural person applying on behalf of the applicant, including the person's position, identity number or passport number and contact details;

- (c) an indication of whether the application is for accredited client status or for the renewal or amendment of an accredited client status certificate;
- (d) the reference number of the accredited client status certificate, in the case of an application for renewal or amendment;
- (e) the applicant's period of exposure to the Lesotho Customs and Excise environment;
- (f) jurisdiction and for how long the applicant has been accredited in another jurisdiction where the application has a record of compliance with Customs and Excise requirements in other jurisdictions;
- (g) where the applicant has been convicted of an offence involving fraud or dishonesty in another jurisdiction -
 - (i) a statement that the applicant's tax matters are in order;
 - (ii) the reference number of any Customs Accreditation Self-Assessment and Accreditation Competency Assessment relevant to the application;
- (h) in the case of an application for renewal of a certificate, the expiry date of the certificate;
- (i) in the case of an application for amendment of a certificate, the details of the required amendment;
- (j) a copy of the Accreditation Competency Certificate issued by the Commissioner General in respect of every person who complies with the

requirement of sufficient knowledge of customs laws, guides, interpretation notes, operational manuals and practices;

- (k) proof that the applicant has sufficient financial resources, which may consist of -
- (i) a copy of audited financial statements of the applicant covering a period of the three years preceding the date of application;
 - (ii) in the absence of financial statements referred to in subparagraph (i), an auditor's certificate to this effect;
 - (iii) an auditor's opinion on the effectiveness of the applicants internal accounting record keeping and operational system and its consistency with generally accepted accounting principles;
 - (iv) in the case of an application for amendment of an accredited client status certificate, a motivation of the reasons for the amendment; and
 - (v) any other document or information as the Commissioner General may request.

Pre-conditions for submission of new, renewal or amendment of applications for accredited client status

46C. (1) The application for accredited status shall only be submitted to the Commissioner General where -

- (a) the applicant has completed the Customs Accredited Self-assessment;
- (b) the applicant or the nominated person has passed the Competency Assessment; and

(c) an Accreditation Competency Certificate is issued to the applicant or the nominated person.

(2) The Commissioner General shall, before amending accredited client status certificate of the applicant-

- (a) give reasons for the proposed amendment; and
- (b) give an accredited client an opportunity to submit representations on the proposed amendment within thirty calendar days of the date of notification.

(3) Subregulation (1)(a) and (b) shall not apply where the applicant or a person within the applicant's organisation is the holder of a valid Accreditation Competency Certificate.

Criteria for compliance with accredited status

46D. (1) The criteria used for conferring accredited client status shall be as follows -

- (a) the applicant shall have a record of compliance with the Customs Act, Income Tax Acts, 1993³ and Value Added Tax Act, 2001⁴ for a period of at least three years preceding the date of application;
- (b) the applicant shall not have a record of conviction of any offence involving fraud or dishonesty;
- (c) the applicant shall maintain an effective internal accounting, record keeping and operational system which is consistent with generally accepted accounting principles which shall -
 - (i) reflect a full audit trail of all the applicant's customs transactions and activities for a period of at least three years preceding the date of application;

- (ii) have procedures for verifying the accuracy of clearance declarations submitted by or on behalf of the applicant; and
 - (iii) have internal controls for detecting illegal or irregular transactions and activities;
- (d) the applicant shall have a computerised system which has stored, backed-up and archived all the applicant's business records for a period of at least three years preceding the date of application;
- (e) the applicant shall have a computerised system which has a capacity for -
- (i) prompt retrieval or recovery of all the records; and
 - (ii) securing the records and protecting it from an unauthorised access;
- (f) the accredited client or the client's staff shall have sufficient knowledge of customs laws, guides, interpretation notes, operational manuals and practices to implement and maintain an effective accredited client compliance system;
- (g) the applicant shall have sufficient financial resources supported by -
- (i) audited financial statements for a period of at least three years preceding the application; or
 - (ii) other proof of financial resources as the Commissioner General may determine; and
- (h) the applicant shall have clearance declaration for

a period not exceeding three years preceding the application.

Conditions for accredited client status

46E. (1) The accredited client status certificate is issued subject to the following conditions:

- (a) the accredited client shall submit report to the Commissioner General detailing errors on clearance declarations submitted during the previous calendar month in respect of the quantity, classification or description, value or origin of goods; and
- (b) the accredited client shall employ at least one person who has sufficient knowledge of customs laws, guides, interpretation notes, operational manuals and practices to implement and maintain an effective accredited client compliance system.

(2) A person employed pursuant to subregulation (1) shall undertake an Accreditation Competency Assessment.

(3) The Commissioner General, where he is satisfied that a person who has undertaken Accreditation Competency Assessment has met the requirements, shall issue Accreditation Competency Certificate.

(4) The Accreditation Competency Certificate issued pursuant to subregulation (1) shall be valid for a period of three years from the date of issue.

Benefits of accredited client

46F. The accredited clients are entitled to -

- (a) the services of Customs Relationship Manager;
- (b) less frequent routine document and physical inspections;

- (c) priority on tariff and valuation determinations;
- (d) priority access to non-intrusive inspection techniques;
- (e) exemption from customs supervision where necessary;
- (f) prioritisation of application for special custom services;
- (g) prioritisation of refund and drawback applications;
- (h) prioritised declaration clearance; or
- (i) prioritised tax services including issuance of tax clearance certificate.”.

Insertion of a new regulation 61A

4. Regulation 61 of the Principal Regulations is amended by inserting the following regulation immediately after subregulation (2) -

“61A. Administrative penalties imposed under section 79 A of the Principal Act are prescribed in Schedule 11 to this regulation.

DATED:

**THABO SOPHONEA
MINISTER OF FINANCE**

NOTE

1. Act No. 10 of 1982 as amended by No. 6 of 2021
2. L.N. No. 126 of 1984
3. Act No. 9 of 1993
4. Act No. 9 of 2001

Schedule 9-ASYCUDA Form



Attach 2 passport photograph each for all users

ASYCUDA USER APPLICATION AND REGISTRATION FORM

I/We wish to apply for registration as a User of the Customs computer system, ASYCUDA World, and to that effect, I/We provide the following details, for your consideration:

1. IDENTIFICATION DETAILS OF APPLICANT	
A: TYPE OF BUSINESS (Tick the most appropriate)	
Clearing Agent	<input type="checkbox"/>
Manufacturer	<input type="checkbox"/>
Airlines Operator	<input type="checkbox"/>
Warehouse Owner	<input type="checkbox"/>
Airlines Owner	<input type="checkbox"/>
Government Agency	<input type="checkbox"/>
Self-Declarant	<input type="checkbox"/>
B: IDENTITY OF THE BUSINESS	
Name: (Name used at registration for Tax purposes)	
TIN: (Tax Identification Number allocated by the Lesotho Revenue Authority)	
B) All applicants must provide the names of each individual who will be accessing ASYCUDA World and include them in the table below, indicating which of the listed individuals will be a Super User, who will receive ALL of the UNIQUE USER NAMES issued to your business	
Full Name (Account Manager):	
Job Title:	
Email:	
Telephone:	

Full Name (User 1):	
Job Title:	
Email:	
Telephone:	
Full Name (User 2):	
Job Title:	
Email:	
Telephone:	
Full Name (User 3):	
Job Title:	
Email:	
Telephone:	
Full Name (User 4):	
Job Title:	
Email:	
Telephone:	
Full Name (User 5):	
Job Title:	
Email:	
Telephone:	

2. GENERAL CONDITIONS UNDER WHICH REGISTRATION WILL BE GRANTED

I/We, the applicant(s), agree to formally notify the Commissioner Customs within 24 hours of I/we:

- a) no longer meeting the licensing or operating conditions as a Clearing Agent, Warehouse, Manufacturer or other institution licenced by Customs to operate under Customs control;
- b) Ceasing to employ all or any of the individual registered users nominated in this application form;
- c) Changing the business address or individuals users;
- d) Ceasing to conduct business with Customs;
- e) becoming bankrupt or insolvent, or
- f) Being convicted of any offence under the Customs, Taxation or economic offences legislation.

3. SPECIFIC CONDITIONS IN RESPECT OF THE USE OF THE ASYCUDA WORLD SYSTEM

If approved as a registered user, I/We agree to:

- a) Accept that electronic submission of declarations and supporting documentation will be treated as legally binding
- b) Keep secure and not to disclose the Unique User Name and passwords allocated to me/us
- c) Notify Customs immediately if I/we suspect that the security of user names and passwords have in any way been compromised
- d) Notify Customs if I/we gain access or otherwise receive data that does not pertain to my/our lawful access to the system
- e) Not to falsify, damage or impair any record or information stored in the system
- f) Comply with any other conditions imposed by the Commissioner Customs in relation to the access ASYCUDA World.

RETURN OF REGISTRATION FORM

This form should be scanned and returned electronically to ecustoms@ira.org.ls. A printed signed copy MUST also be deposited at your nearest LRA Advice Centre.

OTHER NOTES

1. All sections of this application form must be completed.
2. This form must be signed by the General Manager, Managing Director or any other authorized senior Executive and duly include the official stamp or seal
3. Regardless of the individual responsibilities, the person signing this form on behalf of the company shall also be responsible for the requirements and conditions set out for individuals listed in this application
4. By signing this form, the applicant agrees to all requirements and conditions set out in this form or any other that the Commissioner Customs may impose in respect of registration of users.
5. The account manager is responsible for authorizing all changes on accounts of the clearing agent.

Applicant's Name
(Officer in Charge) _____

Signature _____
Date

--	--	--	--	--	--	--	--	--	--

Company Stamp/Seal

FOR OFFICIAL USE ONLY

Approved Not approved (state reasons) _____

Approving Officer _____

Signature _____

Schedule 10-Preferred Trader Application Form

PART A BUSINESS PARTICULARS									
TIN									
Legal Name									
Trading Name									
Postal address (P/Bag or P.O Box)									
								Postal code	
Physical address (street name)									
District									
Contact details									
Telephone Number									
Facsimile Number									
Cellphone Number									
Email Address									
PART B PURPOSE OF APPLICATION (tick an applicable option)									
New Application									
Reinstatement									
PART C NATURE OF BUSINESS (tick an applicable option)									
Sole trader									
Partnership/joint ventures									
Limited Company									
Lesotho branch of non-resident company									
Government body									
Other (Specify)									
PART D Directors/Partners Details (attach list if there are more than 3 Directors or more than 3 partners)									
Surname		Full names			Initials				
ID Number		TIN							
Surname		Full names			Initials				
ID Number		TIN							
Surname		Full names			Initials				
ID Number		TIN							

PART E PARTICULARS OF A CONTACT PERSON	
TIN	
Surname	
Full names	
Postal address (P/Bag or P.O Box)	Postal code
Physical address (street name)	
District	
Contact details	Telephone Number
	Facsimile Number
	Cellphone Number
	Email Address
Capacity	

PART F DECLARATION OF APPLICANT			
I hereby declare that the particulars herein are true and correct.			
Initials and Surname:		Date (day, month, year)	
Signature:		Status: (e.g. Director)	Place
Note: If the signatory is not a director, partner or trustee in the business a letter of authority must accompany this application form.			

LRA PT Self-Assessment Questionnaire (SAQ)

General rules:

a) A separate submission of the questionnaire must be completed for each respective individual Legal entity:

Section 1: General Information about the Applicant				
Trading Name				
TIN				
Date of establishment				
1.1 What role does your company play in the international supply chain?	Importer	Exporter	Transporter	Clearing Agent
1.2 Does the company outsource any activities to third parties? If (Y) go section 2.1 below.	Yes	Tick here	NO	Tick here
1.3 Does the company have any storage facilities? If (Y) go section 2.2 below	Yes	Tick here	NO	Tick here
1.4 Which customs Offices are used as ports of entry and/or exit?	Tick the appropriate Ports			
	Maseru bridge	<input type="checkbox"/>	Maputsoe Bridge	<input type="checkbox"/>
	Caledon'spoort	<input type="checkbox"/>	Van Rooyen's Gate	<input type="checkbox"/>
	Qacha's Nek Gate	<input type="checkbox"/>	Other (Specify) _____	<input type="checkbox"/>
1.5 What are the tariff classifications and chapters utilised by the company? if more than 5 items, complete 2.3 below.	HS Code		Description	
	1.			
	2.			
	3.			
	4.			
	5.			

Section 2: Additional details on the General Information about the Applicant		
2.1 Indicate full address of third party for any outsourced activities (expand as appropriate) ¹		
Name of Business		
Type of service		
Owner of Business including Partners, Directors, etc.		
Physical Address		
Country	Country Code:	Telephone Number
Contact Numbers		
e-mail address		
2.2 Indicate full addresses of any storage facilities used		
Name of Business		
Type of service		

¹ if more than one detail are to be provided, complete the additional details on the continuation sheet provided in section 3

Owner of Business including Partners, Directors, etc.	
Physical Address	
Country	
Contact Numbers	
e-mail address	
2.1 Indicate additional full address of third party for any outsourced activities	
Name of Business	
Type of Service	
Owner of Business including Partners, Directors, etc.	
Physical Address	
Country	
Contact Numbers	Country Code: Telephone Number
e-mail address	
2.2 Indicate additional full addresses of any storage facilities used	
Name of Business	
Type of service	
Owner of Business including Partners, Directors, etc.	
Physical Address	
Country	
Contact Numbers	Country Code: Telephone Number
e-mail address	
2.3 Additional tariff classifications and chapters utilised by the company	
HS Code	Description
6.	
7.	
8.	
9.	
10.	

Section 3 – Accreditation Self-assessment

- a) Complete the under-mentioned sections by answering yes or no and add any further comments on the continuation sheet (section 3)
- b) If after completing this self-assessment exercise, it is found that qualification for accredited client status in terms of the qualification and disqualification factors is unsuccessful, the Customs Relationship Manager may be approached to obtain advice and to establish the procedures required to initiate a compliance improvement initiative with a view to attaining accredited client status.
- c) The criteria and standards to be assessed here will apply where applicable, to the applicant, any person in charge or exercising control over the management, any representative or legal person responsible for the Customs and Tax matters within the business.
- d) This information will be used during a site visit to be conducted by the LRA Audit team prior to the finalisation of the application and to provide any guidance where required.

3.1 Appropriate Record of compliance

Qualification Factors	Yes	No
a) Have your business or any of the Directors ever been convicted of any offence in terms of the:		
i) Customs and Excise Act No.10 of 1982 as amended		
ii) Value-Added Tax Act of 2001 as amended and		
iii) Income Tax Act 1993 as amended		
If yes to any of the above, please list all these convictions and indicate the measures that have been implemented to improve the compliance status in this regard in section 3.1 below.		
b) Have your business incurred administrative penalties in the last three (3) years immediately preceding the application, for any contravention(s) of Lesotho Tax Laws?		
If yes, please list all these contraventions and indicate the measures that have been implemented to improve the compliance status in this regard in section 3.1 below.		
c) Has your business or any of the Management Team Members been convicted of an offence involving fraud or dishonesty in the last three (3) years?		
If yes, please list all these convictions and indicate the measures that have been implemented to improve the compliance status in this regard in section 3.1 below.		
Contributing Factors		
a) Indicate a clean record in terms of these disqualification factors:		
1. Outstanding under-declarations, penalties, deferment or any other outstanding debt, and/or		
2. Outstanding stop for Customs exam notes, and/or		
3. Acquittals outstanding for more than thirty (30) days, and/or		
4. Committed an offence with intent, and/or		
5. Failed to take corrective action to remedy faults identified in a previous inspection or audit		
6. Failed to submit VAT and Income Tax returns on time		
(i) If yes, has been selected for paragraph (a) above, please indicate if an instalment or any other plan is in place with LRA to settle the outstanding amount(s) or activities.		
(ii) If yes, has been selected for paragraphs (a) above, please indicate if the matter is contested judicially, pending submission, on appeal or awaiting a tariff or value determination. Provide details under continuation sheet paragraph 3(d).		
b) Have you have been penalised for administrative errors under any of the Lesotho Tax Laws, other than those mentioned in 3.1(b), which have been dealt with separately above?		

c) Briefly indicate measures implemented to improve compliance to your business, refer to continuation sheet paragraph 3 (c).		
d) Indicate if you have made voluntary disclosure i.e. the Commissioner has been advised of contraventions or failure to abide with the provisions of Lesotho Tax Laws. If yes please attach proof of voluntary disclosure. Refer to continuation sheet paragraph 3 (d).		
e) Indicate if you are in possession of a valid and current Tax Clearance Certificate If yes, attach the Tax Clearance Certificate.		

3.2 COMPUTER SYSTEM AND OPERATIONAL PROCEDURES AND PROCESSES

- The client is authorized to make due entry of his/her goods as per the provisions of Section 39 of Customs and Excise Act No.10 of 1982 and the Regulations thereto. This provision does not exclude the use of an intermediary or duly authorised agent to conduct Customs business related matters on behalf of the client, provided this assistance is performed within the terms or conditions required by the Commissioner.
- The clearing agent is an intermediary or duly authorised agent used to conduct Customs business related matters on behalf of the client
- Also indicate if a full audit trail of all Tax activities is maintained, verifiable procedures for backup, recovery, fallback archiving and retrieval of all records exist and are consistent with Accounting Principles. (taken from Question d)

Qualification Factors	Yes	No
a) Is the client compliant in respect of record keeping as contemplated in the Program eligibility criteria, within the preceding two (2) years immediately preceding the application? If No, indicate the measures implemented to improve compliance, refer to continuation sheet paragraph 3 (e).		
b) Do you maintain internal accounting, record keeping and operational systems, procedures and processes properly for all Tax activities? If no, indicate the measures implemented to improve the compliance. Refer to continuation sheet paragraph 3 (f).		
c) Do you have an error rate of less than 5% of the lines on all declarations passed for the preceding three (3) years for the following particulars has been maintained (i) Quantity; (ii) Classification or description; (iii) Value; and (iv) Originating status.		
d) If errors for the purposes of the above were identified, are they due to any reasonable dispute which are: (Please tick those that apply) (i) Under judicial review; (ii) Pending submission; (iii) On appeal; (iv) Awaiting a tariff, value or binding origin determination; or (v) Where a voucher of correction is passed prior to finalisation of the declaration process.		

3.3 SUFFICIENT KNOWLEDGE

Qualification Factors: Customs	Yes	No
a) Does the person who will administer the Customs responsibilities have competency in Customs issues? If yes, attach comprehensive curriculum vitae and the Customs		

Competence/knowledge test results of the person in a case of clearing agents.		Yes	No
Qualification Factor: Domestic Taxes			
b) Does the person who administers business records have competency in preparing Financial records? If yes, attach comprehensive curriculum vitae of the person.			

3.4 Sufficiency in Financial Resources		Yes	No
Qualification Factors			
a)	Are Audited financial statements available for the past three (3) years? If yes attach.		
b)	Is there proof of sufficient available financial resources as attested to by a registered accountant? If yes please attach documents.		
c)	Is there proof that any outstanding debt with the LRA has been settled or an agreement has been reached on a settlement plan? (Attach details).		
d)	Does the Company or Agent acting on your behalf, has no claims against the LRA Deferment Schemes for the past three (3) years preceding the application.		

3.5 Safety and security Features

All applicants must maintain some Security and Safety characteristics that will have to demonstrate the adequacy of the physical security of their premises. This may include:

- a) A large manufacturer with a perimeter wall/fence, security guards, and CCTV (close circuit TV systems) cameras etc;
- b) A customs agent operating from a single room in a building with locks on doors, windows and filing cabinets; and/or
- c) the requirement of identifying authorised persons (employees, visitors)

Qualification Factors		Yes	No
a)	Do the Buildings used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion?		
b)	Does the Company has appropriate access control measures in place to prevent unauthorised access to shipping areas, loading docks and cargo areas?		
c)	Do you employ Measures for the handling of goods including protection against the introduction, exchange or loss of any material and tampering with cargo units?		
d)	Where applicable, are procedures in place for the handling of import and/or export licences connected to prohibitions and restrictions and to distinguish these goods from other goods?		
e)	Has the applicant implemented measures allowing a clear identification of his business partners in order to secure the international supply chain?		
f)	Does the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks?		
g)	Does the applicant ensure that its staff concerned actively participates in security awareness programmes?		

Declaration	
I, in my capacity as hereby confirm that the information contained in this assessment is true and correct.	
Signature.....	Date.....

List of Annexes submitted with this assessment
 This can be:
 i) all the relevant company documented systems, processes and procedures
 ii)

3. Continuation Sheet

3.1 Additional Information on Qualification Factors

a) List of administrative penalties incurred in the last three (3) years immediately preceding the application, for any contravention of Sections 79-80 of the Customs & Excise Act, 1982 and the measures taken to improve compliance status in this regard.

Penalties Incurred	Measures Taken to Correct

b) Been penalised for administrative errors under the Act, other than those mentioned in Sections 81-90 of the Customs & Excise Act, 1982, which have been dealt with separately above. If yes, indicate the measures implemented to improve compliance.

Administrative Penalties Incurred	Measures Taken to Correct

c) Please list all these convictions offences involving fraud or dishonesty and indicate the measures that have been implemented to improve the compliance status in this regard.

d) Include any voluntary disclosures that have been made or advice to the Commissioner on contravention of the Revenue Acts or failure to abide with the provisions of these Acts, attach proof of voluntary disclosure.

e) Please indicate the internal accounting, record keeping and operational systems, procedures and processes maintained for all Tax activities. Indicate the measures implemented to improve compliance in respect of accounting, record keeping and operational systems, procedures as contemplated, where any exist.

f) Please indicate the Security and Safety features that will have to demonstrate the adequacy of the physical security of their premises on the following:	
j) Building and Perimeters:	
ii) Access controls:	
iii)	Employee screening:
iv)	procedures in place for the handling of import and/or export licences connected to prohibitions and restrictions:
v)	Security awareness programme where it exist:
g) Please indicate any other matters requiring LRA attention.	

4. Check List

List of attached documents	
a)	Proof of completion of the competency test and attachment of comprehensive curriculum vitae of the clearing agent (s) concerned.
b)	Audited financial statements of the business for the past three (3) years and attachment of comprehensive curriculum vitae of the company accountant
c)	Proof of sufficient available financial resources if financial statement are not available
d)	Proof of settlement of debt where applicable
e)	Tax clearance certificate
f)	Copy of a valid Trader's License.

SCHEDULE 11

ERRORS/NON-COMPLIANCES	DESCRIPTION	AMOUNT OF PENALTIES
1. Importing commercial cargo through a non-commercial border post	Smuggling of commercial goods at a place of entry not designated for importation of commercial goods.	50% of the value of goods
2. Loading and off-loading at places not designated for loading or off-loading	Loading or offloading at places such as border post without the authority of the Commissioner General.	15% of the value of goods
3. Vehicles parked at the customs controlled area for a period of more than two (2) hours without authorization	Parking vehicles especially at a place of entry for security reasons and the driver sleeps at some other area.	M 1,000
4. Interfering with goods under customs control without authorization	Removal or Disposal of goods for which customs formalities have not been completed	50% of the value of goods
5. Unauthorized Incomplete declarations	Declarations submitted without all the necessary attachments	M100 per declaration
6. Incorrect declarations (minor errors)	Clerical error discovered by Customs (with no revenue prejudice (such as statistical quantities, transport details, etc. but excluding where quotas are applicable.)	M200 per error
	Clerical error discovered by Customs (with possible loss of revenue)	For Extra SACU consignments: M 5,000

		unless the Customs value is below M3, 000. The Commissioner General will exercise his discretionary power for goods worth less than M3,000
		For Intra SACU consignments: 200% of VAT paid or payable.
7. Declaring at one border and entering at a different border	Either intentionally or otherwise, a declarant must enter Lesotho through a place of entry where declaration was processed.	M500
8. Failure to claim cleared goods within the prescribed period where the CG would have otherwise refused the release of such goods.		M1,000
9. Failure to report when offloading goods not in free circulation into another vehicle/container	In for some reasons vehicles transporting goods not in free circulation get problems, Customs must be notified.	M5,000
10. Arrival of cargo at the border without prior declaration	To avoid congestion at a place of entry, an advance or arrival notice must be	M5000

	submitted before the actual arrival.	
11. Proceeding to the border without a PTB document.	To avoid congestion at a place of entry, anyone who proceeds to border without authorizing note shall be issued with a penalty by the CG.	M500
12. Submission of invoices with quantities that do not tally with the actual goods.	This applies whether the declared quantities are more or less than the actual goods.	25% of customs value; 1st occurrence 50% of customs value 2nd occurrence 75% of customs value 3rd occurrence 100% of customs value thereafter
13. Invoices are not a true reflection of a transaction	The description and amounts of the items on the invoice should be the same as the actual goods presented at the border.	M2,500
14. Failure to pay deferred duties on the prescribed date.	Clients must pay outstanding debt to the CG on a prescribed date failing which a penalty is imposed.	M1,000 for the 1st 7 days M2,500 for 14 days M5,000 thereafter
15. Valuation errors	Failure to comply with the rules of valuation.	M200 per error
16. Error in determination of origin of goods	Failure to comply with rules of origin	M1,000
17. Failure to declare	A person in possession of	M200

personal effects	personal effects must declare them.	
18. Deliberate destruction or/and consumption of goods within the customs-controlled area	Using or destroying goods when asked to fulfill customs formalities within the customs-controlled area	M200
19. Allowing other customs clients to use one's accredited status	Allowing clients who are not accredited to access services offered to only accredited clients.	M10,000
20. Authorization of use of access codes to an unauthorized person	Giving access codes to unauthorized person for them to access LRA systems unlawful.	M8,000
21. Clearing Agent License use for a purpose other than that which is specified for the license	Engaging in other business activities (importing and trading in goods) of clearing goods for customs purposes	M 2,500
22. Incorrect use of other clients' TINs where the error is detected by Customs	Exchange of use of other clients TIN whether authorized or otherwise, once such noncompliance is found Customs shall impose penalties.	50% of duties and taxes due or paid
23. Overstayed temporarily imported goods.	Temporarily imported goods staying in the country beyond the period stated in the contract of service.	25% of revenue at risk
24. Failure to report within prescribed time frame-resignation of employee on use of access code		M500 after 24 hours M1,000 thereafter per day

25. Failure to keep records

Failing to keep records as prescribed by law, e.g. language, period etc

25% of the value: 1st occurrence
50% 2nd occurrence
75% 3rd occurrence
100% thereafter