

VOL. XXI WEDNESDAY, MARCH 31, 2021 NO. 19
EXTRAORDINARY

The Government of the Republic of Liberia announces that the Liberia Revenue Authority (LRA), pursuant to its mandate consistent with Part VII of the LRA Act of 2013, Section 38(1) specifically consistent with Section 1645, 1646 and 1647 of the Modernization Customs Code of 2018 has issued its Regulation No.05.1645/18/LRA/CD/30-03-21 herein under:

REGULATION CONCERNING SECURITY AND GUARANTOR

BY ORDER OF THE PRESIDENT

AMB. DEE-MAXWELL SAAH KEMAYAH, SR. MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS MONROVIA, LIBERIA





LIBERIA REVENUE AUTHORITY REVENUE ADMINISTRATIVE REGULATION

REGULATION NO.

05.1645/18/LRA/CD/30-03-21

SUBJECT

SECURITY AND GUARANTOR

DATE

MARCH 30, 2021

1.0 PREAMBLE

WHEREAS, Part VII Transitional Provisions of the Liberia Revenue Authority (LRA) Act of 2013, Section 38(1), Repeals and consequential Amendments transferred the administrative and operational powers and duties the Code assigns to the Minister or Deputy Minister to the Commissioner General;

WHEREAS, the LRA Act of 2013, Section 21(1) (a) & (b) provides, in relevant parts, that the Commissioner General shall be responsible for the administration and supervision of the Code. The Commissioner General shall also:

- (a.) Ensure the effective and fair interpretation, application and implementation of the Code,
- (b.) Ensure the proper and diligent implementation of this Act;

WHEREAS, the general authorization provision of Section 8(1) of the LRA Act of 2013 states that, "the authority is authorized to discharge its functions under this Act and has the power to take necessary action to accomplish those functions in the manner and using the methods permitted under the Code and other laws";

WHEREAS, a Primary Function of the LRA pursuant to section 7(1) of the LRA Act of 2013 is to transparently, equitably and fairly administer collection of national revenues and to ensure the deposit of all amounts assessed and collected into the Consolidated Fund; and

WHEREAS, Section 1645, 1646 and 1647 of the Modernized Customs Code of 2018 requires that the Commissioner General shall, by Regulation prescribe the forms of security/guarantee deemed necessary for the protection of revenue, and guarantors who can be liable for discharge of obligations of the principal under the Customs laws and pay the secured amount of any undischarged obligation;

NOW THEREFORE, in accordance with law, the LRA herewith sets forth the following administrative rules to prescribe the forms of security/guarantee deemed necessary for the protection of revenue, and guarantors who can be liable for discharge of obligations of the principal under the Customs laws and pay the secured amount of any undischarged obligation consistent with Sections 1645, 1646 and 1647 of the Modernized Customs Code of 2018.



2.0 LEGAL BASIS

This Regulation is pursuant to:

- 1) Section 1645 of the Modernized Customs Code of 2018, which states that, "In any case which bond or other security is not specifically required by law, the Commissioner General may by Regulation prescribe or specify written instruction require, or authorize the Customs Department to require, such security as the Commissioner General or Customs Department may deem necessary for the protection of the revenue or to assure compliance with any law, regulation, or instruction which the Customs Department is authorized to enforce."
- 2) Section 1646 of the Modernized Customs Code of 2018, which states that,
 - (a) "A security may be provided to the satisfaction of the Commissioner General as prescribed in Regulation in one of the following forms-
 - (1). a cash or cash equivalent deposit; or any other means of payment recognized by the Commissioner General as being equivalent to a cash deposit;
 - (2). another form of guarantee as prescribed by Regulation which provides equivalent assurance that import or export duties and taxes will be paid and any other obligations arising under the Customs laws will be properly discharged
 - (b) The person required to provide a security may choose the form of security. However, the Liberia Revenue Authority, may refuse to accept the form of security chosen where it does not meet the satisfaction of the Commissioner General as prescribed in regulation.

The Liberia Revenue Authority, may require that the form of security chosen be maintained for a specific period."

- 3) Section 1647 of the Modernized Customs Code of 2018, which states that, "
 - (a) Except as may be otherwise provided under ratified international agreements, a guarantor must be a third person established in Liberia. The guarantor must be approved by the Commissioner for Customs in accordance with established regulations.
 - (b) The guarantor shall undertake in writing to be jointly and severally liable for discharge of the obligations of the principal under the Customs laws and to pay the secured amount of any undischarged obligation.
 - (c) The Commissioner for Customs may refuse to approve the guaranter or the type of guarantee proposed where either the guaranter or type of guarantee does not appear certain to ensure payment within the prescribed period of the amount of import or export duty and other charges due to the Customs Department."

- 4) This Regulation is also pursuant to Section 1649 of the Modernized Customs Code of 2018, which states that,
 - (a) "The Commissioner of Customs, in accordance of such regulations as the Commissioner General may prescribe, shall determine the required level of security on the basis of risk assessment taking into account all relevant factors, including-
 - 1) The prior record of the principal in timely payment of duties, taxes and charges with respect to the transaction(s) involving such payments;
 - 2) The prior record of the principal in complying with obligations concerning the storage and movement of imported goods, and other requirements relating to enforcement and administration of the Customs law:
 - 3) The value and nature of the goods involved in the transaction(s) to be secured;
 - 4) The degree and type of supervision that the Customs Department will exercise over the transaction(s); and
 - The prior record of the principal in honoring bond commitments, including the payment of secured amounts.
 - (b) The Commissioner General shall by regulation prescribe the conditions whereby the requirement of security may be waived in particular cases where justified by risk assessment."

3.0 PURPOSE

The purpose of this Administrative Regulation is to prescribe the forms of security/guarantee deemed necessary for the protection of revenue, and qualification of guarantors who can be liable for discharge of obligations of the principal under the Customs laws and pay the secured amount of any undischarged obligation.

4.0 PROCEDURE

4.1.0 GUARANTEE/SECURITY REQUIREMENT

4.1.1 There shall be a guarantee/security requirement for all Customs procedures for which payment of duties and taxes is suspended (including bonded warehousing, bonded carrier, transit, temporary import, special permit/release, etc.).

4.1.2 The guarantee/security may be provided in one of the following forms:

- (a) Cash Bond;
- (b) Manager's Check;
- (c) Bank Guarantee: or
- (d) Insurance Bond

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4.1.3 The level of guarantee/security shall be provided as stated below:

a.) For transit procedure-

- 1) Whereby the goods is escorted by Customs officers, the security equivalent deposit amount shall be 100% of estimated duties and taxes,
- 2) Whereby the goods is not escorted by Customs officers (whether sealed or not), the security equivalent deposit amount shall be 150% of estimated duties and taxes.
- b.) For bonded warehouse, the equivalent deposit amount shall be 150% of estimated duties and taxes for average warehouse inventory;
- c.) For bonded carrier, the equivalent deposit amount shall be 150% of estimated duties and taxes for average bonded carrier inventory;
- d.) For special permit/release, the equivalent deposit amount shall be 150% of estimated duties and taxes.

4.2.0 GUARANTOR QUALIFICATION REQUIREMENT

- The person required to provide a security may choose the form of the security to provide once said security is consistent with Section 1649 of the Modernized Customs Code of 2018 and paragraph 4.1.2 of this Regulation;
- The guarantor for any security provided to protect and indemnify revenue shall be a 4.2.2 third person (legal or natural) established in Liberia except in the case of a transit procedure:
- 4.2.3 The guarantor for a security provided to protect revenue for transit procedure shall be a third person who may be established in Liberia or an ECOWAS accredited/approved guarantor.

4.3.0 CONDITIONS UNDER WHICH THE REQUIREMENT OF SECURITY MAY BE

- 4.3.1 For transactions with no duty or tax requirement, including-
 - (a) Diplomatic missions
 - (b) International NGOs
 - (c) Government ministries and agencies

5.0 PUBLIC NOTICE

The Government of Liberia, through the Liberia Revenue Authority, hereby announces the security requirements and forms of security/guarantee deemed necessary for the protection of revenue, level of security, the qualification requirement of guarantors, and conditions under which the requirements for security may be waived.

6.0 EFFECTIVE DATE

This Administrative Regulation shall take effect as of 30 APR, 20 21.

Signed:

rhomas Doe Nah

Commissioner-General/CEO