

Foreign Exchange Management (Export of goods and services) Regulations, 2000

Notification No.FEMA 23 /2000-RB dated 3rd May 2000

**RESERVE BANK OF INDIA
(EXCHANGE CONTROL DEPARTMENT)
CENTRAL OFFICE
MUMBAI 400 001**

In exercise of the powers conferred by clause (a) of sub-section (1) and subsection (3) of section 7, sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following regulations relating to export of goods and services from India, namely:

1. Short title and commencement :-

- (i) These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000.
- (ii) They shall come into force on 1st day of June, 2000.

2. Definitions :-

In these Regulations, unless the context requires otherwise, -

- (i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999) ;
- (ii) 'authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Act, and includes a person carrying on business as a factor and authorised as such under the said section 10 ;
- (iii) 'Exim Bank' means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981);
- (iv) 'export' includes the taking or sending out of goods by land, sea or air, on consignment or by way of sale, lease, hire-purchase, or under any other arrangement by whatever name called, and in the case of software, also includes transmission through any electronic media ;
- (v) 'export value' in relation to export by way of lease or hire-purchase or under any other similar arrangement, includes the charges, by whatever name called, payable in respect of such lease or hire-purchase or any other similar arrangement;
- (vi) 'form' means form annexed to these Regulations;
- (vii) 'schedule' means schedule appended to these Regulations;
- (viii) 'software' means any computer programme, database, drawing, design, audio/video signals, any information by whatever name called in or on any medium other than in or on any physical medium ;
- (ix) 'specified authority' means the person or the authority to whom the declaration as specified in Regulation 3 is to be furnished;
- (x) 'Working Group' means the Group constituted by the Reserve Bank for the purpose of considering proposals of export of goods and services on deferred payment terms or in execution of a turnkey project or a civil construction contract;

- (xi) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Declaration as regards export of goods and services :-

- (1) Every exporter of goods or software in physical form or through any other form, either directly or indirectly, to any place outside India, other than Nepal and Bhutan, shall furnish to the specified authority, a declaration in one of the forms set out in the Schedule and supported by such evidence as may be specified, containing true and correct material particulars including the amount representing -
 - (i) the full export value of the goods or software; or
 - (ii) if the full export value 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 or the software in overseas market, and affirms in the said declaration that the full export value of goods (whether ascertainable at the time of export or not) or the software has been or will within the specified period be, paid in the specified manner.
- (2) Declarations shall be executed in sets of such number as specified.
- (3) For the removal of doubt, it is clarified that, in respect of export of services to which none of the Forms specified in these Regulations apply, the exporter may export such services without furnishing any declaration, but shall be liable to realise the amount of foreign exchange which becomes due or accrues on account of such export, and to repatriate the same to India in accordance with the provisions of the Act, and these Regulations, as also other rules and regulations made under the Act.

4. Exemptions :-

Notwithstanding anything contained in Regulation 3, export of goods or services may be made without furnishing the declaration in the following cases, namely:

- a) trade samples of goods and publicity material supplied free of payment;
- b) personal effects of travellers, whether accompanied or unaccompanied;
- c) ship's stores, trans-shipment cargo and goods supplied under the orders of Central Government or of such officers as may be appointed by the Central Government in this behalf or of the military, naval or air force authorities in India for military, naval or air force requirements;
- d) goods or software accompanied by a declaration by the exporter that they are not more than twenty five thousand rupees in value;
- e) by way of gift of goods accompanied by a declaration by the exporter that they are not more than one lakh rupees in value;
- f) aircrafts or aircraft engines and spare parts for overhauling and/or repairs abroad subject to their reimport into India after overhauling /repairs, within a period of six months from the date of their export;
- g) goods imported free of cost on re-export basis;

- h) goods not exceeding U.S.\$ 1000 or its equivalent in value per transaction exported to Myanmar under the Barter Trade Agreement between the Central Government and the Government of Myanmar;
- i) the following goods which are permitted by the Development Commissioner of the Export Processing Zones or Free Trade Zones to be re-exported, namely:
 - 1) imported goods found defective, for the purpose of their replacement by the foreign suppliers/collaborators;
 - 2) goods imported from foreign suppliers/collaborators on loan basis;
 - 3) goods imported from foreign suppliers/collaborators free of cost, found surplus after production operations.
- j) replacement goods exported free of charge in accordance with the provisions of Exim Policy in force, for the time being.

5. Indication of importer-exporter code number :-

The importer-exporter code number allotted by the Director General of Foreign Trade under Section 7 of the Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992) shall be indicated on all copies of the declaration forms submitted by the exporter to the specified authority and in all correspondence of the exporter with the authorised dealer or the Reserve Bank, as the case may be.

6. Authority to whom declaration is to be furnished and the manner of dealing with the declaration :-

A. Declaration in Form GR/SDF

- (1) (i) The declaration in form GR/SDF shall be submitted in duplicate to the Commissioner of Customs.
- (ii) After duly verifying and authenticating the declaration form, the Commissioner of Customs shall forward the original declaration form/data to the nearest office of the Reserve Bank and hand over the duplicate form to the exporter for being submitted to the authorised dealer.

B. Declaration in Form PP

- (2) (i) The declaration in form PP shall be submitted in duplicate to the authorised dealer named in the form.
- (ii) The authorised dealer shall, after countersigning the declaration form, hand over the original form to the exporter who shall submit it 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. Declaration in Form SOFTEX

- (3) (i) The declaration in form SOFTEX in respect of export of computer software and audio/video/television software shall be submitted in triplicate to the designated official of Department of Electronics of Government of India at the Software Technology Parks of India (STPIs) or at the Free Trade Zones (FTZs) or Export Processing Zones (EPZs) in India.

- (ii) After certifying all three copies of the SOFTEX form, the said designated official shall forward the original directly to the nearest office of the Reserve Bank and return the duplicate to the exporter. The triplicate shall be retained by the designated official for record.

D. Submission of duplicate declaration forms to the Reserve Bank

On realisation of the export proceeds, the authorised dealer shall, after due certification, submit the duplicate of the GR/SDF, PP or as the case may be, SOFTEX form to the nearest office of the Reserve Bank.

7. Evidence in support of declaration :-

The Commissioner of Customs or the postal authority or the official of Department of Electronics, to whom the declaration form is submitted, may, in order to satisfy themselves of due compliance with Section 7 of the Act and these regulations, require such evidence in support of the declaration as may establish that -

- a) the exporter is a person resident in India and has a place of business in India;
- b) the destination stated on the declaration is the final place of the destination of the goods exported;
- c) the value stated in the declaration represents -
 - 1) the full export value of the goods or software; or
 - 2) where the full export value of the goods or software 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.

Explanation :

For the purpose of this regulation, 'final place of destination' means a place in a country in which the goods are ultimately imported and cleared through Customs of that country.

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

Unless otherwise authorised by the Reserve Bank, the amount representing the full export value of the goods exported shall be paid through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner and Receipt and Payment) Regulations, 2000.

Explanation :

For the purpose of this regulation, re-import into India, within the period specified for realisation of the export value, of the exported goods in respect of which a declaration was made under Regulation 3, shall be deemed to be realisation of full export value of such goods.

9. Period within which export value of goods/software to be realised :-

The amount representing the full export value of goods or software exported shall be realised and repatriated to India within six months from the date of export :

Provided that where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing the full export value of 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, or subject to the directions issued by that Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the said period of six months or fifteen months, as the case may be.

Explanation :

For the purpose of this regulation, the “date of export” in relation to the export of software in other than physical form, shall be deemed to be the date of invoice covering such export.

10. Export on Elongated Credit Terms :-

No person shall enter into any contract to export goods on the terms which provide for a period longer than six months for payment of the value of the goods to be exported :

Provided that the Reserve Bank may, for reasonable and sufficient cause shown, grant approval to enter into a contract on such terms.

11. Submission of export documents :-

The documents pertaining to export shall, within 21 days from the date of export as, as the case may be, from the date of certification of SOFTEX form, be submitted to the authorised dealer mentioned in the relevant declaration form:

Provided that, subject to the directions issued by the Reserve Bank from time to time, the authorised dealer may accept the documents pertaining to export submitted after the expiry of the specified period of 21 days, for reasons beyond the control of the exporter.

12. Transfer of documents :-

Without prejudice to Regulation 3, an authorised dealer may accept, for negotiation or collection, shipping documents including invoice and bill of exchange covering exports, from his constituent (not being a person who has signed the declaration in terms of Regulation 3) :

Provided that before accepting such documents for negotiation or collection, the authorised dealer shall -

- a) where the value declared in the declaration does not differ from the value shown in the documents being negotiated or sent for collection, or
- b) where the value declared in the declaration is less than the value shown in the documents being negotiated or sent for collection, require the constituent concerned also to sign such declaration and thereupon such constituent shall be bound to comply with such requisition and such constituent signing the declaration shall be considered to be the exporter for the purposes of these Regulations to the extent of the full value shown in the documents being negotiated or sent for collection and shall be governed by these Regulations accordingly.

13. Payment for the Export :-

In respect of export of any goods or software for which a declaration is required to be furnished under Regulation 3, no person shall except with the permission of the Reserve Bank or, subject to the directions of the Reserve Bank, permission of an authorised dealer, do or refrain from doing anything or take or refrain from taking any action which has the effect of securing -

- (i) that the payment for the goods or software is made otherwise than in the specified manner; or
- (ii) that the payment is delayed beyond the period specified under these Regulations; or
- (iii) that the proceeds of sale of the goods or software exported do not represent the full export value of the goods or software subject to such deductions, if any, as may be allowed by the Reserve Bank or, subject to the directions of the Reserve Bank, by an authorised dealer; Provided that no proceedings in respect of contravention of these provisions shall be instituted unless the specified period has expired and payment for the goods or software representing the full export value, or the value after deductions allowed under clause (iii), has not been made in the specified manner within the specified period.

14. Certain Exports requiring prior approval :-

A. Export of goods on lease, hire, etc.

No person shall, except with the prior permission of the Reserve Bank, take or send out by land, sea or air any goods from India to any place outside India on lease or hire or under any arrangement or in any other manner other than sale or disposal of such goods.

B. Exports under trade agreement/rupee credit etc.

- (i) Export of goods under special arrangement between the Central Government and Government of a foreign state, or under rupee credits extended by the Central Government to Govt. of a foreign state shall be governed by the terms and conditions set out in the relative public notices issued by the Trade Control Authority in India and the instructions issued from time to time by the Reserve Bank.
- (ii) An export under the line of credit extended to a bank or a financial institution operating in a foreign state by the Exim Bank for financing exports from India, shall be governed by the terms and conditions advised by the Reserve Bank to the authorised dealers from time to time.

C. Counter Trade

Any arrangement involving adjustment of value of goods imported into India against value of goods exported from India, shall require prior approval of the Reserve Bank.

15. Delay in Receipt of Payment :-

Where in relation to goods or software export of which is required to be declared on the specified form, the specified period has expired and the payment therefor has not been made as aforesaid, the Reserve Bank may give to any person who has sold the goods or software or who is entitled to sell the goods or software or procure the sale thereof, such directions as appear to it to be expedient, for the purpose of securing, (a) the payment therefor if the goods or software has been sold and (b) the sale of goods and payment thereof, if goods or software has not been sold or re-import thereof into India as the circumstances permit, within such period as the Reserve Bank may specify in this behalf ;

Provided that omission of the Reserve Bank to give directions shall not have the effect of absolving the person committing the contravention from the consequences thereof.

16. Advance payment against exports :-

- (1) Where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under an obligation to ensure that -
 - i) the shipment of goods is made within one year from the date of receipt of advance payment;
 - ii) the rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points, and
 - iii) the documents covering the shipment are routed through the authorised dealer through whom the advance payment is received;

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilised portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.

- (2) Notwithstanding anything contained in clause (i) of sub-regulation (1), where the export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment, the exporter shall require the prior approval of the Reserve Bank.

17. Issue of directions by Reserve Bank in certain cases :-

- (1) Without prejudice to the provisions of Regulation 3 in relation to the export of goods or software which is required to be declared, the Reserve Bank may, for the purpose of ensuring that the full export value of the goods or, as the case may be, the value which the exporter having regard to the prevailing market conditions expects to receive on the sale of goods or software in the overseas market, is received in proper time and without delay, by general or special order, direct from time to time that in respect of export of goods or software to any destination or any class of export transactions or any class of goods or software or class of exporters, the exporter shall, prior to the export, comply with the conditions as may be specified in the order, namely ;
 - a) that the payment of the goods or software is covered by an irrevocable letter of credit or by such other arrangement or document as may be indicated in the order ;
 - b) that any declaration to be furnished to the specified authority shall be submitted to the Reserve Bank for its prior approval, which may, having regard to the circumstances, be given or withheld or may be given subject to such conditions as the Reserve Bank may deem fit to impose ;
 - c) that a copy of the declaration to be furnished to the specified authority shall be submitted to such authority or organisation as may be indicated in the order for certifying that the value of goods or software specified in the declaration represents the proper value thereof.
- (2) No direction under sub-regulation (1) shall be given, and no approval under clause (b) of that sub-regulation shall be withheld by the Reserve Bank, unless the exporter has been given a reasonable opportunity to make a representation in the matter.

18. Project exports

Where an export of goods or services is proposed to be made on deferred payment terms or in execution of a turnkey project or a civil construction contract, the exporter shall, before entering into any such export arrangement, submit the proposal for prior approval of the approving authority, which shall consider the proposal in accordance with the guidelines issued by the Reserve Bank from time to time.

Explanation:

For the purpose of this Regulation, 'approving authority' means the Working Group or the Exim Bank or the authorised dealer

(P.R. GOPALA RAO)
Executive Director

**Published in the Official Gazette of Government
of India - Extraordinary - Part-II, Section 3,
Sub-Section (i) dated 08.05.2000 - G.S.R.No.409(E)**

Schedule
(Refer to Regulation 3)

- Form **GR:** To be completed in duplicate for export otherwise than by Post including export of software in physical form i.e. magnetic tapes/discs and paper media.
- Form **SDF:** To be completed in duplicate and appended to the shipping bill, for exports declared to Customs Offices notified by the Central Government which have introduced Electronic Data Interchange (EDI) system for processing shipping bills notified by the Central Government.
- Form **PP:** To be completed in duplicate for export by Post.
- Form **SOFTEX:** To be completed in triplicate for declaration of export of software otherwise than in physical form, i.e. magnetic tapes/discs, and paper media.