

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 84 OF 2018

The Tobacco Act
(Laws, Volume 14, Cap. 237)

**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

ARRANGEMENTS OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Sale of non-auctionable tobacco
4. Submission of buyer's pricing matrix
5. Request for additional information
6. Rejection of buyer's pricing matrix
7. Submission of revised buyer's matrix
8. Approval of buyer's pricing matrix
9. Prohibition of erection, alteration or extension of sales floor
10. Application for conditional authority
11. Prohibition of operation of undesignation sales floor
12. Restriction on operating sales floor
13. Application for designation of sales floor
14. Rejection of application for designation
15. Grant of designation
16. Duplicate designation
17. Suspension of designation
18. Revocation of designation
19. Operation of sales floor by Board
20. Deposit of purchase price for tobacco in certain cases
21. Delivery quotas
22. Sales and supervision

*Copies of this Statutory Instrument can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka. Price K 42.00 each.*

IN EXERCISE of the powers contained in sections 73 and 100 of the Tobacco Act, the following Regulations are made:

Title	1. These Regulations may be cited as the Tobacco (Sale of Non-Auctionable Tobacco) Regulations, 2018.
Interpretation	2. In these Regulations, unless the context otherwise requires “approved buyer’s pricing matrix” means a buyer’s pricing matrix approved by the Board; “arbitrator” has the meaning assigned to the word in the Tobacco (Marketing and Licensing) Rules, 1968; “buyer’s pricing matrix” means a schedule of non-auctionable tobacco grade marks with related prices per unit of measure for each grade mark describing the tobacco leaf; “buyer’s representative” means a person nominated by a licensed buyer to buy tobacco on the buying line for and on behalf of the licensed buyer; “buying line” means the order of buying tobacco on a sales floor comprising a classifier, buyer’s representative, grower’s representative and an arbitrator; “classifier” has the meaning assigned to the word in the Tobacco (Marketing and Licensing) Rules, 1968; “conditional authority” means the authority under regulation 10, granted by the Board to a person to erect, alter or extend a sales floor; “contract crop” means non-auctionable tobacco to be sold under an outgrower production contract entered into between a grower and licensed buyer; “designation” means a designation granted by the Board to operate a sales floor; “grower” means a person who grows or intends to grow tobacco and is registered by the Board as a grower; “grower’s representative” means a person nominated by a grower, and registered by the Board, to sell tobacco for and on behalf of the grower on the buying line; “market contract” means an agreement between a self sponsored registered grower and a licensed buyer who is an offtaker of self-sponsored tobacco; “non-contract crop” means tobacco which can be freely sold to a willing licensed buyer on an auction floor or a sales floor;
SI No. 142 of 1968	
SI No. 142 of 1968	

“production contract” means an agreement between a grower and a licenced buyer for the grower to produce a projected volume of tobacco and sell the tobacco produced to the licensed buyer on a sales floor;

“sales area” means the portion of a sales floor allotted for the sale of non-auctionable tobacco and excludes an area or areas allotted for storage of the tobacco;

“sales floor” means premises designated by the Board for the sale of non-auctionable tobacco;

“sales supervisor” means a person appointed by the Board to supervise the sale of non-auctionable tobacco on a sales floor;

“self-sponsored tobacco” means tobacco produced by a grower or producer who is not financed by the buyer, with the grower or producer retaining ownership until sale;

“sponsor” means a person that finances the production of tobacco by a grower and retains ownership of the tobacco until the point of sale for purposes of recovering the financing advanced to the grower in the production of the tobacco; and

“sponsorship contract” means an agreement between a grower or producer and a buyer for the production of tobacco where the buyer prefinances the production of the tobacco and retains ownership of the tobacco.

3. (1) A grower of tobacco under a production contract shall offer the non-auctionable tobacco produced under that contract for sale during a selling season on a sales floor.

Sale of non-auctionable tobacco

(2) Where, in a selling season, a licensed buyer is entitled to buy a projected volume of non-auctionable tobacco under a production contract, the actual volume bought shall be segregated as set out in the First Schedule.

4. (1) A licensed buyer shall, not less than sixty days before the commencement of a selling season, submit to the Board that buyer’s pricing matrix for approval.

Submission of buyer’s pricing matrix

(2) The Board shall, within fourteen days of receipt of the buyers pricing matrix, notify the licensed buyer of the decision of the Board.

(3) The Board shall, in considering the buyer’s pricing matrix, take into account the costs of producing tobacco in any season.

5. The Board may request a licensed buyer that has submitted a buyer’s pricing matrix to submit additional information in relation to the buyer’s pricing matrix in Form I set out in the Second Schedule.

Request for additional information

Rejection of buyer's pricing matrix	<p>6. (1) The Board may reject a buyer's pricing matrix if the prices contained in the buyer's pricing matrix are below the costs of production of tobacco in the season to which the buyer's pricing matrix relates.</p> <p>(2) The Board shall, where the Board rejects a buyer's pricing matrix, notify the licensed buyer within seven days of the Board's decision, in Form II set out in the Second Schedule.</p>
Submission of revised buyer's matrix	<p>7. (1) A licensed buyer shall, where the licensed buyer's pricing matrix is rejected under regulation 6, submit a revised buyer's pricing matrix that remedies the causes of the rejection of the buyer's pricing matrix submitted under regulation 4.</p> <p>(2) A licensed buyer shall submit a revised buyer's pricing matrix within fourteen days from the date of receipt of the notice of rejection of the buyer's pricing matrix submitted under regulation 4.</p>
Approval of buyer's pricing matrix	<p>8. (1) The Board shall, where a buyer's pricing matrix contains reasonable prices, approve the buyer's pricing matrix.</p> <p>(2) The Board shall, where it approves a buyer's pricing matrix, notify the licensed buyer of the approval within seven days of the Board's decision in Form III set out in the Second Schedule.</p> <p>(3) An approved buyer's pricing matrix is valid for the duration of the selling season to which it relates.</p>
Prohibition of erection, alteration or extension of sales floor	<p>9. (1) A person shall not erect, alter or extend a sales floor without the conditional authority of the Board.</p> <p>(2) A person that contravenes subregulation (1) commits an offence and is liable, on conviction in a case of a—</p> <p>(a) first offender, a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding six months, or to both; and</p> <p>(b) second or subsequent offender, a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding one year, or to both.</p>
Application for conditional authority	<p>10. (1) A person that intends to erect, alter or extend a sales floor shall apply to the Board for conditional authority in Form IV set out in the Second Schedule.</p> <p>(2) The provisions of regulations 14, 15, 16, 17 and 18 apply to conditional authority as if for a reference to "designation" these were substituted with the reference to "conditional authority".</p> <p>(3) A holder of conditional authority shall, on completion of the building works in respect of which conditional authority has been granted, apply for designation in accordance with regulation 13.</p>

(4) Where conditional authority granted is for the alteration or extension of a sales floor, a further fee is not payable to the Board during the period of validity of the designation granted prior to the grant of the conditional authority.

11. (1) A person shall not operate a sales floor that is not designated by the Board.

Prohibition
of operation
of
undesignated
sales floor

(2) A person that contravenes subregulation (1) commits an offence and is liable, on conviction in a case of a—

(a) first offender, a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding six months, or to both; and

(b) second or subsequent offender, a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

12. (1) A licensed buyer, sponsor or grower is not eligible to operate a sales floor.

Restriction
on operating
sales floor

(2) A sales floor shall be at least ten kilometres away from another sales floor.

13. (1) A person that intends to operate a sales floor shall apply to the Board for designation in Form V set out in the Second Schedule on payment of seventy thousand one hundred and sixty-eight fee units.

Application
for
designation
of sales floor

(2) The Board may request an applicant to submit additional information in relation to the application in Form I set out in the Second Schedule.

(3) The Board shall, within ninety days of receipt of an application, notify the applicant of the decision of the Board.

(4) An applicant shall, where the applicant intends to operate more than one sales floor, submit a separate application in respect of each premises intended to be operated as a sales floor.

(5) The Board may inspect the premises in respect of which an application is made to determine if the premises are suitable for operation as a sales floor.

14. (1) The Board shall reject an application for designation if—

Rejection of
application
for
designation

(a) the applicant fails to comply with a condition precedent to the grant of a designation;

(b) a designation granted to the applicant was revoked by the Board within a period of two years preceding the application; or

- (c) the applicant has been convicted of an offence under the Act or any other relevant written law.
- (2) The Board shall, where it rejects an application for designation, notify the applicant within seven days of the decision in Form II set out in the Second Schedule.
- Grant of designation 15. (1) The Board shall, where an applicant meets the requirements for designation, grant a designation in Form VI set out in the Second Schedule.
- (2) A designation is valid for the duration of the selling season in respect of which it is granted.
- (3) A designation is not transferable.
- Duplicate designation 16. A person shall, where that person's designation is lost, damaged or defaced, apply to the Board for a duplicate designation in Form VII set out in the Second Schedule.
- Suspension of designation 17. The Board shall suspend a designation if the holder of the designation contravenes the conditions of the designation, the provisions of the Act or any other relevant written law.
- (2) The Board shall, before suspending a designation, notify the holder of the designation of the intention to suspend the designation and request the holder of the designation to show cause, within a specified period, why the designation should not be suspended.
- (3) A notice of intention to suspend a designation shall be in Form VIII set out in the Second Schedule.
- (4) The Board shall suspend a designation if the holder of the designation does not take corrective measures within the period specified in the notice issued under subregulation (2).
- (5) A notice of the suspension of a designation shall be in Form IX set out in the Second Schedule.
- (6) The Board shall, where a designation has been suspended, operate the sales floor for the duration of the suspension.
- Revocation of designation 18. (1) The Board shall revoke a designation if the holder of the designation—
- (a) contravenes the conditions of the designation, provisions of the Act or any other relevant written law;
 - (b) does not take corrective measures following the suspension of the designation within the period specified for taking such measures; or
 - (c) obtained the designation by fraud or deliberate or negligent submission of false information or statements.

(2) The Board shall, before revoking a designation, notify the holder of the designation of the intention to revoke the designation and request the holder of the designation within a specified period, to show cause, why the designation should not be revoked.

(3) A notice of intention to revoke a designation shall be in Form VIII set out in the Second Schedule.

(4) The Board shall revoke a designation if the holder of the designation does not take corrective measures within the period specified for taking such measures.

(5) A notice of revocation of designation shall be in Form IX set out in the Second Schedule.

(6) The Board shall, where a designation has been revoked, operate the sales floor for the remainder of the selling season.

19. The Board shall, where an applicant for a designation does not meet the requirements of the Act in a particular selling season, operate that applicant's sales floor in that selling season.

Operation of
sales floor
by Board

20. (1) A prospective buyer that intends to purchase tobacco shall, in the first three years of being granted the first buyer's licence, deposit with the Board the full purchase price of the expected volume of tobacco to be purchased in each selling season.

Deposit of
purchase
price for
tobacco in
certain cases

(2) The Board shall undertake disbursements on behalf of a licensed buyer for the first three years of that buyer being granted a buyer's licence.

21. A grower shall not deliver or cause to be delivered to a sales floor, in a selling season, non-auctionable tobacco in excess of the delivery quota fixed by the Board for that grower in that selling season.

Delivery
quotas

22. (1) Parts VI, VII and VIII of the Tobacco (Marketing and Licensing) Rules, 1968, apply, with necessary changes, to the marking of bales, packing and selling of non-auctionable tobacco.

Sales and
supervision
SI No. 142
of 1968

(2) Despite sub-regulation (1)—

(a) the Board shall appoint sales supervisors as designated sales supervisors; and

(b) a designated sales supervisor shall inspect the weights of non-auctionable tobacco delivered to a sales floor by or on behalf of a grower or producer.

(3) A classifier shall assign a classification grade mark to non-auctionable tobacco laid on a buying line.

- (4) A buyer's representative shall assign a price to the non-auctionable tobacco classified under sub-regulation (3) in accordance with the buyer's approved pricing matrix.
- (5) A buyer's representative shall register with the Board within fourteen days of being nominated by a grower.
- (6) A buyer's representative shall inform that buyer's representative's grower, of the—
- (a) classification grade mark assigned to the non-auctionable tobacco by the classifier; and
 - (b) price assigned to the non-auctionable tobacco by the buyer's representative.
- (7) An arbitrator shall, where a dispute arises relating to the price assigned or the classification grade mark of non-auctionable tobacco, determine the dispute in accordance with the approved buyer's pricing matrix within forty-eight hours of the date of receipt of notice of the dispute.

FIRST SCHEDULE
(Regulations 3(2))



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

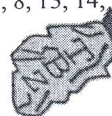
**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

SEGREGATION OF VOLUMES OF NON-AUCTIONABLE TOBACCO FOR SALE
UNDER PRODUCTION CONTRACT

<i>Category of crop</i>	<i>Volume</i>
Contract	80%
Self-Sponsored	20%

SECOND SCHEDULE

(Regulations 5, 6, 8, 13, 14, 15, 16, 17 and 18)



Form I
(Regulations 5, 10
(2) and 13 (2))

Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

REQUEST FOR ADDITIONAL INFORMATION

To.....
Address:
Application No.:
You are requested to furnish the following information or documents in respect of your application for
(a).....
(b).....
(c).....
(d).....
within days of this notice.
If you fail to furnish the requested information within the stipulated period, your application will be treated as invalid and shall be rejected.
Dated this day of, 20.....

.....
Registrar

OFFICIAL STAMP

9th November, 2018

Form II
(Regulation 6 (2), 10(2) and 14(2))

Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018NOTICE OF REJECTION OF BUYER'S PRICING MATRIX/
CONDITIONAL AUTHORITY/DESIGNATION*

(1) Here
insert the
full names
and address
of applicant
(2) Here
insert the
reference
No. of the
application

To: (1).....

IN THE MATTER OF (2) you are
notified that your buyer's pricing matrix/application for conditional authority/
application for designation* has been rejected on the following grounds*:

(a).....

(b).....

(c).....

Dated this day of, 20.....

Registrar

*Delete as appropriate.

Form III
(Regulation 8 (2))
Tobacco Board of Zambia



The Tobacco Act
(Laws, Volume 14, Cap. 237)

**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

NOTICE OF APPROVAL OF BUYER'S PRICING MATRIX

To: (1)
 (1) Here insert the full names and address of applicant
 (2) Here insert the reference No. of the application
 (3) Here insert selling season for which approval is granted
 IN THE MATTER OF (2)
 you are notified that your pricing matrix for the (3) selling season has been approved with approval reference No: as with particulars listed below:
 (a)
 (b)
 (c)
 Dated this day of, 20.....

.....
Registrar



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018

APPLICATION FOR CONDITIONAL AUTHORITY			
Please complete in BLOCK LETTERS		Shaded fields for official use only	Conditional Application No. Date and Time
<i>Information Required</i>		<i>Information Provided</i> √	
PARTICULARS OF APPLICANT			
1.	Designation No.		
2.	Name(s) of applicant		
3.	Business address (Physical address of Head Office)		
4.	Telephone No.		
5.	E-mail		
6.	Location of activities	Districts	
	Operations		
7.	Particulars of Directors/Partners/Sole Proprietor*:		
	(i)		
	(ii)		
	(iii)		
	Where the list exceeds the provided space, use a separate sheet of plain paper		
8.	Have the premises for which the conditional authority is sought been previously designated? YES () NO ()		
	If Yes –		
	(a) describe briefly the proposed erections, alterations or extensions:		
	(b) have you supplied a plan and elevations of the proposed erections, alterations or extensions? YES () NO ()		
9.	Attachments		
	A certified copy of a plan showing the site of the proposed premises for which this application is made.		
DECLARATION I declare that the information stated is correct and true to the best of my knowledge and belief.			
..... <i>Name</i>	 <i>Designation</i>	
..... <i>Signature</i>	 <i>Date</i>	

FOR OFFICIAL USE ONLY

Comments by Registrar:

Approved/Not approved for the period:

Receipt No.:

Dated this day of, 20

.....
Registrar

*Delete as appropriate

[Reverse side of Form IV]

MINIMUM STANDARDS OF PREMISES

A designation shall not be granted in respect of premises-

(a) which do not comply with the following minimum requirements:

- (i) the area available for storage of tobacco shall be not less than two-thirds of the area of the sales area;
- (ii) the total area of platforms and verandas capable of being used for the loading or off-loading of tobacco shall not be less than forty percent of the area of the sales area;
- (iii) the natural roof lighting of the sales area shall be a combination of south lighting and translucent roof sheets of a material approved by the Board, so that the total area of such lighting shall not be less than fifteen percent of the area of the sales area;
- (iv) the area surface of the sales area, storage areas, re-handling area, and all ramps, platforms and verandahs adjacent thereto, and where applicable the walls thereof, shall be composed of such material as to be resistant to rising damp and of sufficient strength and elasticity to withstand the loads to be imposed upon them, and capable of being so maintained and treated as to prevent the harbouring of pests of tobacco;
- (v) there shall be in a position adjacent to or as part of the sales area an area set aside for the re-handling of tobacco, which area shall be not less than seven percent of the area of the sales area, and shall be equipped with such devices as are capable of controlling the humidity therein to the satisfaction of the Board; and

(b) where the design and construction of that premise has been approved by a registered architect appointed for this purpose by the Board.

Form V
(Regulation 13(1))



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018

APPLICATION FOR DESIGNATION OF SALES FLOOR			
Please complete in BLOCK LETTERS	Shaded fields for official use only	Application No.	
		Date and Time	
Information Required	Information Provided		√
PARTICULARS OF APPLICANT			
1.	Designation No.		
2.	Name(s) of applicant		
3.	Business address (Physical address of Head Office)		
4.	Telephone No.		
5.	E-mail		
6.	Location of activities	Districts	
	Operations		
7.	Particulars of Directors/Partners/Sole Proprietor:		
	(i)		
	(ii)		
	(iii)		
	*Where the list exceeds the provided space, use a separate sheet of plain paper		
8.	Have the premises for which the conditional authority is sought been previously designated? YES () NO ()		
	If Yes –		
	(a) describe briefly the proposed erections, alterations or extensions:		
	(b) have you supplied a plan and elevations of the proposed erections, alterations or extensions? YES () NO ()		
9.	Attachments		
	A certified copy of a plan showing the site of the proposed premises for which this application is made.		

DECLARATION

I declare that the information stated above is correct and true to the best of my knowledge and belief.

..... <i>Name</i> <i>Designation</i>
..... <i>Signature</i> <i>Date</i>

FOR OFFICIAL USE ONLY

Comments by Registrar:

Approved/Not approved for the period:

Receipt No.:

Dated this day of, 20

.....
Registrar

NOTE: Where an applicant intends to operate more than one sales floor, the applicant shall submit a separate application in respect of each premise intended to be operated as a sales floor.

Form VI
(Regulations 10 (2) and 15(1))



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

GRANT OF CONDITIONAL AUTHORITY/DESIGNATION*

(1) Here
insert the
full names
and address
of applicant

(2) Here
insert the
reference
No. of the
application

To: (1)

IN THE MATTER OF (2)

you are notified that your application for conditional authority/ designation*
has been approved with approval reference No: as with
particulars listed below:

(a)

(b)

Dated this day of, 20.....

.....
Registrar

*Delete as appropriate

- Note: Conditional authority/designation is not transferable.



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018

APPLICATION FOR DUPLICATE CONDITIONAL AUTHORITY/DESIGNATION*			
Please complete in BLOCK LETTERS		Shaded fields for official use only	Application No. Date and Time
Information Required		Information Provided	
PARTICULARS OF APPLICANT			
1.	Designation No.		
2.	Name(s) of applicant		
3.	Business address (Physical address of Head Office)		
4.	Telephone No.		
5.	E-mail		
6.	Location of activities	Districts	
	Operations		
7.	Particulars of Directors/Partners/Sole Proprietor:		
	(i)		
	(ii)		
	(iii)		
	*Where the list exceeds the provided space, use a separate sheet of plain paper		
8.	Attachments		
	A certified copy of a plan showing the site of the proposed premises for which this application is made.		
	An affidavit of loss or damage, of conditional authority/designation		
DECLARATION I declare that the information stated above is correct and true to the best of my knowledge and belief. <div style="display: flex; justify-content: space-between;"> <div> <i>Name</i> <i>Signature</i> </div> <div> <i>Designation</i> <i>Date</i> </div> </div>			
FOR OFFICIAL USE ONLY Comments by Registrar: Approved/Not approved for the period: Receipt No.: Dated this day of, 20 <div style="text-align: center;"> <i>Registrar</i> </div>			

*Delete as appropriate

Form VIII
(Regulations 10(2), 17(3) and 18(3))



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

**The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018**

**NOTICE OF INTENTION TO SUSPEND/REVOKE*
CONDITIONAL AUTHORITY/ DESIGNATION***

(1) Here
insert the full
names and
address of
holder

To (1)

(2) Here
insert the
conditional
authority
No./
designation

IN THE MATTER OF (2) you are notified that
the Board intends to *suspend/ revoke your conditional authority/ designation on
the following grounds:

- (a)
(b)
(c)

Accordingly, you are requested to show cause why your conditional authority/
designation* should not be *suspended/ revoked and to take action to remedy
the breaches set out in paragraphs (above) within (3)
..... days of receiving this notice. Failure to remedy the said breaches
shall result in the *suspension/ revocation of your conditional authority/
designation*.

Dated this day of 20.....

.....
Registrar

*Delete as appropriate

OFFICIAL STAMP

Form IX
(Regulations 10(2), 17(5) and 18(5))



Tobacco Board of Zambia

The Tobacco Act
(Laws, Volume 14, Cap. 237)

The Tobacco (Sale of Non-Auctionable Tobacco)
Regulations, 2018

**NOTICE OF SUSPENSION/REVOCATION* OF CONDITIONAL
AUTHORITY/DESIGNATION***

(1) Here
insert the
full names
and address
of licensee

(2) Here
insert the
Licence No.

(3) Here
insert
number of
days
stipulated

To (1)

IN THE MATTER OF (2) you are
notified that your conditional authority/designation* has been suspended for a
period of (3)/revoked* on the following grounds:

(a)

(b)

(c)

(d)

Dated this day of, 20.....

.....
Registrar

*Delete as appropriate

OFFICIAL STAMP

M. KATAMBO,
Minister of Agriculture

LUSAKA

5th November, 2018
[DAH/64.1.1]

