

LEGAL REQUIREMENTS

Legal requirements are an essential pre-requisite for certification. As a consequence, we need to assist the organisations that are seeking for certification to check that they fulfill all legal obligations related to their activities. It is not necessary a full investigation on the company but a simple check list, through which verify that the major legal requirements are addressed. Within this subject, the suppliers' fulfillment of legal requirements is a sensitive issue. The question here is: should a certified company verify that its suppliers fulfill their legal requirements? There exist a wide range of attitudes toward this, from certified organisations deeply verifying the way their suppliers fulfill their legal obligations, down to organisations that do not consider this among the suppliers' selection criteria. To answer this question, let's see what the ISO 9001:2015 says. The clause 8.4.1 of the ISO 9001:2015 states that the organisation shall ensure that externally provided processes, products and services conform to requirements. We know that requirements are those set by the customers and the interested parties, which we identify according to section 4.2. In case of the legal requirements, these are set by external entities that are not always interested parties (the tax administration, for instance). In other words, what we should consider is that an organisation's ability to consistently provide products and services may be affected by relevant interested parties. To this scope, we need to ascertain and identify each interested party and in what way, shape or form they affect this ability and, at the same time, we need to find out their specific requirements that impact this ability (Art Lewis, September 2015 at <http://askartsolutions.com/>).

The content of the standard and information available in bibliography would suggest that the verification that the suppliers fulfill their legal obligations is correct. If so, "respect of legal requirements" should be one of the suppliers' selection criterion. A further issue is the depth of this verification. My recommendation is not to have a certified company doing the regulatory bodies' job, for instance "replacing" the public revenue inspectors in controlling that suppliers respect the existing tax legislation) but simply verifying that the suppliers fulfill the basic legal requirements that apply to their sector. The below lists a selection of business-related legal requirements (source: CLSCE) that can serve as a guidance for (i) assessing the readiness of an organisation seeking for ISO 9001: 2015 certification and (ii) screening suppliers.

SSNIT

The Social Security and National Insurance Trust Fund (SSNIT) is an important agency of the Government of Ghana. One of its major activities is the administration of the National Pension Scheme for employees in the country. A pension is a fund into which a sum of money is added during an employee's employment years, and from which payments are drawn to support the individual's retirement from work in the form of periodic payments. As a legal requirement all employers in the country must possess a certificate from SSNIT to prove that they are making the right contributions for all their employees at all times.

In view of the fact that all in Ghana all employers should have valid SSNIT certificates any organization requiring ISO 9001:2015 certification must ensure that it meets this legal and regulatory requirement.

VAT

The Value Added Tax (VAT) is a tax applied on the value added to goods and services at each stage in the production and distribution chain. It forms part of the final price the consumer pays for goods or

services. In some countries it is called Goods and Services Tax (GST). VAT charge on goods and services is 17.5% of the total value of goods and services at any point in time. Significantly though, the levy is partly to finance the National Health Insurance Levy and therefore attracts 2.5% of the total levy of 17.5%.

Some intuitions in Ghana are VAT exempt. They include medical services and essential drugs approved by the Ministry of Health, agricultural and fishing inputs specified by law, petrol, diesel and kerosene, etc.

All SMES requiring ISO certification and not exempted from paying VAT must obtain VAT certificates to ensure that they meet this very important statutory obligation.

IRS

The Internal Revenue Service (IRS) is the Government of Ghana agency responsible for the mobilization of tax for the government. The IRS is principally responsible for the collection of direct tax with Income Tax as the main tax administered. The institution also collects a number of other taxes termed as “Miscellaneous Taxes” for administrative purposes. These include:

- i) Individual Income Tax Returns
- ii) Capital Gains Tax Returns
- iii) Employee’s Tax Deduction Form, etc.

With respect to the attainment of an ISO 9001 certificate, any organization which does not conform to the requirement in the Income Tax Regulations in Ghana falls foul to a serious breach of the law. In short such a company will fail the legal test specified in the Legal and Regulatory requirement section of the 9001:2015 Standard.

CUSTOMS HOUSE AGENT LICENSE (ADDITIONAL REQUIREMENT FOR THE LOGISTICS SECTOR)

A Customs House Agent (CHA) is a person who is licensed to act as an agent for transaction of any business relating to the entry or departure of conveyances or the import or export of goods at any Customs station. A CHA’s license may be temporal or permanent.

The Customs House Agents (LICENSING) ACT – 1978 (SMCD 188) later revised as part of the Ghana Revenue Authority Act, 2009 (Act 791) is an important law in Ghana.

Ordinarily although an importing or exporting organization could process its own documentation to that effect, organizations usually solicit the services of Customs House Agents in order to facilitate its Customs activities. The reason is simply because the CHA’s usually understand the “language” of Customs more and can help organizations save unnecessary time and resources in such activities. Moreover, Legislative Instrument 1178 (Customs House Agent Licensing Relation) of 1978 enjoins all Importers, with the exception of declarants to engage the services of licensed Customs House Agents for the clearance of cargo at any freight station in Ghana.

In relation to the acquisition of an ISO 9001:2015 certification therefore it is not mandatory for any organization to have its own CHA’s network and certificate to operate because the organization can employ the services of licensed CHAs. An organisation without a CHA’s network or certificate does not breach any national legal requirement as well those specified in the ISO 2015 Standard.