



# **EXCISE (CONTROL OF DISTILLATION) ACT**

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## EXCISE (CONTROL OF DISTILLATION) ACT

An Act to make provision for the control and licencing for excise purposes of the distillation of spirits

[1964 No. 22.]

[1st April, 1964]  
]

[Commencement.

### 1. Distiller's licence

(2) Subject to the provisions of this Act, no person shall without a distiller's licence under this section make or distill spirits; and application for such licence shall be made to the Board of Customs and Excise in the prescribed manner.

(2) If the Board after due enquiry is satisfied that the premises mentioned in the application and intended to be used by the applicant for the purposes of distillation are in such a state that proper control for excise purposes may be exercised over activities to be carried on therein and that any other condition relating to the premises required by the Board has been complied with by the applicant, it shall, on payment of the sum of two hundred naira issue to the applicant a distiller's licence in the prescribed form in respect of such premises.

(3) A distiller's licence issued under this section shall, unless previously revoked, remain in force until 31 December next following the date of the issue, and shall then expire.

(4) If the Board is not so satisfied and refuses the application it shall notify the applicant of its refusal, and give to the applicant particulars of what the Board considers necessary to be done to the premises.

(5) If at anytime during the currency of a distiller's licence the Board is satisfied that proper control for excise purposes can no longer be exercised over the premises specified in the distiller's licence by reason of the state of the premises, or that the person to whom such licence was issued has failed to comply with any conditions required by the Board relating to the premises or the making or distilling of spirits therein or has ceased to make spirits on such premises, it may revoke the distiller's licence and give notice of the revocation in the prescribed manner.

(6) Any person who makes or distils spirits contrary to the provisions of subsection (1) of this section shall be guilty of an offence, and liable-

- (a) on summary conviction to a fine of not less than four hundred naira or more than one thousand naira or to imprisonment for a term of two years, or to both;
- (b) on conviction on indictment to a fine of an unlimited amount or to imprisonment for a term not exceeding five years or to both, and any spirits so distilled shall be liable to forfeiture.

(7) The provisions of this section shall, in any State or the Federal Capital Territory, Abuja be in addition to and not in substitution for any other provisions in force therein which affect the making of spirits, and nothing in the foregoing provisions of this section shall be construed as purporting to authorise the carrying on in any State or the Federal Capital Territory, Abuja of any activity which is prohibited by the law thereof.

## 2. Still licence

(1) Subject to the provisions of this section, no person shall possess any still unless-

- (a) the still is situated on premises specified in a distiller's licence; or
- (b) there is in force a still licence issued to him by the Board under this section.

(2) Where an application is made to the Board in the prescribed manner for the issue of a still licence, and the Board is satisfied, it shall issue the licence to the applicant free of charge.

(3) A licence under subsection (2) of this section may be issued subject to such conditions not inconsistent with this Act as to methylation or the denaturing of spirits as the Board for the protection of excise duty may think fit.

(4) If a person gives notice to the Board in the prescribed form of his intention to part with or that he has parted with possession of, or has destroyed any still in respect of which a licence issued to him under this section is in force, the Board shall make such enquiries as it thinks fit; and if it is satisfied, the licence shall cease to have effect as regards the still.

(5) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence and liable-

(a) on summary conviction, to a fine of not less than four hundred naira or to imprisonment for a term of six months, or to both;

(b) on conviction on indictment, to a fine of not less than one thousand naira or to imprisonment for a term of two years, or to both.

### 3. Manufacture of spirits from crude gin

(1) Any person to whom a distiller's licence has been granted under section 1 of this Act may be approved by the Board for the purposes of this section.

(2) Any person may, on payment of a fee of twenty naira annually, be registered by the Board as an agent for the supply of crude gin to approved distillers.

(3) Approval and registration under subsections (1) and (2) of this section shall be applied for and recorded in such form and manner as the Board may deem fit to direct.

(4) Notwithstanding any other enactment, it shall be lawful-

(a) for an approved distiller to obtain crude gin from a registered agent and, subject to such regulations for quality control as may be made by the Minister of Industries, to distil or otherwise convert the crude gin into potable spirits for sale;

(b) for a registered agent to supply crude gin to an approved distiller, and for that purpose a registered agent may-

(i) possess a still and distil crude gin; or

(ii) obtain crude gin from another person; and

(c) for the purpose of supplying crude gin to a registered agent, for any person to- (i) possess a still and distil crude gin; or

(ii) possesses and deal in crude gin.

(5) For the avoidance of doubt, it is hereby declared that nothing in this section shall be construed

as-

(a) authorising any person to sell crude gin to any person other than a registered agent;

(b) a registered agent to sell crude gin to any person other than an approved distiller. (6) In this section-

"Approved distiller" means a distiller approved under subsection (1) of this section;

"Crude gin" means spirits distilled from fermented or partly fermented palm wine or from any other fermented or partly fermented liquor produced in Nigeria, with or without flavouring essence; "Registered agent" means an agent registered under subsection (2) of this section.

#### 4. Regulations

(1) The Minister may make such regulations with respect to the conduct of premises specified in a distiller's licence under this Act as appear to the Minister to be appropriate for the purpose of ensuring the payment of excise duty on spirits made on the premises; and without prejudice to the generality of the powers conferred by this subsection, regulations may in particular provide for-

- (a) prohibiting or restricting the carrying on, on the premises or particular parts thereof of such activities as may be prescribed;
- (b) regulating the manner in which and the period during which any activity may be carried on the premises or particular parts thereof;
- (c) providing for the inspection by officers of the Board of the premises and all activities carried on the premises;
- (d) requiring notice to be given of any change or use which may be made of the premises or any part thereof;
- (e) regulating the removal of spirits from the premises;



- (f) prescribing the form of application for and of the distiller's licence to be used for the purposes of this Act;
- (g) regulating the calculation, securing and collection of excise duty on distilled spirits, and the regulations may provide for the imposition of penalties in respect of any offence against the regulations (not less than two hundred naira or more than five hundred naira in respect of any particular offence or to imprisonment for a term of two years, or to bot) and for the forfeiture or disposal of any thing in respect of which such an offence is committed.

(2) The Minister may make such regulations with respect to the custody and use of stills licenced under this Act and the application for and form of any such licence, as appear to the Minister to be appropriate for the purpose of ensuring that the stills are not used make spirits; and without prejudice to the generality of the powers so conferred, regulations may, in particular, contain provisions requiring the furnishing of information with respect to-

- (a) any change or proposed change in the location or use of stills;
- (b) the disposal of stills or any part of a still by way of sale or otherwise, and the regulations may provide for the imposition of fines for offences against the regulations of not less than one hundred naira or more than four hundred naira in the case of any particular offence.

## 5. Making of entries

(1) Where by or under any excise laws a person is required to make entry of any premises or artic le-

- (a) the entry shall be made in such form and manner and contain such particulars; and
- (b) the premises or article shall be kept and marked in such manner, as the Board may direct.

(2) No entry shall be valid unless the person by whom it was made- (a) had at the time of its making attained the age of twenty-one years; and

(b) was at that time and is for the time being a true and real owner of the trade in respect of which the entry was made.

(3) Where any person required to make entry is a body corporate-

(a) the entry shall be signed by a director, general manager, secretary or other similar Officer of the body and except where authority for that person to sign has been given under the seal of the body, shall be made under that seal; and

(b) both the body corporate and the person by whom the entry is signed shall be liable for all duties charged in respect of the trade to which the entry relates.

(4) If any person making entry of any premises or article contravenes or fails to comply with any direction of the Board given under this section with respect thereto, he shall be guilty of an offence punishable on conviction by a fine of two hundred naira.

6. New or further entries of same premises

(1) The Board may at any time, by notice in writing to the person by whom any existing entry was signed addressed to him at any premises entered by him, require a new entry to be made of any premises or article to which the existing entry relates, and the existing entry shall, without prejudice to any liability incurred, become void at the expiration of fourteen days from the delivery of the notice.

(2) Save as permitted by the Board and subject to such conditions as it may impose, no premises or article of which entry has been made by any person shall, while that entry remains in force, be entered by any person for any purpose of the excise laws and any entry made in contravention of this subsection shall be void.

(3) Where the person by whom entry has been made of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, and the Board permits a further entry to be made of the premises by some other person, the former entry shall be deemed to have been withdrawn and shall be void.

## 7. Proof as to entries

For the purpose of any proceedings before any court, if any question arises as to whether or not entry under the excise laws has been made by any person, or of any premises or article, or for any purpose, then-

(a) if a document purporting to be an original entry made by the person, or of the premises or article, or for the purpose in question is produced to the court by an officer, that document shall, until the contrary is proved, be sufficient evidence that the entry was so made; and

(b) if the officer in whose custody any such entry, if made, would be, gives evidence that the original entries produced by him to the court constitute all those in his custody and that no such entry as is in question is among them, it shall be deemed, until the contrary is proved, that no such entry has been made.

## 8. Offences in connection with entries

(1) If any person being the holder of a licence under this Act uses, for any purpose of his trade, any premises or article required by or under the excise laws to be entered for that purpose without entry having been duly made thereof, he shall be guilty of an offence punishable on conviction by a fine of four hundred naira, and any goods found on any such premises shall be liable to forfeiture.

(2) If any person who has made entry of any premises or article fraudulently uses those premises or that article for any purpose other than that for which entry was made thereof, he shall be liable to a fine of four hundred naira.

## 9. Power to enter for inspection purposes

(1) An officer may at any time enter upon any premises referred to in any licence under this Act for the purpose of inspecting the premises and may search for, examine and take account of any equipment, vessels, utensils, goods or materials belonging to or in any way connected with distillation.

(2) Where an officer, after having demanded admission into any such premises and declared his name and business at the entrance thereof, is not immediately admitted, that and any person acting in his aid may break open any door or window of

the premises or break through any wall thereof for the purpose of obtaining admission.

10. Power to search for concealed pipes, etc.

(1) If an officer has reasonable ground to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a licensee under this Act, that officer may at any time, but by night only in the company of a police officer, break open any part of the premises of that trader and forcibly enter thereon, and so far as is reasonably necessary break up the ground in or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.

(2) If the officer finds any pipe or other form of conveyance leading to or from the licensee's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary, break up any part of those other premises to trace its course, and may cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty of excise, or any materials used in the manufacture of such goods, in such manner as to prevent a true account thereof from being taken.

(3) Every pipe or other means of conveyance, cock, vessel or utensil referred to in this section, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable to forfeiture, and the licensee shall be guilty of an offence punishable on conviction by a fine of two hundred naira.

(4) If any damage is done in any such search and the search is unsuccessful, the Board shall make good the damage.

## 11. Power to prohibit use of certain substances in excisable goods

(1) If it appears to the satisfaction of the Board that any substance or liquor is used, or is capable of being used, in the manufacture or preparation for sale of any goods chargeable with a duty of excise, and that that substance or liquor is of a noxious or detrimental nature or, being a chemical or artificial extract or product, may affect prejudicially the interests of the revenue, the Board may by notice in the Federal Gazette prohibit the use of that substance or liquor in the manufacture or preparation for sale of any goods specified in the notice.

(2) If, while any such notice is in force, any person knowingly uses a substance or liquor thereby prohibited in the manufacture or preparation for sale of any goods specified in the regulations he shall be guilty of an offence punishable on conviction by a fine of one hundred naira.

(3) Any substance or liquor the use of which is for the time being prohibited by any such notice found in the possession of any person licensed for the manufacture or sale of any goods specified in the notice, and any goods in the manufacture or preparation of which any substance or liquid has been used contrary to any such prohibition, shall be liable to forfeiture.

## 12. Payment of duty by excise traders

(1) Every licensee shall pay any duty of excise payable in respect of his trade at or within such time, at such place and to such person as the Board may direct, whether or not payment of that duty has been secured by bond or otherwise.

(2) If any duty payable is not paid as aforesaid, it shall be paid on demand made by the Board either to the licensee

personally or by delivering the demand in writing at his place of abode or business, and if it is not paid on demand the licensee shall in addition be liable to a penalty of double the amount due.

### 13. Liability of ostensible owner

Any person who acts ostensibly as the owner or who is a principal manager of the business of a licensee under this Act in respect of which entry of any premises or article has been made or who occupies or uses any entered premises or article shall, notwithstanding that he is under the age of twenty-one years, be liable in like manner as the real and true owner of the business for all duties charged and all penalties incurred in respect of that business.

### 14. Effect of variation in balances struck or excess, etc., in stock of materials

If at any time when an account is taken by the proper officer and a balance is struck-

(a) of the quantity of spirits in the possession of the distiller, that quantity differs from the quantity thereof which ought to be in his possession according to any account required by this Act to be kept-

(i) if the former quantity exceeds the latter the excess shall be liable to forfeiture; and

(ii) if the former quantity is less than the latter, the holder of the distiller's licence shall be liable to a fine of double the excise duty which would be payable on the quantity of pure alcohol equal to that on the deficiency;



(b) of the stock of materials, any excess is found or goods not authorised for use as materials are discovered in the stock, such excess or goods shall be liable to forfeiture;

(c) of the stock of materials, any deficiency is found which cannot be accounted for to the satisfaction of the Board, the quantity or value of materials representing such deficiency shall be deemed to have been used in manufacture and, in any particular case, duty shall be charged on the quantity or value of excisable goods reckoned to have been produced with such quantity or value of materials.

#### 15. Power to enter on premises, etc., in case of unlawful distillation

If any officer has reasonable grounds to suspect that distillation contrary to the provisions of this Act is being carried out on any land or premises, he may enter thereon, if need be by force, and dismantle or seize the still or other apparatus used in conjunction therewith.

#### 16. Power to seize goods in particular cases

Where spirits subject to excise duty become liable to forfeiture under this Act but spirits are not available in sufficient quantity for forfeiture, the Board may seize from the stock of the licensee, any quantity of spirits available or goods capable of conversion into spirits of such quantity, as would attract up to the same amount of duty as that on the spirits liable to forfeiture.

#### 17. Forfeiture and condemnation of spirits seized

(1) In the application of this section, the provisions of the First Schedule to this Act shall have effect for the purposes of



forfeiture, and all proceedings for the condemnation of any thing as being forfeited, under the excise laws.

[First Schedule.]

(2) Any officer, police officer, or person authorised in that behalf by the Board, may at any time seize or detain any spirits liable to forfeiture under this Act or which such officer, police officer or person so authorised has reasonable grounds to believe is liable to forfeiture under the excise laws.

(3) Spirits so seized or detained shall forthwith be delivered to the Board; and pending determination by the Board as to forfeiture or disposal, things delivered to the Board may be condemned as forfeiture or otherwise dealt with as the Board may direct.

#### 18. Power to levy distress

(1) Where any excise duty remains unpaid on spirits distilled under licence after the time within which the same is payable, the Board may authorise the levying of a distress-

(a) upon the goods, chattels and effects of the licensee in respect of which the duty remains unpaid; and

(b) upon all equipment, plant, tools, ships, vehicles, animals, goods and effects used in the distillation, sale or distribution of spirits found in the premises or on any land in the use or possession of such manufacturer or of any person on his behalf, or in trust for him.

(2) The authority to distrain under this section shall be in the form in the second schedule to this Act, and shall be a warrant

and authority to levy by distress the amount of any duties due.

[Second Schedule.]

(3) For the purpose of levying any distress under this section, any person authorised in writing by the Board may execute a warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress.

(4) The person so authorised under subsection (3) of this section may call to his assistance any police officer, who shall, when required, aid and assist in the execution of the warrant of distress and in levying the distress.

(5) Where distraint is made, the burden of proof that the goods or things are not liable to seizure shall lie upon the person claiming they are not so liable, and the goods or things seized may, at the cost of the owner thereof, be kept for fourteen days; and if the amount due in respect of duty and the cost and charges of and incidental to the distress are not then paid, the goods or things so seized may be sold.

(6) Out of the proceeds of the sale there shall be paid first the excise duty and thereafter the costs or charges of and incidental to the sale and keeping of the distress; and the residue if any, shall be paid to the owner of the goods or things distrained, upon demand made by the owner within one year of the date of sale.

(7) In exercise of the power of distress conferred by this section, the person to whom authority to levy duties is given may distrain upon all goods or things belonging to the licensee wherever the same may be found.

19. Power to require excise control facilities

(1) The holder of a licence shall provide and maintain at his own expense on premises referred to in the licence-

(a) such office, lavatory and sanitary accommodation, with the requisite furniture, lighting and cleaning, as the Board may reasonably require for the use of the proper officer under this Act; and

(b) such appliances and facilities as may be required to enable the proper officer at any time to examine, or search or to perform any other of his duties at such premises as the Board may direct, and if the licensee fails to comply with any of the forgoing requirements of this subsection, the Board may revoke or suspend any such licence.

(2) The requirements which the Board is authorised to impose on the holder of a licence by subsection (1) of this section, shall include the requirement to provide at his own expense and lease to the Board, on such reasonable terms as the Board may determine, living accommodation which the Board considers suitable for occupation by, and by the household of any officer charged with duties which, in the opinion of the Board, make it desirable that he should reside on or near the premises for which the excise licence in question is granted; and the provisions of that subsection for failure to comply therewith shall have effect accordingly.

(3) The proper officer may affix a lock or seal to any fitting on the premises or on any apparatus or thing whatsoever therein and for such purpose he may require the holder of a distiller's licence to provide and maintain at his own expense any such fitting.

(4) If a licensee fails to comply with the requirements of subsection (3) of this section, the Board may provide and install

the fitting, and any expense incurred shall be paid on demand by the licensee.

(5) The failure to pay any expense incurred under subsection (4) of this section, shall be an offence for which the offender shall, in addition to the requirement of payment of any such expense, be liable on summary conviction to a fine of two hundred naira.

(6) If the holder of a distiller's licence or any member of his family or any servant of the holder- (a) wilfully destroys or damages a fitting or any lock, key or seal intended for use therewith; or

(b) improperly obtains access to any place or article secured by any such lock or seal thereon; or

(c) has any fitting on premises or on any apparatus or thing whatsoever fastened or attached in such fashion that adequate supervision and control by any proper officer for the purposes of this Act is not practicable, the holder, or member of his family, or the servant, as the case may be, shall on conviction be liable to a fine of one thousand naira.

## 20. Licensees to keep record books

(1) Every holder of a distiller's licence shall keep on the premises mentioned in the licence such records and make all entries therein relating to the manufacture, storage and delivery of spirits and materials as the Board may require.

(2) Entries shall be made legibly in ink and no cancellation or amendment shall be made save in such manner as the Board may, from time to time, direct; and if the Board requires

records to be kept, the proper officer may inspect them at any time and take copies of any entry.

(3) The failure to comply with the requirements of this section is an offence for which the offender shall be liable on summary conviction to a fine of four hundred naira.

## 21. Power to require information, etc., from licensees

(1) The holder of any licence under this Act shall-

(a) produce to the Board for inspection as and when required invoices and other books or documents in his possession relating to spirits manufactured by him during the preceding twelve months or any part thereof;

(b) supply answer to questions relating to the distillation of spirits and related matters as the Board may reasonably require to implement the provisions of any of the excise laws.

(c) produce to the Board such evidence as it may reasonably require in support of any answer so given;

(d) make returns in such form and at such intervals as the Board may require, and if any manufacturer fails without excuse to comply with any requirement of this subsection, he shall be liable on summary conviction to a fine of four hundred naira.

(2) The powers conferred on the Board by subsection (1) of this section, in so far as they relate to questions regarding the cost of production and manufacturer's profits in respect of any spirits, shall be exercisable by the Board alone and not by any other person.

(3) The Board may require the holder of a licence under this Act to supply to it in every year or at such other times as it may direct, a certificate of audit by an accountant approved by the Board as to-

(a) the correctness of all the books and records required by or under this Act to be kept by the holder of the licence; and

(b) any matter necessary to implement the provisions of any of the excise laws, and the holder of a licence who without reasonable excuse fails to supply a certificate of audit when required, shall be liable on summary conviction to a fine of two hundred naira.

(4) For the purpose of this section, "accountant approved by the Board" means an

accountant who is a member of one of the professional bodies for the time being declared by the Board, by notice in the Federal Gazette, to be approved for such purposes, but does not include any such member if he is the holder of a licence under this Act or is employed by any such holder.

## 22. Unlawful assumption of office

If, for any of the purposes incidental to the control of distillation under this Act, any person without lawful authority assumes the name, designation or character of an officer he shall, in addition to any other punishment, be liable on conviction to a fine of not less than four hundred naira or more than one thousand naira, or to imprisonment for a term of two years, or to both.

## 23. Officers to have powers of police officers

For the avoidance of doubt, officers acting under this Act shall have the same powers, authorities and privileges as are given by law to police officers.

24. Offences as to concealing, etc., of spirits on licensed premises

If any person-

- (a) conceals any spirits on premises mentioned in a distiller's licence; or
- (b) without the consent of the proper officer removes any spirits from such premises; or
- (c) knowingly buys or receives any spirits so concealed or removed; or
- (d) knowingly possesses, buys, or receives any spirits removed from such premises before duty (if any) has been charged and, as the case may be, paid or secured, the spirits shall be liable to forfeiture; and such person shall on conviction be liable to a fine of six times the value of the goods or to four hundred naira, whichever is the greater, or to imprisonment for two years, or to both.

25. Condemnation proceedings

(1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under this Act, judgment is given for the claimant, the court before which the case is heard may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Board or any person authorised by or



under this Act to seize or detain anything liable to forfeiture on account of the seizure or detention or anything, and judgment is given for the plaintiff or prosecutor, then if-

- (a) a certificate relative to the seizure has been granted under subsection (1) of this section; or
- (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the excise laws, the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment:

Provided that nothing in this subsection or in the next succeeding section shall affect the right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

(3) Any certificate under subsection (1) of this section may be approved by the production of either the original certificate or a certified copy thereof purporting to be signed by any officer of the court by which it was granted.

## 26. Compensation in special cases

(1) Where any spirits on the premises of the holder of a licence under this Act are destroyed, stolen or unlawfully removed by or with assistance or connivance of an officer, and that officer is convicted of the offence, the Board shall, if the licensee was not a

party to the offence, pay compensation for any loss caused by any such destruction, theft or removal; and it is hereby declared that in any such case no duty shall be payable on any



such spirits by the licensee, and duty (if any) paid thereon by the licensee shall be refunded.

(2) Subject to the provisions of subsection (1) of this section, compensation shall not be payable by the Board, and no action shall lie against the Board or any officer for any loss or damage caused to any goods by any officer acting in the execution of his duty except where the loss or the damage occurs as the direct result of the unlawful act or negligence of such officer or arises out of any unsuccessful search to which subsection (2) of section 9 of this Act applies.

## 27. Interpretation

In this Act unless the context otherwise requires-

"Board" means the Nigerian Customs Service Board;

"Distiller's licence" means a licence to distil spirits granted under section 1 of this Act;

"Excise laws" means the Customs and Excise Management Act, and includes any other Act relating to the control of excisable goods;

[Cap. C45.]

"Officer" means any person employed in the Nigerian Customs Service, or for the time being performing customs or excise duties;

"Proper officer" means any officer whose right or duty it is to require the performance of or do an act;

"Pure alcohol" means spirits by volume at fifteen point five six degrees Centigrade or sixty degrees Fahrenheit;

"Spirits" means ethyl alcohol and includes all liquors mixed with or compounded with or prepared from ethyl alcohol, but does not include undistilled fermented liquors containing twenty per centum or less of pure ethyl alcohol;

"Still" means any apparatus used or capable of being used to produce spirits by distillation; "Still licence" means a licence granted for the purposes of section 2 of this Act.

## 28. Repeals, etc.

(1) The enactment mentioned in Part A of the Third Schedule to this Act is hereby repealed to the extent therein specified.

[Part A.]

(2) Whereby any enactment reference is made to excise legislation in relation to spirits or to distillation of spirits in Nigeria, the spirits and any equipment shall, for excise purposes, be deemed to be affected by this Act;

and references shall be so construed, and the enactments mentioned in Part B of the Third Schedule to this Act shall have effect accordingly.

[Part B.]

(3) Any law in force in any State, other than an enactment repealed by subsection (1) of this section, or a provision of the Customs and Excise Management Act, or of an instrument having effect by virtue of that Act, is hereby repealed in so far as it makes provision with respect to the importation of stills.

[Cap. C45.]

## 29. Short title

This Act may be cited as the Excise (Control of Distillation) Act.

## SCHEDULES

### FIRST SCHEDULE [Section 17 (1).]

Provisions relating to forfeiture

Notice of seizure

1. (1) Save where seizure was made in the presence of-
  - (a) the person whose offence or suspected offence occasioned the seizure; or
  - (b) the owner or any of the owners of the thing seized or any servant or agent of his, the Board shall give notice of the seizure of any thing as liable to forfeiture and of the grounds thereof to any person who to its knowledge was at the time of seizure the owner or one of the owners thereof.
- (2) Notice under this paragraph shall be given in writing and shall be deemed to have been duly served on the person concerned-
  - (a) if delivered to him personally;

- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at their registered or principal office;
- (c) in any other case, by publication of notice of seizure in the Federal Gazette.

#### Notice of claim

2. (1) Any person claiming that anything seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure, or, if no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Board:

Provided that the Board may, at its discretion, extend the period in which notice of a claim may be given.

(2) The notice shall specify the name and address of the claimant. If a claimant is outside Nigeria the notice shall specify the name and address of a legal practitioner in Nigeria authorised to accept the service of process and to act on behalf of the claimant and where service is effected on such legal practitioner it shall be deemed to be proper service upon the claimant.

#### Condemnation

3. If, on the expiration of the relevant period aforesaid for the giving of notice of claim no, such notice has been given to the Board or if, in the case of any such notice given, any requirement of paragraph 2 of this Schedule is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

4. Where notice of claim is duly given in accordance with the forgoing provisions of this

Schedule, the Board shall take proceedings for the condemnation of that thing by the Court, and if the court finds that the thing was at the time of seizure liable to forfeiture, the court shall condemn it as forfeited.

5. Where any thing is in accordance with either of the two last forgoing paragraphs condemned or deemed to have been condemned as forfeited then, without prejudice to any delivery by or sale of the thing by the Board under paragraph 12 of this Schedule the forfeiture shall have effect as from the date when the liability to forfeiture arose.

#### Proceedings for condemnation by court

6. Proceedings for condemnation shall be civil proceedings and may be instituted in the same courts as those in which proceedings may be instituted by the Board in respect of things liable to forfeiture and seized accordingly under the provisions of the excise laws.

7. In any proceedings for condemnation, if the claimant or his legal practitioner fails to make oath that the thing seized was, or to the best of his knowledge or belief was, the property of the claimant at the time of the seizure, the court shall give judgment for the Board.

8. If in condemnation proceedings an appeal is lodged against the decision of the court, things seized shall, pending the final determination of the matter, be left in the custody of the Board.

## Provisions as to proof

9. In any proceedings arising out of the seizure of anything, the effect, form and manner of the seizure shall be taken to have been as set forth in the process without further evidence thereof, unless the contrary is proved.
10. In any proceedings, the condemnation by a court of anything as forfeited may be proved by the production either of the order or certificate of condemnation or a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

## Special Provisions as to certain claimants

11. For the purposes of a claim to, or proceedings for the condemnation of, anything, where that thing is at the time of the seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this

Schedule to be taken and anything required by this Schedule or by the rules of the court to be done by, or by any other person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that, that is to say-

- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
- (b) where the owners are in partnership, anyone of those owners;
- (c) where the owners are any number of persons exceeding five, not being in partnership, any two of those persons on behalf of themselves and their co-owners.

12. Where anything has been seized as liable to forfeiture, the Board may at any time, at its discretion, and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned as forfeited-

- (a) deliver it up to any claimant upon his paying to the Board such sum as the Board thinks proper, being a sum not exceeding that which, in its opinion represents the value of the thing, including any duty chargeable thereon which has not been paid; or
- (b) if the thing seized is in the opinion of the Board of a perishable nature, sell or destroy.

13. (1) Subject to the provisions of this paragraph, if in the case of anything delivered up, sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Board shall on demand by the claimant tender to him-

- (a) an amount equal to any sum paid by him under subparagraph (a) of paragraph 12 of this Schedule; or
- (b) where the Board has sold the thing, an amount equal to the proceeds of sale; or
- (c) where it has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure.

(2) If any such amount includes any sum on account of duty chargeable on the thing which had not been paid before its seizure, the Board may deduct so much of that amount as represents that duty.

(3) If the claimant accepts any amount tendered to him under this paragraph, he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

## SECOND SCHEDULE

[Section 18 (2).]

### **Form of warrant of distress**

To .....

The Nigerian Customs Services Board, by virtue of the powers vested in it by section 18 of the Excise (Control of Distillation) Act, hereby authorises you to collect and recover the sum of..... due for excise duty from..... (manufacturer)

.....H  
having his premises at .....

.....  
.....; and for t

he recovery thereof further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary), which assistance he is hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels or other distrainable things of the said manufacturer wherever the same may be found and on all equipment, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Nigeria in the manufacture, sale or distribution of excisable goods which you may find in any premises or on any land in



the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised if necessary, with such assistance as aforesaid, to break open any building or place in the daytime.

Signed or and on behalf of the Nigerian Customs Service Board  
at..... this.....day  
of.....20.....

.....  
Collector (or as the case may be)

### THIRD SCHEDULE

[Section 28.]

#### PART A

Enactments repealed

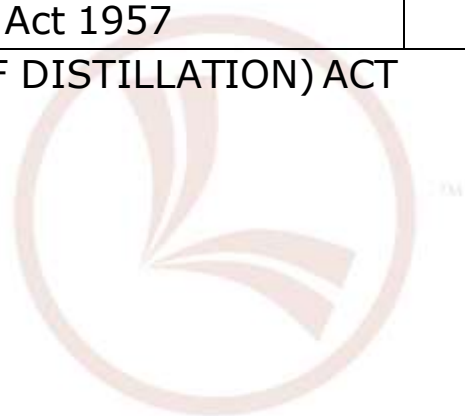
#### PART B

Enactments affected

Chapter or Number	Short Title	Extent to which affected
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Cap.105 of 1958 Edition	The Liquor Act	So much of sections 8 , 9, and 10 as relate to the distillation of spirit in the Regions, and of section 11 relating to the possession of metal tubing for use in connection with distillation of spirits in Nigeria
No.49 of 1957	The Distillation of Spirits Act 1957	The whole Act

EXCISE (CONTROL OF DISTILLATION) ACT



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