



CUSTOMS AND EXCISE MANAGEMENT ACT

CITATION

An Act to regulate the management and collection of duties of customs and excise, and for purposes ancillary thereto

[1st April, 1959]

PART I. — PRELIMINARY

1. This Act may be cited as the Customs and Excise management Act.
2. In this Act, unless the context otherwise requires $\frac{3}{4}$ “aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“Aircraft” includes all balloons (whether captive or free kites, gliders, airships and flying machines;

“Approved route” has the meaning assigned by section 18;

“Approved wharf” has the meaning assigned by section 14;

“Authorised methylator” means a person authorised to methylate spirits under subsection (1) of section 104.

“Beer” includes ale, porter, stout and any other description of beer and any liquor which is made or sold as a description of beer or as a substitute for beer which on analysis of a sample thereof at any time is found to contain more than one per cent (but not more than ten per cent) of pure alcohol, but does not include fermented liquor of a kind (made elsewhere otherwise than upon the licensed premises of a brewer for sale) which the Board accepts as a liquor usually made by local methods in or about Nigeria;

“Board” means the Board referred to under section 3;

“Brewer” means a person holding an excise license as such;

“Claimant”, in relation to proceedings for the condemnation of anything as being forfeited, means a person claiming that the thing is not liable to forfeiture;

“Cleared”, in relation to goods, means removed, after release by the proper officer, in pursuance of the purpose for which the goods were entered;

“Coasting ship” has the meaning assigned by section 65;

“Commander”, in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;

“Container” includes any bundle or package or any box, cask or other receptacle whatsoever;

“Customs airport” has the meaning assigned by section 15;

“Customs area” has the meaning assigned by section 20;

“Customs laws” and “excise laws” mean those provisions this Act and any other Act for the time being in force relating to customs or, as the case may be, excise;

“Customs port” has the meaning assigned by section 12;

“Customs station” has the meaning assigned by section 18;

“Director” means the Director of Customs and Excise;

3597

“Drawback” means a refund of all or part of any duty of customs or excise authorised under this Act in respect of goods exported or used in a manner or for a purpose prescribed as a condition of drawback;

“Drawback goods” means goods in the case of which a claim for drawback has been or is to be made;

“Duty” includes any royalty or levies leviable by the Board by virtue of any enactment;

“Enactment” includes an Act of the National Assembly;

“Examination station” has the meaning assigned by section 17;

“Excise trader” means any person carrying on a trade or business subject to any provision of the excise laws, whether or not that trade or business is a trade or business for the carrying on of which any excise license is required;

“Exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in the case of an aircraft functions corresponding to those of a shipper;

“Factory”, in relation to the manufacture of tobacco, means the premises in which such tobacco is manufactured;

“Goods” means all kinds of articles, produce wares, merchandise and livestock and includes money stores, baggage and mail;

“Government warehouse” means any place provided by the Government and appointed by the Board for the deposit of goods for the security thereof and of duties chargeable thereon;

“Gravity” and “original gravity” have the meanings assigned by section 114;

“Importer”, in relation to any goods at any time between their importation and the time when they are cleared, includes any owner or other person for the time being possessed of or beneficially interested in the goods;

“Land” and “landing” in relation to aircraft including alighting on water;

3598

“Master”, in relation to a ship, includes any person having or taking charge of or commanding of the ship;

“Minister”, means the Minister charged with responsibility for matters relating to internal affairs “Ministry” shall be construed accordingly;

“Officer”, means any person employed in the Department of Customs and Excise, or for the time being performing duties in relation to customs or excise;

“Owner”, in relation to any goods, includes any person who is for the time being entitled to possession of the goods; and in relation to a ship, aircraft or vehicle, includes the charterer, operator or hirer;

“Per cent of pure alcohol” means the percentage of ethyl alcohol by volume at fifteen point five six degrees Centigrade or sixty degrees Fahrenheit;

“Perfect entry”, means an entry made in accordance with section 27;

“Place”, includes any point or area on land or sea or inland waters;

“Prohibition”, in relation to goods, means any prohibition or restriction on the importation, exportation or coastwise of goods imposed by or under this or any other enactment; and “prohibited” shall be construed accordingly;

“Proper officer”, means any officer whose right or duty it is to require the performance of, or to perform, the act referred to;

“Proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;

“Ship”, includes any boat, hovercraft or other vessels;

“Spirits”, means ethyl alcohol and includes all liquors mixed with ethyl alcohol and all mixtures compounded with or prepared from ethyl alcohol which on analysis a of sample thereof at any time is found to contain not less than two point five per cent of pure alcohol, but does not include methylated spirits or other denatured spirits, or wine, beer, cider, perry or other fermented liquors which do not contain more than twenty per cent of pure alcohol;

“Spirits manufacturer” means a person holding an excise license as such;

“Stores”, means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate use or fitting;

“Tobacco manufacturer”, means a person holding an excise license as such;

“Tons register”, means the tons of a ship’s net tonnage as ascertained and registered according to the Tonnage

Regulations of the Merchant Shipping Act, or, in the case of a ship which is not registered;

“Transshipment”, in relation to goods, means transshipment for re-exportation;

“Transit”, in relation to goods, means transit through Nigeria;

“Transit goods”, means imported goods entered on importation for transit or transshipment;

“Vehicle”, includes a railway vehicle;

“Warehouse, except in the expression “Government warehouse”, means a building licensed by the Board under section 82 and “warehoused” and cognate expressions shall be construed accordingly;

“Wine”, includes any liquor made or sold as a description of wine or as substitute for wine and which on analysis of a sample thereof at any time is found to contain not more than twenty-four point five per cent of pure alcohol, but does not include palm wine or any other wine of a kind (produced somewhere than upon the licensed premises of a distiller for sale) which the Board accepts as produced by local methods in or about Nigeria;

PART II. - ADMINISTRATION

3. (1) The Board referred to under this Act is the Customs, Immigration and Prisons Services Board established under section 1 of the Customs, Immigration and Prisons Services Board Act.

(2) The constitution, proceedings and functions of that Board are provided for under, sections 2 and 3 of that Act.

4. (1) The Board shall, subject to the general control of the Minister, be charged with the duty of controlling and managing the administration of the customs and excise laws and shall collect the revenues of customs and excise and account for them in such manner as may be directed.

(2) Any power conferred and any duty imposed upon the Board may be exercised or performed by the Board or by an officer authorised generally or specifically in that behalf by the Board.

(3) Notwithstanding the provisions of subsection (2) of this Act, the Board may, at any time and at its discretion, reverse or otherwise modify any decision of any proper officer affecting any imported, exported or excise goods, whether or not the discretion to make the decision was conferred on the officer by the customs and excise laws or whether or not the officer was authorised by the Board to

make the decisions; and the reversal or modification of the decision by the Board shall have effect as if it were the original decision made in respect of the matter concerned.

5. (1) In the exercise of the powers and duties conferred upon the Board, the Board shall be subject to the authority, direction and control of the Minister and any written direction, order or instruction given by him after consultation with the Director shall be carried out by the Board.

Provided that the Minister shall not give any direction, order or instruction in respect of any particular person which would have the effect of requiring the Board to increase or decrease any assessment of duty made or to be made or any relief given or to be given or to defer the collection of any duty or judgment debt due, or which would have the effect of initiating, forbidding the initiation of, withdrawing or altering the normal course of any proceedings whether civil or criminal relating either to the recovery of any duty or to any offence under the customs and excise laws.

(2) In any proceedings whether civil or criminal under the customs and excise laws any act matter or thing done by or with the authority of the Board in pursuance of the said laws shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any direction, order or instruction given by the Minister.

6. Anything done or required to be done by the Board in pursuance of any of its powers or duties under the customs and excise laws may be signified under the hand of the Director or of an officer who has been authorised by the Board for the purpose of this section.

7. (1) Without prejudice to the provisions of any other Act concerning official secrets, all information and documents supplied or produced in pursuance of any requirement of the customs and excise laws shall be and shall be treated as confidential, and if any person who is or has been a member of Board or who is or

has been employed in the Ministry communicates or attempts to communicate any such information or the contents of any such document to any except —

(a) for the purposes of the customs and excise laws; or

(b) as required by any other enactment; or (c) as otherwise authorised by the Minister, he shall be liable to a fine of two hundred naira or to imprisonment for six months, or to both.

(2) Any proceedings for an offence under this section may be taken by or in the name of the Director but not by any other person except with the consent of the Attorney-General Federation.

(3) A person who is or has been a member of the Board or has been employed in the Ministry, except with the consent of the Minister, be required to divulge to any court any such information or to produce in any court any such document as is referred to in subsection (1) of this section, except as may be necessary for the purpose of carrying into effect any provision of the customs and excise laws or in order to institute a prosecution or other legal proceedings, or in the course of a prosecution or other legal proceedings, under the customs and excise laws.

8. For the purpose of carrying out or enforcing the provisions of the customs and excise laws, all officers shall have the same powers, authorities and privileges as are given by law to police officers.

9. (1) The Board may, by notice in the Federal Gazette —

(a) prescribe the hours between which offices of customs and excise are to be open or officers are to be available for the performance of particular duties; and

(b) direct the form and manner in which a request for an extension of the hours prescribed

under paragraph (a) this subsection shall be made to the proper officer and the fees which shall be paid for any such extension granted.

(2) The proper officer may, in his discretion, grant or ref any request for an extension of hours under this section.

10. If, for the purpose of obtaining admission to any building or other place or to any ship, aircraft or vehicle, or doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person, not being an officer, assumes the name, designation or character of an officer, he shall, in addition to any other punishment to which he may have rendered himself liable, be liable to a fine of N1,000 or to imprisonment for two years, or to both.

11. (1) If any person—

(a) obstructs, hinders, molests or assaults any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by customs and excise laws, or any person acting in his aid; or

(b) does anything which impedes or is intended to impede the carrying out of any search for any thing liable to forfeiture under the customs and excise laws or the detention, seizure or removal of any such thing; or

(c) rescues, damages or destroys any thing so liable to forfeiture or does anything intended to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or

(d) prevents the, arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested, he shall be liable to a fine of one thousand naira or to imprisonment for two years, or to both. PART III. —

IMPORTATION EXPORTATION AND

CARRIAGE COASTWISE

CUSTOMS PORTS. CUSTOMS AIRPORTS. CUSTOMS STATIONS ETC.

12. (1) The President may by Order designate any area in Customs Nigeria specified in the Order to be a place of arrival or departure of ships by sea for customs purposes.

(2) Any area designated under this Section is in this Act referred to as a “customs port”.

(3) Any appointment of a port for the purposes of the customs laws in force immediately before the commencement this Act shall have effect as if it were a designation of a custom port made under this section.

(4) Except as permitted in writing by the Board, the master of a ship entering Nigeria by sea from any place outside Nigeria shall not cause or permit the ship to call at any place therein other than a customs port, and any person importing or concerned in importing any goods by sea shall not bring the Nigeria at any place other than a customs port.

(5) Except as permitted in writing by the Board, a person shall not export or be concerned in exporting by sea any goods from any place in Nigeria other than a customs port, and the master of a ship shall not cause or permit the ship to depart on a voyage by sea to a place outside Nigeria from any place in Nigeria other than a customs port, or, whilst the ship is engaged on such a voyage, to call at any place in Nigeria other than a customs port.

(6) Subsections (4) and (5) of this Act shall not apply in relation to a ship entering or departing from Nigeria which is compelled by accident, stress of weather or other unavoidable cause to call at a place other than a customs port, but the master of any such ship —

(a) shall immediately report the circumstances which caused the ship to call at such place to an officer or police officer and on demand produce to him the documents relating to the ship, its cargo and passengers;

(b) shall not without the consent of an officer or police officer permit any goods to be unloaded, or any of the crew or passengers to land, from the ship;

(c) shall comply with any directions given by an officer or police officer with respect to any such goods, and no passenger or member of the crew shall without the consent of an officer or police officer land from the ship:

Provided that nothing in this subsection shall prohibit the landing or unloading of passengers, crew or goods from a ship where that landing or unloading is necessary for reasons, health, safety or the preservation of life or property.

(7) Any person who contravenes or fails to comply with any provision of this section shall be liable to a fine of four hundred naira or to imprisonment for six months, or to both.

13. The Nigerian Ports Authority shall in every area designated a customs port under section 12 of this Act, provide office accommodation required by officers of the Board for the proper discharge of their functions in customs port.

14. (1) The Board may by notice in the Federal Gazette —

(a) approve for such periods and subject to such conditions and restrictions as it sees fit, places in any customs port for the loading and unloading of goods or of any class or description of goods, and any place so approved is in this Act referred to as an “approved wharf”;

(b) at any time for reasonable cause, revoke or vary the terms of any approval given under this section.

(2) Any appointment or allowance of a place at customs port as an approved place of unloading, an approved place of loading or a sufferance wharf in force immediately before the commencement of this Act shall have effect as if it were an approval of that place as an approved wharf under this section on the same terms as that appointment or allowance.

(3) Any person who contravenes or fails to comply with any conditions or restriction imposed under this section shall be liable to a fine of two hundred naira.

15. (1) In this Act, the expression “customs airport” means an aerodrome in Nigeria for the time being designated by Order made by the Minister to be a place of landing or departure of aircraft for the purposes of the enactments relating to Customs.

(2) Except as permitted in writing by the Board, the commander of an aircraft entering Nigeria from a place outside Nigeria shall not cause or permit it to land for the first time after its arrival therein at any other place than a customs airport, and any person importing any goods in any aircraft shall not bring the goods into Nigeria at any place other than a customs airport.

(3) Except as permitted in writing by the Board, a person shall not depart on a flight to a place outside Nigeria from any place inside Nigeria other than a customs airport and the commander of an aircraft engaged in a flight from Nigeria to a place outside Nigeria shall not cause or permit it to land at any place in Nigeria other than a customs airport specified in the application for clearance for that flight.

(4) Subsections (2) and (3) of this Act, shall not apply in relation to any aircraft flying to or from any place outside Nigeria which is required under or by virtue of any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place in Nigeria other than a customs airport, but the commander of any such aircraft —

(a) shall immediately report the landing to an officer or police officer, and on demand produce to him the

Journey log book or document in lieu thereof belonging to the aircraft;

(b) shall not, without the consent of an officer or police officer, permit any goods to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft; and

(c) shall comply with any directions given by an officer or police officer with respect to any such goods, and no passenger or member of the crew of the aircraft shall without the consent of an officer or a police officer leave immediate vicinity of the aircraft;

Provided that nothing in this subsection shall prohibit the departure of crew or passengers from the vicinity of, or the removal of goods from, an aircraft where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

(5) Any person who contravenes or fails to comply with any provision of this section shall be liable to a fine of four hundred naira, or to imprisonment for six months, or to both.

(6) The provisions of this Act relating to aircraft shall apply in relation to any aircraft belonging to or employed the service of the Government of the Federation other than a military aircraft commanded or piloted by a person who is serving as a member of armed forces of Nigeria.

In this subsection the expression “military-aircraft” has the meaning assigned by regulation 84 of the Civil Aviation (Air Navigation) Regulations.

16. The authority charged with the management and control of any airport designated a customs airport under section 15 of this Act, shall within the airport provide office accommodation required by officers of the Board for the proper discharge of their functions in the customs airport.

17. (1) The Board may, by notice in the Federal Gazette —

(a) approve for such periods and subject to such conditions and restrictions as it sees fit a part of or a place at, any customs airport for the loading and unloading of goods and any such part or place so approved is in this

Act referred to as 10 as an “examination station”

(b) at any time for reasonable cause revoke or vary the terms of any approval given under this section.

(2) Any person who contravenes or fails to comply with any condition or restriction imposed under this section shall be liable to a fine of two hundred naira.

18. (1) The Minister may make regulations —

(a) restricting the importation or exportation by land or inland waters of all goods or of any class or description of goods to such hours and such routes (in this Act referred to as “approved routes”) as may be prescribed by the regulations;

(b) appointing places for the examination and entry of and payment of any duty chargeable on any goods being imported or exported by land or inland waters (in this Act referred to as “customs stations”).

(2) If any person contravenes or fails to comply with any regulation made under this section he shall be liable to a fine of two hundred naira and any goods in respect of which the offence was committed shall be forfeited.

19. (1) The Board may, from time to time, give general or special directions as to the manner in which and the conditions under which goods chargeable with any duty which has not been paid, or drawback goods, or any other goods which have not been cleared, or any class or description of such goods, may be moved between any place in Nigeria and any other any other place therein.

(2) Any such directions may include directions requiring that any such goods shall be moved only by such routes, by such persons, in such ships, aircraft or vehicles or by such other means as may be approved by the Board for that purpose, and any such approval may be granted for such period and subject to such conditions and restrictions as the Board may think fit and may be revoked at-any time by the Board.

(3) Any person who contravenes or fails to comply with any direction given or condition or restriction imposed under this section shall be liable to a fine of two hundred naira.

20. (1) The Board may, by notice in the Federal Gazette —

(a) approve, for such periods and subject to such conditions and restrictions as it sees fit, places for the deposit of goods brought to a particular customs port, customs airport or customs station and not yet cleared, including goods not yet reported and entered under this Act and any place so approved is in this Act referred to as a “customs area”;

(b) prescribe the rent to be paid while goods are deposited in a customs area provided by the Government; (c) at any time for reasonable cause, revoke or vary the terms of any approval given under this section.

(2) Any person who contravenes or fails to comply with any condition or restriction imposed under this section shall be liable to a fine of two hundred naira.

21. (1) At any time while a ship or aircraft is within Nigeria, or a vehicle is at a customs station or on an approved route, the master of such ship, the commander of such aircraft or the person in charge of such vehicle shall —

(a) permit in officer to board the ship, aircraft or vehicle and to inspect it and any goods carried therein and any documents relating to the ship, aircraft or vehicle or to the goods or persons carried therein,

- (b) answer all such questions as an officer may put to him concerning the ship, aircraft or vehicle or its voyage flight or journey, or the goods or persons carried therein,
- (2) An officer shall have the right of access at any time to any place to which access is required for the purposes of subsection (1) of this section.
- (3) If the master of any ship or the commander of any aircraft or the person in charge of any vehicle neglects or refuses to provide means of safe access to and egress from the ship, aircraft or vehicle when required so to do, or refuses to any question put to him, by an officer under section he shall be liable to a fine of four hundred naira or to imprisonment for six months, or to both.
- (4) An officer who has boarded a ship, aircraft or vehicle under this section may
- (a) remain therein for any period;
 - (b) lock up, seal, mark or otherwise secure any goods carried therein or any place or container in which they are so carried;
 - (c) require any goods to be unloaded and removed for examination or for the security thereof or unload and remove such goods for such purpose at the expense of the master of the ship, commander of the aircraft or person in charge of the vehicle;
 - (d) require any container, locker or place to be opened and, without being liable to any prosecution or action at law for so doing, break open any such container, locker or place which is not opened on demand.
- (5) Where an officer in exercise of the power conferred by paragraph (a) of subsection (4) of this section who has boarded a ship remains there for more than twelve hours, it shall be the duty of the master of the ship to provide that officer with free boarding and lodging.

(6) Any goods found concealed on board the ship, aircraft or vehicle shall be forfeited.

(7) Where, in pursuance of any power conferred by this Act, an officer has placed any lock, mark or seal upon any goods in any ship, aircraft or vehicle, or upon any place or container in which such goods are kept, then if, without the authority of the proper officer, at any time while the ship, aircraft or vehicle is within Nigeria that lock, mark or seal is willfully opened, altered or broken, or if, before that lock, mark or seal is lawfully removed, any such goods have been carried away, the master of the ship or commander of the aircraft or person in charge of the vehicle shall be liable to a fine of two hundred naira.

22. (1) The person in control of any aerodrome shall permit an officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(2) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by Board, the person in control of any other aerodrome shall —

(a) keep a record in such form as the Board may approve of all aircraft arriving at or departing from the aerodrome;

(b) keep such record available and produce it on demand to any officer, together with all other documents kept at the aerodrome which relate to the movement of aircraft; and

(c) permit any officer to make copies of and take extracts from any such record or document.

(3) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable to a fine of four hundred naira.

23. (1) Any officer or police officer, if it appears to him that an aircraft is intended or likely to depart for a destination outside Nigeria from any place other than a customs airport otherwise than as permitted in writing by the Board or from a

customs airport before customs clearance is given there from, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) Any person who contravenes any instructions given under subsection (1) of this section shall be liable to a fine of four hundred naira or to imprisonment for six months, or to both; and if an aircraft flies in contravention of any such instruction or notwithstanding any steps taken to prevent the flight, the operator of the aircraft and the commander thereof shall, without prejudice to the liability of any other person under this subsection, each be similarly liable unless he proves that the flight took place without his consent or connivance.

IMPORTATION OF GOODS

24. The President may, by Order —

- (a) prohibit the importation of any specified goods;
- (b) prohibit the importation of all goods or any specified goods except as provided in the Order;
- (c) subject to any specified exceptions, prohibit the importation of all goods except with the general or special permission in writing of a specified authority or authorities.

25. (1) Subject to subsection (2) of this section, goods imported in transit or for transshipment or as stores shall not be deemed to be goods the importation of which is prohibited, unless such goods are goods the importation of which in transit for transshipment or as stores is expressly prohibited.

(2) Where any goods imported in transit or for transshipment or as stores would, but for the provisions of subsection (1) of this section, be goods for the importation of which is prohibited, such goods shall be duly exported within

such time as the Board may direct, and any such goods which are not so exported shall be forfeited.

(3) Goods imported in transit or for transshipment shall not be entered for use in Nigeria unless written authorisation from the consignor and the consignee that the goods may be so treated are produced to the proper officer.

(4) Goods imported into Nigeria for home use shall not be entered in transit or for transshipment.

26. (1) Report shall be made in such form and manner and containing such particulars as the Board may direct of every ship and aircraft or vehicle to which this section applies and of all goods carried therein, of every vehicle entering Nigeria by land and of all goods carried therein, and of all goods otherwise brought into Nigeria by land.

(2) This section shall apply to every ship or vehicle arriving at any place in Nigeria by sea, lad or inland waters —

(a) from any place outside Nigeria; or

(b) carrying any goods brought in that ship from some place outside Nigeria and not yet cleared on importation.

(3) This section shall apply to every aircraft arriving at any place in Nigeria —

(a) from any place outside Nigeria; or

(b) carrying passengers or goods taken on board that aircraft at a place outside Nigeria, being outside Nigeria, being passengers or goods either —

(i) bound for a destination in Nigeria and not already cleared at a customs airport, or

(ii) bound for a destination outside Nigeria.

(4) The Minister may make regulations prescribing the procedure for making report under this section and the time within which such report shall be made, and different regulations may be made with respect to importation by sea, air or land and inland waters respectively.

(5) If the person by whom the report should be made fails to make report as required by or under this section, he shall be liable to a fine of two hundred naira; and any goods required to be reported which are not duly reported may be detained by the proper officer until so reported or until the omission is explained to the satisfaction of the Board, and may in the meantime be deposited in a Government warehouse.

(6) The person making the report shall at the time of making the report, answer all such questions and produce all such documents in his possession or control relating to the ship, aircraft or vehicle, the goods carried therein, the crew and passengers and the voyage, flight or journey as may be put to him or required by the proper officer; and if such person refuses to answer any such question or to produce any such document he shall be liable to a fine of two hundred naira.

(7) If at any time after a ship, aircraft or vehicle carrying goods brought therein from any place outside Nigeria enters Nigeria and before report has been made under this section —

(a) bulk is broken; or

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof; or

(c) any part of the goods is staved, destroyed or thrown overboard or any container is opened, without the knowledge and consent of the proper officer, the master of the ship or the commander of the aircraft or the person in charge of the vehicle shall, unless the matter be explained to the satisfaction of the Board, be liable to a fine of two hundred naira.

(8) The person administering the area within which the discharge of the ship, aircraft or vehicle took place or, where there is no such person, the owner of the ship, aircraft or vehicle shall deliver to the proper officer within two days of the date of completing discharge, a tally slip, giving full and accurate account of all the goods carried or unloaded from the ship, aircraft or vehicle.

(9) The Board may, at its discretion by notice in writing, require additional information in respect of such goods in the ship, aircraft or vehicle as it may deem necessary.

(10) If any person fails to comply with the provisions of subsection (8) of this section or fails to give the additional information required by the Board he shall be liable to a fine of four hundred naira.

27. (1) The importer of any goods shall deliver to the proper officer, an entry thereof in such form and manner and containing such particulars supported by documentary evidences as the Board may direct:

Provided that this subsection shall not apply in relation to passengers accompanied baggage unless the proper officer, in any particular case, so requires.

(2) Goods may be entered under this section —

(a) for use in Nigeria; or

(b) for warehousing; or

(c) for transit; or

(d) for transshipment, if so eligible.

(3) With the permission of the Board, goods may be entered under this section prior to importation.

28. (1) If the importer of any goods is, by reason of the absence of any, or of sufficient, documentary evidence concerning them, unable to deliver a perfect entry thereof, he may make and subscribe a declaration to that effect by Bill of Slight in such form as the Board may direct and deliver it to the proper officer, whereupon the proper officer may permit the importer to examine such goods in his presence.

(2) Upon such examination having been made, the importer may deliver to the proper officer an entry of such goods for use in Nigeria, if so eligible, or for warehousing, if so eligible, notwithstanding the, absence of any, or of sufficient, documentary evidence concerning them, and if the proper officer is satisfied that the description of the goods contained in such entry is correct, and also —

(a) in the case of goods liable to duty ad valorem, that the value declared on the entry is approximately correct, or

(b) in the case of goods liable to duty according to weight, quantity, measurement or strength, that the weight, quantity, measurement or strength declared is correct,

such entry shall, subject to the provisions of section 29 of this Act, be deemed to be a perfect entry, but if the proper officer is not satisfied as aforesaid he may reject such entry, in which case the goods shall be deemed to be un-entered goods.

(3) Nothing in this section shall permit the entry of any goods in respect of which evidence of origin is required by or under this or any other Act unless such evidence is produced to the satisfaction of the proper officer.

29. (1) Where any goods —

(a) are entered for use in Nigeria in accordance with the provisions of section 28 of this Act; or

(b) having been entered for warehousing in accordance with the provisions of section 28 of this Act are further entered for use in Nigeria, and are liable to duty ad valorem, the proper officer may require the importer to make provisional payment at the time of delivering the entry for use in Nigeria of such sum as the proper officer may require to be deposited as security for the payment of any amount which may be payable by way of duty; and such sum shall be deemed to be the duty payable unless the importer within three months from the delivery of the entry for use in Nigeria, or such longer period as may be allowed by the Board, produces to the proper officer such evidence or such further evidence concerning the goods as he may require.

(2) Where the importer produces such evidence or such further evidence concerning the goods in accordance with the provisions of subsection (1) of this section, then —

(a) if the amount of the provisional payment is more than the full amount of the duty, the difference shall be refunded to the importer; or

(b) if the amount of the deposit is less than the full amount of the duty, the difference shall thereupon be paid by the importer to the proper officer.

30. With the permission of the proper officer, surplus stores of any ship or aircraft

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(a) if they could lawfully be imported as merchandise, may be entered and otherwise treated as if they were goods imported in that ship or aircraft; or

(b) in any other case may be entered for transshipment or warehousing:

Provided that any goods entered for warehousing by virtue of paragraph (b) of this section, shall not, except with the written permission of the Board, be further entered, or be removed from the warehouse, otherwise than for use as stores.

31. (1) On the fifteenth day after the completion of discharge of the importing ship, aircraft or vehicle or at such times as the Board may direct, the proper

officer shall, in respect of every ship, aircraft or vehicle , deliver to the person administering the area within which the discharge took place or, where there is no such person, to the owner of the ship, aircraft or vehicle, or his agent, a list of goods unloaded from such ship, aircraft or vehicle and not yet released by the proper officer.

(2) On the receipt of the list specified in subsection (1) of this section, the person administering the area, or where there is no such person, the owner of the ship, aircraft or vehicle, or his agent, shall immediately transfer all such goods to the Government warehouse or to such other place as the proper officer may approve.

(3) If any person fails to comply with the provisions of subsection (2) of this section he shall be liable to a fine of four hundred naira.

(4) Where any imported goods remain un-entered at the expiration of fourteen days from the date of completion of discharge of the importing ship, aircraft or vehicle, the proper officer may direct the person administering the area within which the discharge of the ship, aircraft or vehicle took place or, where there is no person administering such area, the owner of the ships aircraft or vehicle or his agent to remove or store all or any such goods to or at a Government warehouse or such other place as the proper officer may approve. If any person fails to comply with any such direction within twenty-four hours after such direction is given he shall be liable to a fine of twenty-four hours after such direction is given he shall be liable to a fine of fifty naira and the proper officer may cause all or any such goods to be removed to a Government warehouse or such other place as he may approve.

(5) Where under subsection (1) or (4) of this section, goods are removed to or stored at a place approved by the proper officer such place shall be deemed to be a Government warehouse and such goods shall be deemed to have been removed to and deposited in a Government warehouse.

(6) Where any goods which have been reported in any ship, aircraft or vehicle but have not been released by the proper officer nor removed to a Government warehouse are not produced to the proper officer on demand, such goods shall be deemed to have been imported and removed for use in Nigeria and, without prejudice to any remedy in respect of any contravention of this or any other Act in respect of such goods, the person responsible shall, if so required by the proper officer within one year from the date of the report of such goods, pay any duty chargeable on the importation of such goods, unless he proves to the satisfaction of the Board that the goods have not been imported.

(7) In subsection (6) of this section “person responsible” means —

(a) in respect of goods shown to the satisfaction of the Board to have been unloaded into an area administered by any person other than the agent or owner of the ship, aircraft or vehicle concerned or an officer in the service of the Government of the Federation, the person administering that area; 3617

(b) in respect of any other goods the owner of the ship, aircraft or vehicle concerned.

8. Where it is necessary for the purpose of determining the amount of any duty chargeable under subsection

(6) of this to classify any goods and assess the value, quantity, weight, measurement or strength thereof, such goods shall be deemed to be of such description and of such value, quantity, weight, measurement or strength as may be determined by the proper officer having regard to the information in his possession relating thereto.

9. Without prejudice to the provisions of section 2 of the Customs and Excise (Special Penal and Other Provisions) Act, if any goods removed to a Government warehouse under this section are not cleared by the importer thereof—

(a) in the case of goods which are in the opinion of the Board of a perishable nature, forthwith;

(b) in any other case, within fourteen days after they have been so removed or such longer time as the Board may in any case allow, the Board may sell them.

32. (1) The Board may, subject to such conditions and restrictions as it sees fit to impose, permit goods brought by an importing ship to a customs port in Nigeria but consigned to and intended to be delivered at some other customs port therein to be transferred before due entry of the goods has been made to another ship for carriage by sea to that other customs port, and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Imported goods which have been carried coastwise by virtue of this section shall not be unloaded before due entry thereof has been made, except where the goods are unloaded for deposit in a customs area and duly deposited therein. If any goods are unloaded in contravention of this subsection, or are dealt with contrary to any condition or restriction imposed under subsection (1) of this section, they shall be forfeited, and the master of the ship shall be liable to a fine of two hundred naira.

33. (1) The Board may, subject to such conditions and restrictions as it sees fit to impose, permit goods brought by an importing aircraft to a customs airport in Nigeria but consigned to and intended to be delivered at some other in customs airport therein to be transferred before due entry of the goods has been made to another aircraft for carriage to that other customs airport.

(2) Imported goods which have been carried from one customs airport to another customs airport by virtue of this section shall not be unloaded except at an examination station or removed from an examination station until due entry thereof has been made, except where the goods are to deposit in a customs area and duly deposited therein. If any goods are unloaded or removed in contravention of this subsection, or are dealt with contrary to any condition or

restriction imposed under subsection (1) of this section, they shall be forfeited and the commander of the aircraft shall be liable to a fine of four hundred naira.

34. (1) If the master of a ship or the commander of an aircraft to which imported goods have been permitted to be transferred under section 32 or 33 of this Act fails to produce such goods to the proper officer at the customs port or customs airport to which they have been consigned such goods shall be deemed to have been removed for use in Nigeria and, without prejudice to any remedy in respect of any contravention of this or any other Act in respect of such goods, such master or commander shall, if so required by the proper officer within one year from the date of arrival of the ship or aircraft at such customs port or customs airport, pay any duty chargeable on the importation of such goods.

(2) Section 31(8) of this Act shall apply for the purpose of determining any duty payable under subsection (1) of this section as it applies for the purpose of determining any duty payable under section 31(6) of this Act.

35. (1) Where at the expiration of a period of twenty-one clear days from the date of making report under section 26 of this Act of any ship, aircraft or vehicle or, where no such report as made, the date when it should properly have been made, or such longer period as the Board may allow, any goods are still on board the ship, aircraft or vehicle, the Board may authorise the detention of that ship, aircraft or vehicle until — (a) any expenses properly incurred in watching and guarding the goods beyond the said period; and

(b) where the goods are removed by virtue of any provisions of this Act from the ship, aircraft or vehicle to a Government warehouse, the expenses of that removal, have been repaid to the Board.

(2) Where, in the case of any derelict or other ship or aircraft coming, driven or brought into Nigeria under legal process of weather or for safety, or in the case of any vehicle which suffers any mishap, it is necessary to station any officer in charge thereof, whether on board or otherwise, for the protection of the

revenue; the proper officer may detain that ship, aircraft or vehicle until any expenses thereby incurred have been repaid to the Board.

36. (1) The Minister may make regulations —

(a) prescribing the procedure to be followed by a ship arriving at a customs port, an aircraft arriving at a of customs airport, a ship conveying goods into Nigeria goods by inland waters or a vehicle or person conveying goods into Nigeria by land;

(b) regulating the unloading, landing, movement and removal of goods on their importation, and different regulations may be made with respect to importation by sea, air or, land and inland waters respectively.

(2) If any person contravenes or fails to comply with any under this section or with any direction given by the Board or the proper officer pursuant of any such regulation, he liable to a fine of two hundred naira, and any goods respect of which the offence was committed shall be forfeited.

PROVISIONS AS TO DUTY ON IMPORTED GOODS

37. (1) Except as permitted by or under the customs laws no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on delivery of the entry to the proper officer.

(2) The duties of customs and the rates thereof chargeable on imported goods —

(a) if entry is made thereof, except where the entry is for warehousing, shall be those in force with respect to such goods at the time of delivery of the entry;

(b) if entry is made thereof for warehousing, shall be ascertained as provided in section 94 of this Act;

(c) if no entry is made thereof, shall be those in force with respect to such goods at the time of their importation.

38. Any goods brought or coming into Nigeria by sea not being carried in a ship as cargo, stores or baggage shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of such goods, they shall be deemed to be the produce of such country as the Board may on investigation determine.

39. (1) Goods which are re-imported into Nigeria after exportation there from may on their re-importation be delivered for use in Nigeria, where so eligible, without payment of duty if it is shown to the satisfaction of the Board —

(a) that any duty of customs or excise with which the goods were chargeable prior to their exportation has been paid;

(b) that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Board;

(c) that such goods have not been subjected to any process outside Nigeria since their exportation, or if they have been so subjected have not undergone any change in their form or character and are not at the time of re-importation chargeable with duty ad valorem; and

(d) that the person who exported the goods gave notice in writing of his intention to export the goods and produced them for identification at the place from which they were exported to the proper officer, or in the case of exportation by post; to the proper postal authority;

Provided that the Board may, in its discretion, direct that this paragraph shall not apply in any particular case where in the opinion of the Board its application would involve hardship.

(2) In the case of any goods which would be allowed to be delivered without payment of duty under the provisions of subsection (1) of this section but for the fact that they are at the time of re-importation chargeable with duty ad valorem, the value of such goods for duty purposes shall be taken to be the amount by which their value has been increased by the process to which they have been subjected.

40. Any goods which are on their importation permitted to be entered for warehousing shall be allowed to be warehoused without payment of duty.

41. Without prejudice to the provisions of the River Niger Transit Act and of any regulations made there under, where any goods are entered for transit or transshipment, the Board may allow the goods to be removed for that purpose, subject to such conditions and restrictions as it sees fit, without payment of duty.

42. (1) Subject to any Order made under subsection (2) of this section, where the Board is satisfied that goods are imported only temporarily and are intended to be re-exported or consumed on board the importing ship or aircraft, it may permit the goods to be delivered on importation, or to remain on board the importing ship or aircraft for re-exportation or consumption on board as the case may be, subject to such conditions as it sees fit to impose, without payment of duty.

(2) The President may by Order declare that the provisions of subsection (1) of this section shall not apply to any goods specified in such order.

43. (1) Where by virtue of any provision of the customs laws, any imported goods are exempted from duty as being intended or imported for a specified use or purpose, such goods shall not be used or dealt with in any way contrary to such use or purpose, except with the permission of the Board and after payment of the full duty, or such proportion thereof as the Board may direct, on goods of a like kind not intended or imported for such use or purpose.

(2) Where by virtue of any provision of the customs laws any imported goods chargeable with duty are allowed to be delivered on importation, or removed from warehouse, for a specified use or purpose, or subject to a condition that they will not be sold or will be re-exported or any like condition—

(a) without payment of duty; or

(b) on payment of duty at a reduced rate, such goods shall not be used or dealt with in any way contrary to the use, purpose or condition for or subject to which such goods were delivered or removed as aforesaid, except with the permission of the Board and after payment of the full duty thereon or such proportion thereof as it may direct.

(3) Any person who knowingly uses or deals with any goods in contravention of subsection (1) or (2) of this section shall be liable to a fine of six times the value of the goods or four hundred naira whichever is the greater; and any goods used or dealt with in contravention of this section shall be forfeited.

(4) The provisions of this section shall apply whether or not any undertaking or security has been given for the observance of the specified use or purpose or the condition or for the payment of the duty payable apart there from, and the forfeiture of the goods under this section shall not affect the liability of any person who has given any such undertaking or security.

3623

44. Where —

(a) any imported goods are, apart from this section, chargeable with a duty of customs in accordance with a duty of customs in accordance with the provisions of the Customs, Excise Tariff, Etc. (Consolidation) Act provides that, subject to certain safeguards, the duty on goods of which a part or ingredient is a dutiable article or dutiable articles shall be charged as if the goods consisted wholly of that

article, or of such of those articles as is chargeable with the highest rate of duty); and

(b) it appears to the Board inequitable that the goods should be so chargeable, then, subject to the provisions of that Act —

(i) the goods shall be treated as comprising only those articles which form a part or ingredient of the goods and which would be chargeable with such a duty if imported separately (excluding any of them of which, in the opinion of the Board, the quantity is negligible); and

(ii) the amount of the duty in respect of the goods shall be the amount or aggregate amount which would have been chargeable on the article or articles taken into account in accordance with paragraph (i) of this section if it or they had been imported separately.

45. (1) Where a duty of customs is chargeable on imported goods by reference to their value, their value shall be taken to be that laid down in the First Schedule to this Act, and duty shall be paid on that value.

(2) The Board may require any importer or other person concerned with the importation of goods to furnish to the Board, in such form as it may require, such information as is in the opinion of the Board necessary for a proper valuation thereof, and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

OFFENCES IN RELATION TO IMPORTATION

46. Where —

(a) except as provided by or under this Act any imported goods, being goods chargeable with a duty of customs, are without payment of that duty landed or unloaded in Nigeria, or removed from their place of importation or from any approved wharf, examination station, customs station or customs area; or

- (b) any goods are imported, landed or unloaded contrary to any prohibition; or
- (c) any goods, being goods chargeable with any duty or goods the importation of which is prohibited, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft or in any vehicle; or
- (d) any goods are imported concealed in a container holding goods of a different description; or
- (e) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer; or
- (f) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof, those goods shall be forfeited.

47. (1) If any person—

- (a) lands, or unloads in Nigeria, or removes from their place of importation or from any approved wharf, examination station, customs station or customs area — (i) any goods chargeable with a duty which has not been paid; or (ii) any goods imported contrary to any prohibition; or
- (b) assists or is otherwise concerned in such landing, unloading or removal; or
- (c) imports or is concerned in importing any goods contrary to any prohibition whether or not the goods are landed or unloaded, then, if he does so with intent to evade any such duty or any prohibition, he shall be sentenced to imprisonment for five years without the option of a fine.

(2) If any person —

- (a) imports or causes to be imported any goods concealed in a container holding goods of a different description; or
- (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry delivered thereof, he shall be sentenced to imprisonment for five years without the option of a fine.

EXPORTATION, STORES AND CLEARANCE OUTWARDS

48. The President may, by Order —

- (a) prohibit the exportation of any specified goods;
- (b) prohibit the exportation of all goods or any specified goods except as provided in the
Order;
- (c) subject to any specified exceptions, prohibit the exportation of all goods except with the general or special permission in writing of a specified authority or authorities.

49. Transit goods shall not be deemed to be goods the exportation of which is prohibited, unless such goods are goods the exportation of which in transit or transshipment is expressly prohibited.

50. Before any goods are loaded into any ship or aircraft for exportation or as stores for use on a voyage or flight to an eventual destination outside Nigeria or are removed from any customs station for exportation, the exporter shall deliver to the proper officer an entry outwards of the goods in such form and manner and containing such particulars as the Board may direct:

Provided that —

(i) where the Board is satisfied that the nature of any goods is such that the exact quantity to be loaded into a ship cannot be ascertained until such loading is complete, it shall permit such goods to be loaded into a ship before entry outwards thereof has been delivered subject to the delivery of an entry within forty-eight hours after the loading is complete and such other conditions as it may see fit to impose;

(ii) the Board may, subject to such conditions as it may see fit to impose, relax the requirements of this section in relation to any goods.

51. (1) This section applies to —

(a) goods from warehouse;

(b) transit goods;

(c) any other goods chargeable with any import duty which has not been paid;

(d) drawback goods;

(e) goods the exportation of which is prohibited except as provided under or by virtue of any enactment.

(2) On or before the delivery of an entry outwards of any goods to which this section applies the exporter shall, if so required by the Board, give security to its satisfaction that the goods shall be exported to and discharged at the destination for which they are entered outwards within such time as the Board may consider reasonable or, in the case of goods entered for use as stores, shall be so used, or that they shall be otherwise accounted for to the satisfaction of the Board.

(3) Except with the written permission of the Board, no person shall export, load for exportation or enter outwards any goods to which this section applies in any ship of less than one hundred tons register. Any such goods exported, loaded or entered in contravention of this subsection shall be forfeited; and any person concerned in such exportation, loading or entering shall be liable to a fine of two hundred naira.

52. Where —

- (a) any goods are entered outwards for the purpose of being exported from Nigeria; and
- (b) the Department of Customs and Excise is satisfied that it is proposed to import those goods into Nigeria within such period as the Department may determine in the case of those goods; the Board may, either unconditionally or on such conditions as the Board may determine, allow the goods to be exported from and subsequently imported into Nigeria without payment of any customs duty.

53. (1) Where any goods which have been entered outwards have not been duly loaded before the clearance of the ship or aircraft for which they were entered or, as the case may be, have not been duly exported by land, the person who entered the goods shall, within twenty-four hours after the clearance of the ship or aircraft or, in the case of goods entered for exportation by land, after the date of the entry, or within such further period as the Board may allow —

- (a) give notice to the proper officer of the failure to load or export such goods; and

- (b) in the case of any good to which section 51 of this Act applies re-warehouse such goods or again enter them for exportation or for use as stores.

(2) If the person who entered the goods fails to comply with any of the provisions of this section he shall be liable to a fine of one hundred naira, and if the goods in respect of which the offence was committed are goods to which section 51 of this Act applies they shall be forfeited.

54. (1) Notwithstanding any other provision of this Act, goods may not be loaded for use as stores in any ship or aircraft departing for a destination outside Nigeria except with the permission of the proper officer, upon payment of any duty chargeable on the exportation of such goods, and, in such quantities and subject to such conditions as the Board may direct.

(2) Any goods loaded for use as stores in any ship or aircraft in contravention of subsection (1) of this section or of any condition imposed there under shall be forfeited.

(3) If any ship or aircraft which has departed for a destination outside Nigeria carrying goods for use as stores fails to reach the destination for which it was cleared outwards and returns to any place within Nigeria and any deficiency is discovered in the said goods which is in excess of the quantity which, in the opinion of the proper officer, might fairly have been consumed, having regard to the period which has elapsed between the departure of the ship or aircraft and the discovery of the deficiency, the master of the ship or commander of the aircraft shall be liable to a fine of forty naira fine, shall also pay on the excess deficiency any duty chargeable on the importation of such goods.

55. (1) Before any ship or aircraft departs from any place in Nigeria from which it commences, or at which it touches during, a voyage or flight to an eventual destination outside Nigeria the master of the ship or commander of the aircraft shall obtain a clearance of the ship or aircraft for that departure from the proper officer.

(2) The Board may give directions—

(a) as to the procedure for obtaining clearance under this section; and

(b) as to the documents to be produced and the information to be furnished by a person applying for such clearance.

(3) If any ship or aircraft required to be cleared under this section departs from any place in Nigeria without a valid clearance, the master of the ship or commander of the aircraft shall be liable to a fine of one thousand naira.

56. (1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by under this Act or any other enactment, or for the purpose of securing compliance with any, provision of this Act or of any other

enactment, being a provision relating to the importation or exportation of goods

—

(a) the proper officer may at any time refuse clearance of any ship or aircraft; and

(b) where clearance has been granted to a ship or aircraft any officer may at any time while the ship or aircraft is within Nigeria demand that the clearance shall returned to him.

(2) Any such demand may be made either orally or in writing on the master of the ship or commander of the aircraft, and if made in writing may be served —

(a) by delivering it to him personally; or

(b) by leaving it at his last known place of abode; or

(c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.

(3) Where a demand for the return of a clearance is made as aforesaid —

(a) the clearance shall forthwith become void; and

(b) if the demand is not complied with, the master of the ship or the commander of the aircraft shall be liable to a fine of one hundred naira.

57. (1) The Minister may make regulations —

(a) regulating with respect to ships and aircraft respectively the loading of goods for exportation or as stores and the embarking of passengers for a destination outside Nigeria;

(b) prescribing the procedure to be followed and the documents to be furnished by any person conveying goods out of Nigeria by land or inland waters.

(2) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable to a fine of two hundred naira, and any goods in respect of which the offence was committed shall be forfeited.

58. (1) The Board may by notice in writing direct that either before or within such period after the clearance of any exporting ship as may be specified in the notice, the ship's master or agent shall deliver to the proper officer a full list of all cargo carried in such ship in such form and manner and with such documents and additional information as it may specify in the notice.

(2) If any person fails to comply with any direction given by the Board under this section, he shall be liable to a fine of two hundred naira, and any goods in respect of which the offence was committed shall be forfeited.

59. (1) Except with the permission of the Board and subject to such conditions as it may see fit to impose, goods chargeable with a duty of customs on exportation shall not be exported until the exporter has paid that duty to the proper officer, and that duty shall, in the case of goods of which entry outwards is made, be paid on the signing of the entry by the proper officer.

(2) The duties of customs and the rates thereof chargeable on exported goods —

(a) if entry outwards is made thereof, shall be those in force with respect to such goods at the time of the signing the entry by the proper officer;

(b) if no entry outwards is made thereof, shall be those in force with respect to such goods at the time of their exportation.

60. The Board may, subject to conditions and restriction as I may see fit to impose, allow transit goods to be exported without payment of any export duty chargeable on such goods.

61. (1) The Minister may by regulations for the exportation and loading as stores of spirits without the payment of any excise duty chargeable on spirits apart from this section.

(2) Regulations under this section may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Minister considers expedient for the purposes of the regulations, including in particular provision for the imposition of fines in respect of offences against the regulations (not exceeding a fine of four hundred naira for each offence) and provisions for forfeitures in connection with such offences.

62. Where a duty of customs is chargeable on the exportation of any goods by reference to their value, their value shall be determined in accordance with regulations made by the Minister and duty shall be paid on the value so determined.

OFFENCES IN RELATION TO EXPORTATION

63. Where —

(a) except as provided by or under this Act any goods chargeable with a duty on exportation are exported without payment of that duty; or

(b) any goods are exported or loaded or exportation or as stores or are brought to any place in Nigeria for the purpose of being exported or loaded as stores and the exportation of such goods is or would be contrary to any prohibition; or

(c) except as provided by or under this Act any goods are loaded into any ship or aircraft for exportation or as stores, or are removed from any customs station for exportation, before entry outwards thereof has been signed by the proper officer; or

(d) any goods, being goods chargeable with any duty on exportation or goods the exportation of which is prohibited, are found after having been loaded for

exportation to have been concealed in any manner on board any ship or aircraft or in any vehicle; or

(e) any goods are exported or brought to any place in Nigeria for exportation concealed in a container holding goods of a different description; or

(f) any goods are exported or brought to any place in Nigeria for exportation concealed or packed in any manner appearing to be intended to deceive an officer; or

(g) any goods entered outwards are found, whether before or after loading, not to correspond with the entry made thereof, goods shall be forfeited.

64. (1) If any person—

(a) except as provided by or under this Act exports or is concerned in exporting —

(i) any goods chargeable with a duty which has not been paid; or

(ii) any goods contrary to any prohibition; or

(b) loads for exportation or as stores or brings to any place in Nigeria for the purpose of exporting or loading stores any goods the exportation of which is contrary to any prohibition, or assists or is otherwise concerned in such loading or bringing, then, if he does so with intent to evade any such duty or any prohibition, he shall be liable to imprisonment for a term five years without the option of a fine.

(2) If any person —

(a) except as provided by or under this Act, loads or causes to be loaded any goods into a ship or aircraft for exportation or as stores, or removes or causes to be removed any goods from a customs station for exportation before entry outwards thereof has been signed by the proper officer;

(b) exports or causes to be exported, or brings or causes to be brought to any place in Nigeria for exportation, any goods concealed in a container holding goods of a different description; or

(c) directly or indirectly exports or enters outwards or causes to be exported or entered outwards any goods found not to correspond with the entry made thereof, he shall be liable to imprisonment for a term five years without the option of a fine.

(3) Where any goods having been loaded or retained on board any ship, aircraft or vehicle for exportation or as stores are unloaded in Nigeria, then, unless the unloading was authorised in writing by the proper officer and, except where that officer otherwise permits, unless any duty chargeable and unpaid on the goods is paid and any drawback paid in respect thereof is repaid, the master of the ship, commander of the aircraft or person in charge of the vehicle and any person concerned in the unloading, re-loading, landing or carrying of the goods from the ship, aircraft or vehicle without such authority, payment or repayment shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater, and the goods shall be liable to forfeiture.

CARRIAGE OF GOODS COASTWISE

65. (1) Any ship for the time being engaged in the trade of carrying goods coastwise between places in Nigeria shall for the purposes of this Act be a coasting ship.

(2) The Board may, from time to time, by notice in the Federal Gazette give directions as to what trade by water between places in Nigeria is or is not to be deemed to be carrying goods coastwise.

66. The President may, by Order —

(a) prohibit the carriage coastwise of any specified goods;

(b) prohibit the carriage coastwise of any specified goods except as provided in the Order.

67. (1) Subject to the provisions of this section and except as permitted by the Board, before any coasting ship departs from any customs port or other place the master thereof shall deliver to the proper officer an account in such form and manner and containing such particulars' as the Board may direct, and that account when dated and signed by the proper officer shall be the transire, that is to say, the clearance of the ship from that port or place and the pass for any goods to which the account relates.

(2) Where the goods taken on board a coasting ship are to be carried to different places, the master of the ship shall deliver a separate account relating to the goods taken on board for each such place.

(3) The Board may, subject to such conditions as it sees fit to impose, grant a general transire in respect of any coasting ship and any goods carried therein.

(4) The Board may, subject to such conditions as it sees fit to impose, grant a special transire in respect of any ship exclusively engaged in fishing.

(5) Any such general or special transire may be revoked by the Board by notice in writing delivered to the master or the owner of the ship.

68. (1) Except with the permission of the Board and subject to such conditions as to the keeping of a record of unloading and loading of goods and to such other conditions as it sees fit to impose, no person shall unload goods from any coasting ships or load any goods into a ship —

(a) outside such hours as the Board may, by notice in the Federal Gazette, from time to time appoint; (b) except at an approved wharf;

(c) without the authority of the proper officer; or

(d) on a Sunday or a public holiday.

(2) Within twenty-four hours after the arrival of any coasting ship at the place of unloading and before any goods are unloaded, the master shall, by himself or his agent, delivered to the proper officer the transire in respect of the goods to be unloaded.

69. (1) Without prejudice to any other provision of this Act, the proper officer may examine any goods carried or to be carried on a coasting ship —

(a) at any time while they are on board the ship; or

(b) at any place to which the goods have been brought for loading in, or at which they have been unloaded from, the ship, and for that purpose may require any container to be opened or unpacked; and any such opening, unpacking or any repacking shall be done by or at the expense of the master of the ship.

(2) Without prejudice to any other provision of this Act the proper officer —

(a) may board and search a coasting ship at any time during her voyage;

(b) may at any time require the master of a coasting ship to produce or bring to him for examination any document which should properly be on board such ship;

[CAP. 84 3635

(c) may at any time ask the master of the ship such questions concerning the ship, the goods and persons carried therein and her voyage as he may think fit, and if the master of the ship fails to produce or bring any such document to such officer, or refuses to answer any such question, he shall be liable to a fine of two hundred naira.

70. (1) If—

(a) a coasting ship departs from any place without a correct account or correct accounts having been duly delivered, except as permitted by the Board or under and in compliance with any conditions imposed on the grant of a general or special transire; or

(b) except for some unavoidable cause, whereof the proof shall lie on the master of the ship, a coasting ship deviates from her voyage; or

(c) a coasting ship deviates from her voyage, or takes on board or discharges any goods at sea, and the master does not report that fact in writing to the proper officer at the first customs port or other place in Nigeria at which the ship arrives thereafter, the master of such ship shall be liable to a fine of two hundred naira.

(2) Any goods which are loaded, carried, unloaded or otherwise dealt with in contravention of any provision of, or of any condition imposed by the Board under section 67 or 68 of this Act shall be forfeited.

(3) If any goods are carried coastwise contrary to any prohibition, or are brought to any place in Nigeria for the purposes of being so carried, then those goods shall be liable to forfeiture and any person concerned in the carriage coastwise or the intended carriage coastwise of such goods shall be liable to a fine of one thousand naira.

ADDITIONAL PROVISIONS AS TO INFORMATION, PASSENGERS ETC.

71. (1) An officer may require any person concerned in the importation or exportation of goods, or in the carriage, unloading, landing or loading of goods which are being or have been imported or exported, at any time within three years of the date of delivery to the proper officer of the entry thereof or, where no such entry was delivered, the date of importation or exportation thereof, to furnish in such form as the officer may require any information relating to the goods and to produce and allow the officer to inspect and take extracts from or

make copies of any invoice, bill of lading or other book or document relating to the goods. If any such person fails to comply with any such requirement, he shall be liable to a fine of two hundred naira.

(2) Where any prohibition is in force with respect to the exportation of goods, or of any particular class or description of goods, to any particular destination, then if any person about to load for exportation or to export any goods, or, as the case may be, any goods of that class or description, in the course of making entry thereof makes a declaration as to the ultimate destination thereof, and the Board has reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Board is satisfied as truth of the declaration, and if it is not so satisfied the goods shall be forfeited.

(3) Any person concerned in the exportation of any goods which are subject to any subject to any such prohibition as aforesaid shall, if so required by the Board, satisfy the Board that those goods have not reached any destination other than that mentioned in the entry outwards delivered in respect of the goods, and if he fails so to do he shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater, unless he proves that he did not consent to or connive at the goods reaching any destination other than that mentioned as aforesaid and that he took all reasonable steps to secure that the ultimate destination of the goods was not other than that so mentioned.

72. (1) Any person who has entered or is about to leave Nigeria shall declare and produce to the proper officer at such places and in such manner as the Board may direct, all goods imported or to be exported by him, shall answer all questions put to him by the proper officer with respect to such goods, and shall not remove such goods from the place of examination without the permission of the proper officer.

(2) Any such article which is chargeable with any duty and is found concealed or is not declared, and any article which is being brought into or taken out of

Nigeria contrary to any prohibition in force with respect thereto, shall be forfeited.

(3) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be liable to a fine of six times the values of the baggage or article in respect of which the offence is committed or four hundred naira, whichever is the greater.

73. (1) The Board may give directions as to the procedure to be followed by any person leaving any customs post, customs airport or any customs area within its control going ashore or disembarking from or going on board any ship or aircraft which has arrived in Nigeria or is about to depart there from and as to the procedure to be followed by any person entering or leaving any customs port, customs airport or any other customs area within the control of the Board.

(2) Any person who contravenes any direction given by the Board under this section shall be liable to a fine of one hundred naira.

74. (1) The Minister may make regulations as to the procedure to be followed by ship in chandlers going on board or disembarking from any ship in Nigeria where such boarding or disembarking is for the purpose of trade.

(2) Without prejudice to the generality of the powers to make regulations conferred by subsection (1) of this section, regulations made there under may in particular —

(a) enable the Board to specify by notice, the manner in which and the period during which any trade may be carried on board any such ship by ship chandlers;

(b) provide for the inspection by officers of the Board of ship chandlers who are on board a ship for the purpose of trade;

(c) prescribe the form of application for and of the ship chandler's license to be used for the purposes of this section;

(3) Any person contravening or failing to comply with any regulation made under this section shall be liable to a fine of four hundred naira and any goods or article in respect of which the offence was committed shall be liable to forfeiture.

75. The Board may, if it considers it necessary, require evidence to be produced to its satisfaction in support of any information required by or under this Part of this Act to be provided in respect of goods imported, exported or carried coastwise.

GENERAL

76. (1) The Minister may make general regulations in respect of ships not exceeding one hundred tons register and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used. Different provision may be made by such regulations for different classes or descriptions of such ships.

(2) The Board may, in respect of any such ship, grant a license exempting that ship from all or any of the provisions made under this section. If the master of any ship in respect of which such a license has been granted fails to produce such license when required to do so by any officer he shall be liable to a fine of forty naira.

(3) Any such license may be granted for such period, for such purposes and subject to such conditions as the Board sees fit, and may be revoked at any time by the Board.

(4) Any such ship which, except under and in accordance with the terms of a license granted under subsection

(1) of this section, is used contrary to any regulation made under this section shall be forfeited.

(5) If, upon boarding any ship not exceeding one hundred tons register, any officer finds any goods for which the master of the ship is unable to account to the

satisfaction of that officer, then, if that officer suspects that the goods are being or have been or are intended to be dealt with in any way contrary to the customs laws, he may arrest and detain the master, and take him before a magistrate and if the master fails to satisfy the magistrate that the goods had not been, were not being, and were not intended to be; dealt with contrary to the customs laws, the goods shall be forfeited, and the master shall be liable to a fine of two hundred .naira.

77. (1) Any person who by any means makes any signal or transmits any message from any part of Nigeria or from any ship or aircraft for the information of a person in any ship or aircraft or across the frontier, being a signal or message connected with the unlawful importation or exportation of goods into or out of Nigeria, whether or not the person for whom the signal or message is intended is in a position to receive it or is engaged at the time in unlawfully importing or exporting goods, shall be liable to a fine of two hundred naira or to imprisonment for two years, or to both, and any equipment or apparatus used for sending the signal or message shall be forfeited.

(2) If, in any proceedings under subsection (1) of this section, any question arises as to whether any signal or message was or was not such a signal or message as aforesaid, the burden of proof shall lie upon the defendant claimant.

(3) If any person whatsoever has reasonable grounds for suspecting that any such signal or message as aforesaid is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message, without being liable to any prosecution or action at law for so doing.

78. (1) The provisions of this section shall have effect for the purposes of the customs laws.

(2) The time of importation of any goods shall be deemed to be —

- (a) where the goods are brought by sea, the time when the ship carrying them comes within Nigeria,
- (b) where the goods are brought by air, the time when the aircraft carrying them lands in Nigeria or the time when the goods are unloaded, whichever is the earlier;
- (c) where the goods are brought by land or inland waters, the time when the goods are brought into Nigeria.

(3) The time for exportation of any goods from Nigeria shall be deemed to be —

- (a) where the goods are to be exported by sea or air, the time when the goods are brought to the customs area;
- (b) where the goods are to be exported by land, the time when the goods are brought to a customs station;

Provided that in the case of goods in respect of which any prohibition is for the time being in force which are exported by sea or air, the time of exportation shall be deemed to be the time when the ship or aircraft in which they are carried departs from its final position, anchorage or berth within Nigeria.

79. (1) Subject to the provisions of the Nigerian Postal Services Department Act, the provisions of the customs laws shall apply to postal articles and to goods contained therein as they apply to any other goods:

Provided that —

- (a) where a declaration or label made out by the sender in conformity with the provisions of the Post Office Guide or with the regulations of the Universal Postal Union accompanies or is affixed to a postal article, such declaration or label shall, except in such cases as the Board may notice in the Federal Gazette

direct, be accepted in place of an entry delivered under the provisions of this Act;

(b) where a declaration or label has been accepted in place of an entry, the duty, if any,

chargeable on the importation or exportation of any goods to which such declaration or label relates and the rate thereof shall be those in force with respect to such goods at the time when the duty thereon is assessed by the proper officer;

(c) where the contents of any postal article are found on examination not to agree with any particulars thereof set forth on any declaration or label accompanying or affixed to such postal article, such declaration or label, whether or not it has been accepted in place of an entry, shall be deemed to be an untrue declaration made for the purposes of the customs laws;

(d) where any postal article is, or any goods contained therein are, found on examination to be conveyed by post otherwise than in conformity with the provisions of the Post Office Guide or with the regulations of the Universal Postal Union such postal article or such goods, as the case may be, shall be forfeited.

(2) The President may make regulations prescribing the procedure for the examination of postal articles for the purposes of the customs laws, and for the collection of any duties of customs chargeable on the importation or exportation of goods contained in postal articles.

(3) In this section “postal article” has the meaning assigned to it in the Nigerian Postal Services Department Act.

80. Where, pursuant to the provisions of section 79 of this Act, officers of the Board are stationed at any post office for the examination of postal articles for the purposes of the customs laws, the Department of Posts and

Telecommunications shall provide suitable accommodation for such officers for the proper discharge of their functions in that post office.

PART IV. — WAREHOUSES AND GOVERNMENT

WAREHOUSES

81. The Minister may, by notice in the Federal Gazette Goods declare what goods may be warehoused without payment of duty.

82. (1) The Board may, on application, license any building as a warehouses for the deposit of goods permitted to be warehoused without payment of duty; and it may, without assigning reason; refuse to issue any such 1icence and may, subject to a refund of the proportionate part of the license fee, at any time for reasonable cause revoke any license which has been issued.

(2) The Board may license any building as either —

(a) a general warehouse, that is to say, for the warehousing of goods which are the property of the warehouse keeper or of any other person; or

(b) a private warehouse, that is to say, only for the warehousing of goods which are the property of the warehouse keeper, and may attach such conditions to the license as it may see fit.

(3) The license shall be in such form as the Board may direct and shall be subject to the payment of fee of forty eight naira and shall expire on the 31st day of December in each year.

(4) A license shall not be issued until the person who applies for the license has furnished such security for the due payment of all duties and the due observance of the provisions of the customs and excise laws as the Board may require; and the Board may, at any time, require a warehouse keeper to furnish such additional or new security as it may consider necessary for such purposes.

(5) Any warehouse keeper who without the previous consent in writing of the Board makes any alteration in, or addition to, a warehouse shall be liable to a fine of four hundred naira.

(6) Any warehouse keeper who uses his warehouse, or permits it to be used, in contravention of any of the conditions of his license shall be liable to a fine of four hundred naira.

(7) Any owner or occupier of a building who uses it, or permits it to be used, for the deposit of goods entered for warehousing while a valid license under this section is not in force shall be liable to a fine of four hundred naira, and, in addition thereto, to a fine of twenty naira for every day, or part of a day, during which he so uses the building, or permits it to be so used.

83. (1) Where the Board intends to revoke or not to renew the license of a warehouse, it shall, not later than three months before the date when the revocation is to take effect or the license is due to expire, as the case may be, give notice of its intention specifying therein the said date, and no goods shall be deposited for warehousing in that warehouse after notice of intention to revoke or not to renew the license has been served.

(2) The notice required to be given under subsection (1) of this section, shall be given in writing and shall be deemed to have been served on all persons interested in any goods then entered for or deposited in that warehouse, if addressed to the warehouse keeper and left at that warehouse.

(3) If —

(a) after the date specified in such notice or such later date as the Board may in any case allow, any goods upon which duty has not been paid remain in the warehouse; or

(b) after such notice has been served any goods are deposited for warehousing in the warehouse, the proper officer may cause them to be taken to a Government warehouse:

Provided that the Board may, if it thinks fit, permit such goods to be re-warehoused in another warehouse.

84. (1) Every warehouse keeper shall —

(a) at his own expense provide and maintain at the warehouse such office, lavatory and sanitary accommodation for the proper officer, with the requisite furniture, lighting and cleaning, as the Board may direct;

(b) at his own expense .provide and maintain such appliances, and afford such other facilities, for examining and taking account of goods, and for securing them, as the proper officer may require;

(c) at his own expense stack and arrange the goods in the warehouse so as to permit reasonable access to and examination of every container or lot of such goods at all times;

(d) at his own expense provide all necessary labour and materials for the storing, examining, packing, marking, coopering, weighing and taking stock of the warehoused goods whenever the proper officer so requires.

(2) Where any warehouse keeper fails to comply with any of the provisions of this section, the Board may direct that no further goods shall be warehoused by that warehouse keeper until he has complied with such provision or provisions to the satisfaction of the Board.

(3) Any warehouse keeper who contravenes any direction given by the Board under subsection (2) of this section shall be liable to a fine of two hundred naira and, in addition thereto, to a fine of twenty naira for every day, or part of day, during which such contravention continues.

85. The Board may give directions as to the times between which goods may be received at a warehouse; and the goods shall not be removed for warehousing except at such times as will allow them to be received at the warehouse within the times directed by the Board for that purpose. If any goods are removed in contravention of this section the person removing them shall be liable to a fine of two hundred naira.

86. (1) On the arrival of any goods at a warehouse the warehouse keeper shall immediately report such arrival to proper officer. If the warehouse keeper fails to report the arrival of any goods he shall be liable to a fine of two naira.

(2) Goods which are entered for warehousing shall be deemed to be duly warehoused as from the time certified by the proper officer.

(3) Except as permitted by the Board, all goods shall be warehoused in the containers or lots in which they were entered for warehousing; and any goods warehoused in contravention of this subsection shall be forfeited.

(4) The warehouse keeper shall mark the containers or lots of any warehoused goods in such manner as the proper officer may direct and shall, subject to any further such directions, keep them so marked while they are warehoused. If any warehouse keeper fails to comply with the provisions of this subsection he shall be liable to a fine of two hundred naira.

87. (1) The proper officer may direct in what parts of a warehouse and in what manner any goods shall be deposited kept therein.

(2) If any goods are deposited contrary to any directions of the proper officer, the warehouse keeper shall be liable to a fine of two hundred naira.

(3) If, except as permitted or directed by the proper officer, any goods deposited in a warehouse are moved from the part of the warehouse in which they were deposited, or any alteration is made in the goods or in the containers

or lots thereof, or in the marks or numbers of such goods or the containers or lots thereof, such goods shall be forfeited.

88. The warehouse keeper shall produce to the proper officer on request any goods deposited in his warehouse which have not been lawfully removed there from; and if he fails so to produce any such goods he shall be liable to a fine of ten naira for each container or lot not produced.

89. (1) The Board may, subject to such conditions as it sees fit to impose permit any goods in a warehouse to be repacked, sorted, or packed therein, and may permit, subject as aforesaid, the blending of spirits, oils and other goods in the warehouse and, such other similar operations as may be specified by the Board.

(2) Any person who contravenes any condition imposed by the Board under this section shall be liable to a fine of two hundred naira

90. (1) Before any goods are removed from a warehouse, the proprietor of the goods shall deliver to the proper officer an entry thereof in such form and manner as the Board may direct.

(2) Warehoused goods may be entered —

(a) for use in Nigeria where so eligible;

(b) for exportation, where so eligible;

(c) for use as stores, where so eligible;

(d) subject to such conditions as the Board sees fit to impose, for removal to another warehouse.

(3) Goods shall be deemed to have been duly entered under this section when the entry has been signed by the proper officer.

(4) Except as permitted by or under this Act, goods shall not be removed from a warehouse until any duty chargeable thereon has been paid.

(5) Warehoused goods shall not be removed from the warehouse except with the authority of, and in accordance with any directions given by, the proper officer.

91. Without prejudice to any other provision of this Act authorising the removal of goods from warehouse without payment of duty, the Board may, subject to such conditions as it sees fit to impose, allow warehoused goods entered for any purpose other than use in Nigeria to be removed for that purpose without payment of duty.

92. The Board may allow the proprietor of any warehoused goods to take such samples thereof subject to such conditions, and with or without entry or payment of duty, as it thinks fit.

93. (1) The Board may, subject to such conditions as it sees fit to impose, allow any goods to be removed from a warehouse without payment of duty for such purpose, for such period, and in such quantities as it may think fit.

(2) If any condition imposed by the Board under subsection (1) of this section is contravened the goods shall be forfeited.

94. (1) The duties of customs or excise and the rates thereof chargeable on warehoused goods shall be those in force with respect to goods of that class or description at the date of the removal of the goods from the warehouse.

[CAP. 84 3647

Customs and Excise Management Act

(2) Subject to subsection (4) of this section, the amount payable in respect of any duty of customs chargeable on goods under this section shall be calculated in accordance with the first account taken of the goods after their importation.

(3) Subject to subsection (4) of this section, the amount payable in respect of any duty of excise chargeable on goods under this section shall be calculated in accordance with the account taken of the goods on their first being warehoused.

(4) The proper officer may, either on the directions of the Board or on the application and at the expense of the proprietor of the goods —

(a) re-gauge, re-measure, re-weigh, examine or take stock of any warehoused goods;

(b) re-value any warehoused goods liable to duty ad valorem which have deteriorated in quality, and in either such case, the duty on any such goods shall be payable according to the result, unless the proper officer considers that any loss or deterioration, is excessive or has been wilfully or negligently caused, in either of which events the duty shall, subject to such reduction, if any, as the Board may allow, be payable according to the original account.

95. Nothing in the customs and excise laws shall be construed as limiting to imported goods the provisions of those laws relating to the warehousing of goods.

96. If, at any time after any goods have been warehoused and before they are lawfully removed from warehouse, the goods are found to be missing or deficient, and it is not shown to the satisfaction of the Board that their absence or deficiency can be accounted for by natural waste or other legitimate cause then, without prejudice to any penalty or forfeiture incurred under any other provision of this Act, the Board may require the warehouse keeper to pay immediately the duty on the missing goods or on the whole or any part of the deficiency, as the Board sees fit.

97. (1) The provisions of this section shall have effect in relation to any goods which are deposited in a Government warehouse under or by virtue of any provision of this Act.

3648 CAP. 84]

(2) Such rent shall be payable while the goods are deposited as may be fixed by the Board by notice in the Federal Gazette.

(3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment —

(a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching, guarding them as the Board sees fit; or

(b) if the proprietor of the goods has not cleared them within a period of fourteen days from the date of deposit, they may be sold by the Board.

(4) Except as permitted by or under this Act, the goods shall not be removed from the Government warehouse until any duty chargeable thereon and any charges in respect —

(a) of their removal to the Government warehouse; and

(b) rent and expenses required to be paid under subsections (2) and (3) of this section, have been paid and, in the case of goods requiring entry and not yet entered, until they have been entered.

(5) The officer having the custody of the goods may refuse to allow them to be removed until it is shown to his satisfaction that all duties, expenses, rent, freight and other charges due in respect of the goods have been paid.

(6) If the goods are under or by virtue of any provisions of this Act sold, the proceeds of sale shall be applied in discharge of —

- (a) firstly, any duty chargeable on the goods;
- (b) secondly, the expense of sale;
- (c) thirdly, any such charges as are mentioned in subsection (4) of this section;
- (d) fourthly, any port or airport charges; and
- (e) fifthly, the freight and any other charges, and if the person who was immediately before the sale the proprietor of the goods makes application therefore within one year from the date of the sale, the remainder, if any, shall be payable to him

[CAP. 84 3649

Customs and Excise Management Act

- (7) When the goods are under or by virtue of any provision of this Act authorised to be sold but cannot be sold for a sum sufficient to make the payments mentioned in paragraphs (a), (b) and (c) of subsection (6) of this section they may be destroyed, or otherwise disposed of as the Board may direct.
- (8) If any goods are not cleared from the Government warehouse within a period of fourteen days after being entered, or after being sold under or by virtue of any provision of this Act, they may be disposed of in such manner as the Board may direct.)

98. (1) Any person who, except with the authority of the proper officer, opens any of the doors or locks of a warehouse or Government warehouse or makes or obtains access to any such warehouse or Government warehouse or to any goods warehoused therein shall be liable to a fine of one thousand naira.

- (2) Any person who fails to leave any warehouse or Government warehouse or any part of a warehouse or Government warehouse when requested to do so by any officer shall be liable to a fine of one hundred naira.

(3) Any person who, except as permitted under this Act, willfully destroys or damages any goods in a warehouse or Government warehouse shall be liable to a fine of six times the value of the goods or four hundred naira whichever is the greater, or to imprisonment for two years, or to both.

(4) If —

(a) except as permitted by the Board, any goods which have been entered for warehousing are removed without being duly warehoused or are otherwise not duly warehoused; or

(b) any goods which have been deposited in a warehouse or Government warehouse are unlawfully removed there from; or

(c) any goods entered for warehousing are concealed either before or after they have been warehoused,

those goods shall be liable to forfeiture, and any person who removes or conceals any goods as aforesaid shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater, or to imprisonment for two years, or to both.

PART V. — SPIRITS

MANUFACTURE OF SPIRITS

99. No person shall manufacture spirits, whether by distillation of a fermented liquor or by any other process, unless he holds an excise license for that purpose as a spirits manufacturer.

100. (1) The Minister may make regulations —

(a) regulating the manufacture of spirits, whether by distillation of a fermented liquor or by any other process; (b) for calculating, securing and collecting the excise duty on spirits;

(c) regulating the removal of spirits from the premises of a spirits manufacturer;

(d) restricting the delivery of immature spirits for use Nigeria.

(2) If any person contravenes or fails to comply with any regulation made under subsection (1) of this section, he shall be liable to a fine of two thousand naira and any spirits, and any vessels, utensils and materials used for distilling or otherwise manufacturing or preparing spirits, in respect of which the offence was committed shall be liable to forfeiture:

Provided that the Minister may by any such regulation provide a fine of a lesser amount for any contravention of or failure to comply with that regulation.

101. If any person —

(a) conceals in, or without the consent of the proper officer removes from, the premises of a spirits manufacturer any wart, wash, low wines, feints or spirits; or

(b) knowingly buys or receives any wart, wash, low wines, feints or spirits so concealed or removed; or

(c) knowingly buys or receives or has in his possession any spirits which have been removed from the place where they ought to have been charged with duty before the duty payable thereon has been charged and either paid or secured, the goods shall be liable to forfeiture and he shall be liable to a fine of six times the value of the goods or four hundred naira whichever is the greater, or to imprisonment for two years, or to both.

102. (1) If, at any time when an account is taken by the proper officer and a balance struck of the spirits in the stock of spirits manufacturer, any excess is found, that excess shall spirits be liable to forfeiture.

(2) If, at any time when an account is taken and a balance struck as aforesaid, any deficiency is found which cannot be accounted for to the satisfaction of the Board, the spirits manufacturer shall be liable to a fine of double the excise duty on a quantity of spirits consisting of pure alcohol equal to the quantity of the deficiency.

103. (1) Any person who otherwise than under and in accordance with an excise licence so authorising him —

(a) manufactures spirits, whether by distillation of a fermented liquor or by any other process; or

(b) has in his possession or uses a still for distilling, rectifying or compounding spirits; or

(c) distils or has in his possession any low wines or feints; or

(d) brews or makes or has in his possession any wort or wash fit for distillation, shall be liable to a fine of two thousand naira.

(2) Where there is insufficient evidence to convict a person of an offence under subsection (1) of this section, but it is proved that such an offence has been committed on some part of premises belonging to or occupied by that person in such circumstances that it could not have been committed without knowledge, that person shall be liable to a fine of two hundred naira.

(3) All spirits and all stills, vessels, utensils, wort, wash and other materials for manufacturing, distilling or preparing spirits —

- (a) found in the possession of any person who commits an offence under subsection (1) of this section; or
 - (b) found on any premises on which such an offence has been committed,
- (4) Notwithstanding any other provision of this Act relating to goods seized as liable to forfeiture, any officer by whom any thing is seized as liable to forfeiture under subsection (3) of this section may at his discretion forthwith spill, break up or destroy that thing.
- (5) Without prejudice to any other power conferred by this Act, if an officer has reasonable grounds to suspect that any thing which is liable to forfeiture under this section is in or upon any land or other premises, he may enter upon those premises if need be by force, and search them and seize and remove anything which he has reasonable grounds to believe to be so liable.

MANUFACTURE OF METHYLATED SPIRITS

104. (1) The Board may authorise any spirits manufacturer to methylate spirits, and any person so authorised is in this Act referred to as an “authorised methylator”.

(2) Any person who, not being an authorise methylator; methylates spirits shall be liable to a fine of two hundred naira.

(3) The Board may at any time for reasonable cause revoke or suspend any authorization granted under this section.

105. (1) The Minister may make regulations —

(a) regulating the methylation of spirits;

(b) prescribing the spirits which may be used, and the substances which may be mixed therewith, for methylation;

(c) prescribing the manner in which account is to be kept of stocks of methylated spirits in the possession of an authorised methylator.

(2) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable to a fine of one thousand naira.

(b) Any spirits or methylated spirits in respect of which an offence under subsection (2) of this section is committed shall be forfeited.

106. If, at any time when an account is taken and a balance struck of the quantity of any kind of methylated spirits in the possession of an authorised methylator, that quantity differs from the quantity which ought to be in his possession according to any accounts required by regulations made under section 105 of this Act to be kept thereof, then —

(a) if the former quantity exceeds the latter, the excess shall be liable to forfeiture.

(b) if the former quantity is less than the latter, the authorised methylator shall on demand by the Board pay on such part of the deficiency as cannot be accounted for to the satisfaction of the Board, the excise duty payable on spirits, consisting of pure alcohol.

107. (1) If any person—

(a) prepares or attempts to prepare any liquor to which this section applies for use as a beverage or as a mixture with a beverage;

(b) sells any such liquor, whether so prepared or not, as a beverage or mixed with a beverage; or

(c) uses any such liquor or any derivative thereof in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine; or

(d) sells or has in his possession any such article in the preparation of -----
any such liquor or any derivative thereof has been -----; or

(e) except as permitted by the Board and in accordance with conditions implied by it, purifies or attempts to purify any such liquor or, after any such liquor has once been used recovers or attempts to recover the spirit or alcohol contained therein by distillation or condensation or in any other manner, he shall be liable to a fine of one thousand naira, or to imprisonment for two years, or to both, and the liquor in respect of which the offence was committed shall be liable to forfeiture.

(2) The liquors to which this section applies are methylated spirits, methyl alcohol and any mixture containing methylated spirits or methyl alcohol.

108. The Board may, subject to such conditions as it sees fit to impose, permit spirits to be delivered for methylation without payment of duty.

109. For the purpose of sections 95 to 98 of this Act inclusive, the expression "methylation" shall be deemed to include the denaturing of spirits and "methylate" and cognate expressions shall be construed accordingly.

PART VI. —BEER

110. (1) No person shall brew beer unless he holds an excise license for that purpose as a brewer.

(2) If any person brews beer otherwise than under and in accordance with an excise license, he shall be liable to a fine of one thousand naira and all beer, worts, vessels, utensils and materials capable of being used for brewing in his possession shall be forfeited.

111. (1) The Minister may make regulations —

(a) regulating the manufacture of beer;

- (b) for calculating, securing and collecting the excise duty on beer;
- (c) as to the receipt, storage, removal and disposal of sugar by brewers; and
- (d) as to the books and other documents relating to sugar to be kept by brewers.

(2) Any person contravening or failing to comply with any regulation made under, this section shall be liable to a fine of two hundred naira and any goods or article in respect in respect of which the offence was committed shall be forfeited.

(3) If, on taking stock at any time, the proper officer finds that the quantity of any description of sugar in the possession of any brewer differs from the quantity of that description which ought to be in his possession according to any book or other document kept by him in pursuance of any regulations made under this section, then —

(a) if the quantity in his possession exceeds the quantity which ought to be in his possession, the excess shall be forfeited;

(b) if the quantity in his possession is less by more than two per cent than the quantity which ought to be in his possession, the deficiency above two per cent shall, unless accounted for to the satisfaction of the Board, be deemed to have been used in the brewing of beer without particulars thereof having been recorded in pursuance of regulation made under section (111) of this Act, and duty shall be charged in respect thereof as if that deficiency had been so used.

(4) In this section the expression “sugar” includes sugar of any description and any saccharin substance, extract or syrup.

112. The Board may, subject to such conditions as it sees fit to impose, allow beer brewed in Nigeria to be delivered from the brewery of manufacture for exportation or loading as stores in accordance with the customs and excise laws, without payment of the excise duty chargeable thereon.

113. (1) If any brewer conceals any worts or beer so as to prevent an officer from taking an account thereof, or, after particulars of any worts or beer have been recoded by the brewer in pursuance of regulations made under section (111) of this Act, mixes any sugar with those worts or with that beer so as to increase the quantity or the gravity or original gravity thereof he shall be liable to a fine of two hundred naira and the worts or beer in respect of which the offence was committed shall be forfeited.

(2) If any brewer adds to beer before it is delivered from his entered premises anything other than water, finings for the purpose of clarification or such other substances as may be sanctioned by the Board, he shall be liable to a fine of hundred naira, and if any beer to which anything other than as aforesaid has been added is found in the possession of a brewer, he shall be liable to a fine of one hundred naira and the beer shall be forfeited.

(3) If any brewer has in his possession any worts or beer which is of a strength exceeding ten per cent of pure alcohol, he shall be liable to a fine of one hundred naira, and the worts or beer shall be forfeited.

(4) In this section, the expression "sugar" means sugar of any description and any saccharine substance, extract or syrup and includes any material capable of being used in brewing except malt or corn.

114. (1) For the purposes of the customs and excise laws —

(a) the expression "gravity" in relation to any liquid means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed as at fifteen point five six degrees Centigrade or sixty degrees Fahrenheit;

(b) where the gravity of any liquid is expressed as a number of degrees that number shall be the said ratio multiplied by one thousand; and

(c) the expression “original gravity” in relation to any liquid in which fermentation has taken place means its gravity before fermentation.

(2) The gravity of any liquid at any time shall be ascertained by such means as the Board may approve, and gravity so ascertained shall be deemed to be the true gravity of the liquid.

PART VII.—TOBACCO

115. (1) No person shall manufacture any description of tobacco subject to a duty of excise unless, he holds an excise license as a tobacco manufacturer.

(2) If any person manufactures any such tobacco otherwise than under and in accordance with an excise license, he shall be liable to a fine of one thousand naira and any such tobacco so manufactured by him or in his possession, and any plant and materials in his possession capable of being used in the manufacture of such tobacco, shall be forfeited.

116. (1) The Minister may make regulations— 116. (1) The Minister may make regulations — (a) regulating the manufacture of tobacco by a tobacco manufacturer;

(b) for securing the excise duties on tobacco.

(2) Any person contravening or failing to comply with any regulation made under this section shall be liable to a fine of four hundred naira and any goods or article in respect of which the offence was committed shall be forfeited.

(3) If at any time the proper officer finds that the quantity of tobacco in the factory of a tobacco manufacturer differs from the quantity which ought to be therein according to any books or other documents kept by the tobacco manufacturer in pursuance of any regulations made under this section and such difference cannot be accounted for to the satisfaction of the Board, then —

- (a) if the quantity in the factory exceeds the quantity which ought to be therein, the excess shall be forfeited.
- (b) if the quantity in the factory is less than the quantity which ought to be therein, the tobacco manufacturer shall be liable to a fine of double the excise duty at the highest rate on a quantity of manufactured tobacco equal to the quantity of the deficiency.

117. (1) Subject to subsections (2) and (3) of this section, the excise duty chargeable on manufactured tobacco shall excise become due and payable by the tobacco manufacturer on delivery of such tobacco from the factory.

(2) The Board may allow payment of the duty to be deferred upon such terms as it sees fit:

Provided that the date of payment shall not be later than the 21st day of the month next following that in which the duty became due.

(3) The Board may, subject to such conditions as it sees fit to impose, allow manufactured tobacco to be delivered from a tobacco manufacturer's factory for exportation or loading as stores in accordance with the customs laws without payment of the excise duty chargeable thereon.

PART VIII. — OTHER GOODS SUBJECT TO EXCISE DUTY

118. This Part of this Act applies to all goods subject to a duty of excise other than spirits, beer and tobacco hydro-carbon oil.

119. (1) No person shall manufacture any goods to which this Part of this Act applies unless he holds an excise license for that purpose.

(2) If any person manufactures any such goods otherwise than under and in accordance with an excise license, he shall be liable to a fine of one thousand naira and any such goods manufactured by him or in his possession, and any plant

materials, vessels, utensils and other articles in his possession capable of being used in the manufacture of such goods, shall be forfeited.

120. (1) The Minister may make regulations—

- (a) regulating the manufacture of any goods to which this Part applies;
- (b) for calculating, securing and collecting the excise duty on any such goods;
- (c) for the exportation or loading of any such goods as stores in accordance with the customs laws without payment of the excise duty chargeable thereon;
- (d) as to the books, accounts and other documents relating to any such goods to be kept by manufacturers.

(2) Any person contravening or failing to comply with regulation made under this section shall be liable to a fine of four hundred naira, and any goods or article in respect of which the offence was committed shall be forfeited.

[CAP. 84 3659

Customs and Excise Management Act

PART IX. —EXCISE. LICENCES, ENTRIES, ETC.GENERAL

EXCISE LICENCES —GENERAL PROVISIONS

121. (1) Subject to the provisions of this Act, an application for an excise license relating to any premises in which any goods are manufactured, shall be in such form and shall contain such particulars as the Board may direct.

(2) Subject as aforesaid, the Board may for reasonable cause refuse to issue any such excise license to any person or in respect of any premises.

(3) Where an application for an excise license (under this or any other enactment) is approved by the Board, it shall —

(a) in the case of an excise license relating to any premises in which any goods to which Part VIII of the Act applies are manufactured, on payment of the sum of twenty naira by an applicant, issue the license;

(b) in the case of an excise license relating to any goods other than those to which Part VIII of the Act applies, on payment by an applicant of the relevant fee prescribed, issue the license.

(4) Every excise license shall be in such form as the Board may direct and shall expire on the 31st day of December next following the date of issue.

(5) An excise license shall, be issued in respect of one set of premises only.

122. Without prejudice to the power contained in subsection (2) of section 124 of this Act, the Board may by notice in writing revoke or suspend any excise license where the holder of such license —

(a) has been convicted of an offence under the excise laws; or

(b) has been convicted of any offence involving dishonesty or fraud; or

(c) has become a bankrupt or has entered into any arrangement or composition with or for the benefit of creditors; or

(d) has failed to pay any excise duty at the when it was payable.

123. (1) If any excise license has been revoked or suspended or has expired and has not been renewed, then the person who held such license shall —

(a) forthwith cease to manufacture the description of goods referred to in the license;

(b) forthwith pay duty on any excisable goods, manufactured under such license on which duty has not been paid;

(c) not disposed of any materials on the premises to which such license relates except in accordance with such conditions as the Board may impose.

(2) Any person who contravenes any of the provisions of this section or any conditions imposed there under shall be liable to a fine of one hundred naira, and any plant, equipment, excisable goods and materials in respect of which such offence has been committed shall be forfeited.

124. (1) The Board may, for the purpose of ensuring proper excise control, require the holder of an excise license —

(a) at his own expense to provide and maintain at the licensed premises such office, lavatory and sanitary accommodation, with the requisite furniture, lighting and cleaning, for the proper officer as the Board may direct;

(b) at his own expense to provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer at any time to take an account or make an examination or search or to perform any other of his duties at the licensed premises as the Board may direct.

(2) If any holder of an excise license fails to comply with any requirement of subsection (1) of this section, the Board may revoke or suspend the excise license.

(3) The holder of an excise license shall provide and maintain any fitting required for the purpose of affixing any

[CAP. 84 3661

Customs and Excise Management Act

lock which the proper officer may require to affix to the licensed premises or any part thereof, or to any vessel, utensil or other apparatus whatsoever kept thereon and in default —

(a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by the holder of the license; and

(b) if the holder of the license fails to pay those expenses on demand, he shall in addition be liable to a fine of two hundred naira.

(4) If the holder of an excise license or any servant of his

(a) willfully destroys or damages any such fitting as aforesaid or any lock or key provided for use therewith, or any label or seal placed on any such lock; or

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

(c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated, he shall be liable to a fine of one thousand naira.

(5) The requirements which the Board is authorised to impose on the holder of an excise license 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 license in question is granted; and the provisions of subsection (2) of this section (which provide for the revocation or suspension of an excise license for failure to comply with a requirement made in pursuance of the said subsection (2) of this section) shall have effect accordingly.

125. (1) Every holder of an excise license shall keep at is licensed premises all such records as may be required under the excise laws, and shall make therein the required entries relating to the manufacture, storage and delivery of excisable goods and materials. Every such entry shall be made legibly in ink and shall not be

altered in any manner other than by cancellation, that is to say by drawing a single line in ink through the incorrect entry so as to allow the original entry to remain legible, or by amendment, that is to say by drawing a single line through the incorrect entry and making a correcting entry above the entry so cancelled.

(2) All records required to be kept under the provisions of the excise laws shall at all times be available for inspection by the proper officer, and such officer may take copies thereof

(3) Any holder of an excise license who contravenes any provisions of this section shall be liable to a fine of two hundred naira.

126. (1) In addition to complying with the requirements of section (125) of this Act, the holder of an excise license shall, if so required by the Board —

- (a) produce for inspection such invoices and other books or documents in his possession relating to any excisable goods manufactured by him during the preceding twelve months as the Board shall require;
- (b) answer such questions as may be put to him by the Boards regarding the description, manufacture, quantity, weight, volume, selling price, consignee, destination, cost of production and manufacturer's profits, and any other matter relating to such goods which the Board may reasonably think necessary for the purpose of carrying out the provisions of the excise laws or any regulations made there under;
- (c) produce such evidence as the Board may deem necessary in support of any information so furnished;
- (d) make such returns such form and at such intervals as the Board may require; and if any manufacturer shall neglect or refuse to comply with any such requirement as aforesaid, he shall be liable to a fine of two hundred naira.

(2) Notwithstanding any other provisions of this Act, the powers conferred by subsection (1) of this section on the Board, in so far as they relate to questions regarding the cost

[CAP. 84 3663

Customs and Excise Management Act

of production and manufacturer's profits in respect of any excisable goods, shall be exercisable only by the Board itself.

(3) The Board may require the holder of an excise license to submit annually, or at such other times as it may require, a certificate of audit by an approved accountant not being an employee of the holder of the excise license certifying —

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

(b) any such matter referred to in paragraph (h) of subsection (1) of this section as the Board may require, any holder of an excise license who without reasonable cause fails to submit such certificate of audit shall be liable to a fine of two hundred naira.

(4) For the purposes of this section "an approved accountant" 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.

127. (1) No goods subject to excise duty and which have been manufactured by virtue of any provision of the excise laws or of any regulations made there under, shall be removed from the premises of manufacture unless the manufacturer

delivers to the proper officer an entry of the goods in such form and manner and containing such particulars as Board may direct.

(2) Where any goods entered in accordance with subsection (1) of this section are found, whether before or after their removal from the premises of manufacture, not to correspond with the entry made thereof those goods shall be forfeited.

(3) If any person removes or causes the removal of any manufactured goods without any entry made in accordance with subsection (1) of this section, he shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater.

GENERAL PROVISIONS AS TO ENTRY OF PREMISES, ETC.

128. (1) Where by or under the excise laws any person is required to make entry of any premises, plant or equipment —

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

(2) Where any person required to make entry of any premises, plant or equipment is a body corporate 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.

(3) If any person making entry of any premises, plant or equipment contravenes or fails to comply with any direction of the Board given under this section with respect thereto, he shall be liable to a fine of two hundred naira.

129. (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, plant or equipment 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) 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.

130. (1) If any person uses for any purpose of his trade any premises, plant or equipment required by or under the excise laws to be entered for that purpose without entry having been duly made thereof, he shall be liable to a fine of four hundred naira, and such plant or equipment or any goods found in any such premises or in any such article shall be forfeited.

[CAP. 84 3665

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

GENERAL PROVISIONS AS TO EXCISE TRADERS

131. (1) An officer may at any time enter upon any premises of which entry is made, or is required under the excise laws to be made, or any other premises owned or used by an excise trader for the purpose of his trade and may the inspect the premises and search for, examine and take account of any machinery, vessels, utensils, goods or materials belonging to or in any way connected with that trade.

(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 officer 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.

132. (1) Every excise trader shall —

(a) produce to the Board for inspection as and when required by a notice in writing served on him by the Board all invoices and other books or documents in his possession relating to any goods liable to excise duty purchased or sold by him during the period of twelve months immediately preceding the date of the service of the notice, or any part of that period specified in the notice;

(b) furnish answers to such questions as may be put to him by the Board regarding the description, quantity, weight, volume, purchase price, selling price, consignor, consignee, destination and any other matter relating to such goods which the Board may consider reasonably necessary for the purpose of administering the excise laws;

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

(2) If any excise trader fails without lawful excuse to comply with any of the requirements of a notice served on him by the Board under subsection (1) of this section he shall be guilty of an offence and liable to a fine of six hundred naira.

133. (1) If it appears to the satisfaction of the Board that any substance or liquid 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 liquid 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 liquid 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 makes use of a substance or liquid thereby prohibited in the manufacture or preparation for sale of any goods specified in the notice he shall be liable to a fine of one hundred naira.

(3) Any substance or liquid, 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 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 forfeited.

134. (1) Where any excise duty remains unpaid after having been demanded under section 140 of this Act, the Board may authorise the levying of a distress —

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

(b) upon all machinery, plant, tools, ships, vehicles, animals, goods and effects used in the manufacture, sales or distribution of excisable goods found in any premises or on any lands in the use or possession such manufacturer or of any person on his behalf or in trust for him.

[CAP. 84 3667

Customs and Excise Management Act

(2) The authority to distrain under this section shall be in the form contained in the Second Schedule to this Act and such authority shall be a warrant and authority to levy by distress the amount of any duties due.

(3) The President may by Order amend the Second Schedule to this Act.

- (4) For the purpose of levying any distress under this section, any person authorised in writing by the Board may execute any warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress and he may call to his assistance any police officer and it shall be the duty of any police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.
- (5) The distress so taken may at the cost of the owner therefore be kept for fourteen days, at the end of which time, if the amount due in respect of duty and the cost and charges of incident to the distress are not paid, the same may be sold.
- (6) Out of the proceeds of the sale there shall in the first place be paid the cost or charges of and incident to the sale and keeping of the distress and in the next place the amount due in respect of duties, and the residue, if any, shall be payable to the owner of the things distrained upon demand being made within one year of the date of sale.
- (7) In exercise of the powers of distress conferred by this section, the person to whom authority as aforesaid is given may distrain upon all goods, chattels and effects belonging to the manufacturer wherever the same may be found.

135. (1) Where by virtue of any provision of the excise laws any goods subject to duty of excise delivered from the entered premises of a licensed manufacturer are exempted from such duty as being intended for a specific use or purpose such goods shall not be used or dealt with in any way contrary to such use or purpose except with the permission of the Board and after payment of the full duty, or such proportion thereof as the Board may direct on goods of a like kind not intended for such use or purpose.

CAP. 84]

Customs and Excise Management Act

(2) Where by virtue of any provisions of the excise laws any goods are allowed to be delivered from the entered premises of a licensed manufacturer for a specified use or purpose, or subject to a condition that they will not be sold or any like condition —

(a) without payment of excise duty; or

(b) on payment of excise duty at a reduced rate, such goods shall not be used or dealt with in any way contrary to the use, purpose or condition for, or subject to, which such goods were delivered as aforesaid, except with the permission of the Board and after payment of the full excise duty thereon or such portion thereof as the Board may direct.

(3) Any person who knowingly uses or deals with any goods in contravention of subsection (1) or (2) of this section shall be guilty of an offence and shall be liable on conviction to a fine of six times the value of the goods or four hundred naira whichever is the greater; and any goods used or dealt with in contravention of this section shall be forfeited.

(4) The provisions of this section shall apply whether or not any undertaking or security has been given for the observance of the specified use or purpose or the condition or for the payment of the duty payable apart there from and the forfeiture of the goods under this section shall not affect the liability of any person who has given any such undertaking or security.

PART X. — DUTIES AND DRAWBACKS —GENERAL PROVISIONS

136. (1) If any dispute arises as to whether or what duty of customs or excise is payable on any goods, the importer, exporter or proprietor of the goods shall pay the sum demanded by the proper officer as the duty payable in respect of the goods, and thereupon the sum so paid shall be deemed to be the proper duty payable in respect of the goods, unless the contrary is determined by the court upon application by the importer, exporter or proprietor which application shall be made within six months after the date of payment.

(2) If the court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount

[CAP. 84 3669

Customs and Excise Management Act

Over-paid shall be repaid by the Board, together with interest thereon from the date of the overpayment at such rate as the court may determine. Any sum so repaid shall be accepted by the importer, exporter or proprietor of the goods in satisfaction of all claims in respect of the duty payable thereon and of all damages and expenses incidental to the dispute other than the costs of the proceedings.

(3) This section shall not apply where an entry, delivered under subsection (2) of section 28 of this section, is deemed to be a perfect entry by virtue of that subsection.

137. (1) Where it is shown to the satisfaction of the Board that any goods chargeable with any duty have by accident been lost or destroyed —

(a) after importation but before being cleared for any purpose for which they might be entered on importation; or

(b) while in a warehouse or Government warehouse; or

(c) at any time while that duty is otherwise lawfully unpaid, except when payment of that duty has become due but has been allowed by the Board to be deferred; or

(d) if the duty with which the goods are chargeable is a duty of customs on exportation, at any time after being entered for exportation and before exportation, the Board shall remit or repay any duty chargeable or paid thereon, but in the case of lost goods to which paragraph (a), (b) or (c) of this

subsection applies only if it is satisfied that they have not been and shall not be used or consumed in Nigeria, and in the case of lost goods to which paragraph (d) of this subsection applies only if it is satisfied that they have not been and shall not be exported.

(2) The Board may, at the request of the proprietor of the goods and subject to compliance with such conditions as the Board sees fit to impose, permit the destruction of, and remit or repay any duty chargeable or paid on, any imported goods not yet cleared for any purpose for which they might be entered on importation or any warehoused goods, being in either case goods which have by reason of their state or condition ceased to be worth the full duty chargeable thereon.

3670 CAP. 84]

Customs and Excise Management Act

(3) Where it is proved to the satisfaction of the Board in the case of a manufacturer of any excisable goods that any materials on which a charge of duty has been made, or any goods manufactured by him have while on his entered premises —

(a) been destroyed or become spoilt or otherwise unfit for use, and

(b) in the case of any such materials or goods which have become spoilt or otherwise unfit for use been destroyed with the permission and in the presence of the proper officer, any duty chargeable in respect thereof shall be remitted or repaid in such manner and at such time as the Board may determine.

138. (1) The Minister may make regulations prescribing the goods on which a drawback of the whole or any part of any duties of customs or excise may, be granted and the conditions under which such drawback shall be allowed.

(2) Any claim for drawback shall be made in such form and manner and contain such particulars as the Board may direct.

(3) Where drawback has been claimed in the case of any goods —

(a) no drawback shall be payable unless it is shown to the satisfaction of the Board that duty in respect of the goods or of the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back; and

(b) no drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Board may direct that the conditions on which the drawback is payable have been fulfilled; and

(c) the Board may require any person who has been concerned at any stage with the goods or articles to furnish such information as may be reasonably necessary to enable the Board to determine whether duty has been duly paid and not drawn back, and for enabling a calculation to be made of the amount of drawback payable, and to produce any book of account or other document of whatever nature relating to the goods or article.

(4) If any person fails to comply with any requirement made under paragraph (c) of subsection (3) of this section, he shall be liable to a fine of one hundred naira.

139. (1) Where it is proved to the satisfaction of the Board that any goods after being duly loaded for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback shall be payable in the same manner as if the goods had been exported to their destination.

(2) Where it is proved to the satisfaction of the Board that any goods after being duly loaded for exportation have been materially damaged on board the exporting ship or aircraft, and the goods are with the consent of and in

accordance with any conditions imposed by the Board re-landed or unloaded in or brought back into Nigeria and either abandoned to the Board or destroyed, any amount payable in respect of the goods by way of drawback shall be paid as if they had been duly exported and not so re-loaded or brought back.

Notwithstanding any provision of this Act relating to the re-importation of exported goods, the person to whom any such amount is payable or has been paid shall not be required to pay any duty in respect of any goods re-landed, unloaded or brought back under this subsection.

140. All claims for drawback and application for over-payment or refunds of import or export duty or fee shall be made within a period of one year reckoned —

(a) in the case of drawbacks, from the date of the exportation of the relative goods or the performance of the conditions on which drawback is allowed, as the case may be;

(b) in the case of goods exported or put on board an putting the same on board the exporting or using aircraft or ship; and

Customs and Excise Management Act

(c) in the case of overpayments and other refunds of import or export duty or fee, from the date of the overpayment or the payment of the duty or fee, as the case may be.

141. (1) If any person obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, remission or repayment of any duty in respect of any goods which is not lawfully payable or allowable in respect thereof, or which is greater than the amount so payable or allowable, then —

(a) if the offence was committed with intent to defraud, he shall be liable to a fine of six times the value of the goods or four hundred naira whichever is the greater; or

(b) in any other case, he shall be liable to a fine of six times the amount improperly obtained or allowed or which might have been improperly obtained or allowed or two hundred naira, whichever is the greater. (2) Any goods in respect of which an offence under subsection (1) of this section is committed shall be forfeited.

Provided that, in the case of a claim for drawback, the Board may, if it sees fit, instead of seizing the goods, either refuse to allow any drawback thereon or allow only such drawback as it considers proper.

142. (1) Without prejudice to any other provision of this Act, any amount due by way of customs or excise duty shall, constitute a debt due to the Government and may be recovered by legal proceedings brought by the Board.

(2) Where any duty has been short levied or erroneously repaid, then the person who should have paid the amount short levied or to whom the repayment has erroneously been made, shall, on demand by the proper officer, pay the amount short levied or repay the amount erroneously repaid, as the case may be. Any such amount may be recovered as if it were duty to which the goods in relation to which the amount was so short levied or erroneously repaid were liable:

Provided that the proper officer shall not make any such demand after a year from the date of such short levy or erroneous repayment unless such short levy or erroneous repayment was caused by the production of a document or the making of a statement which was untrue in any material particulars.

[CAP. 84 3673

Customs and Excise Management Act

143. (1) Any duty or drawback the rate of which is expressed by reference to a specified quantity of any goods shall be chargeable or allowable on any fraction of that quantity of goods and the amount payable or allowable on any such fraction shall be calculated proportionally:

Provided that the Board may determine the fractions to be taken into account of any quantity.

(2) In all final calculations of duties, rents, drawbacks and other charges fractions of a kobo shall be disregarded.

PART XI. —GENERAL

GENERAL POWERS. AGENTS. ETC.

144. (1) Without prejudice any express requirement as to security contained in the customs or excise laws, the Board may, if it sees fit, require any person to give security by bond or otherwise in such form and manner as it may direct, for the observance of any condition in connection with customs or excise.

(2) Any bond taken for the purposes of the customs and excise laws —

(a) shall be taken on behalf of the Board; and

(b) shall be valid notwithstanding that it is entered into by a person under twenty-one years of age; and

(c) shall be valid notwithstanding that it is not sealed or not signed or delivered in the presence of a witness; and

(d) may be cancelled at any time by or by order of the Board.

(3) Without prejudice to any rights of a surety under any bond or other security taken for the purposes of the customs and excise laws against the person for whom he is surety, such surety shall be deemed a principal debtor and not merely

a surety; and accordingly shall not be discharged, nor shall his liability be affected, by any giving of time for payment, or by any omission to enforce the bond or other security or by any other act or omission or means whereby the liability of the surety would not have been discharged if he had been a principal debtor.

3674 CAP. 84]

Customs and Excise Management Act

145. (1) Without prejudice to any other power conferred by this Act, an officer may examine, mark, seal and take account of any goods —

- (a) which are imported; or
- (b) which are in or at a warehouse, government warehouse, customs area or examination station; or
- (c) which have been loaded into any ship or aircraft at any place in Nigeria; or
- (d) which are entered for exportation or for use as stores; or
- (e) which are brought to any place in Nigeria for exportation or for loading for exportation or as stores; or
- (f) in the case of which any claim for drawback, remission or repayment of duty is made, and may for that purpose require any container to be opened or unpacked.

(2) any examination of the goods by an officer under this Act shall be made at such place as the board appoints for the purpose.

(3) In the case of such goods as the Board may direct, and subject to such conditions as it sees fit to impose, an officer may permit goods to be bulked, sorted, lotted, packed or repacked before account is taken thereof.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying, or landing of goods or their containers for the purpose of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods. [CAP. 84 3675

Customs and Excise Management Act

(5) If any goods which an officer has power under this Act to examine are without the authority of the proper officer removed from the place appointed under this section for their examination before they have been examined, or any mark or seal placed upon any goods by an officer is, without the authority of the proper officer, altered or broken, those goods shall be forfeited, and any person who so removed them or so altered or broke such mark or seal, if he did so with intent to defraud the Government of any duty chargeable thereon or to evade any prohibition with respect to the importation, exportation or carriage coastwise thereof, shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater, or to imprisonment for two years, or to both.

146. (1) An officer may at any time samples of any goods —

(a) which he is empowered by or under Act to examine; or

(b) which are on premises where goods chargeable with any duty are manufactured, prepared or subject to any process; or

(c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacture or processing.

(2) Where an officer takes from any vessel, pipe or utensil on the premises of any spirits manufacturer or brewer, a sample of any product of, or of any materials for, the manufacturer of spirits or beer —

(a) the spirits manufacturer or brewer may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken; and

(b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.

(3) Any sample taken under this section shall be disposed of and accounted for in such manner as the Board may direct.

3676 CAP. 84]

Customs and Excise Management Act

147. (1) Without prejudice to any other power conferred by this Act, where there are reasonable grounds to suspect that any thing liable to forfeiture under the customs and excise laws is kept or concealed in any building or place, any officer may, without a warrant, enter that building or place at any time, whether by day or night, and search for, seize, detain or remove any such thing and may, so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction.

(2) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any building or place, the provisions of subsection (1) of this section shall apply in relation to any police officer as it would apply in relation to an officer.

148. (1) Any officer who is authorised in writing by the Board to exercise the powers conferred by this subsection may, for the purpose of enforcing the customs and excise laws, at any time, on production if so required of his authority and if need be by force, enter and search any premises in respect of which he

reasonably believes that a license under the Liquor (Licensing) Act, is in force and any room or place adjacent to and communicating with the premise.

(2) Any person who obstructs an officer acting in pursuance of subsection (1) of this section shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand naira or to both; and where a person who has committed an offence under this subsection is the manager or servant of the holder of such license in respect of the premises in question, the holder also shall be deemed to have committed the like offence and shall be liable to be proceeded against and punished accordingly.

(3) The provisions of section 22, 43 and 48 of the said Act (which provide for the endorsement on licenses of convictions under that Act and for refusal and forfeiture of licenses) shall apply in relation to a conviction under this section as they apply in relation to a conviction under that Act.

[CAP. 84 3677

Customs and Excise Management Act

149. (1) Without prejudice to any other power conferred by this Act, where there are reasonable grounds to suspect that any vehicle or ship is or may be carrying any goods which are —

(a) chargeable with any duty which has not been paid or secured; or

(b) in the course of being unlawfully removed from or to any place; or

(c) otherwise liable to forfeiture under the customs and excise laws, any officer or police officer may stop and search that vehicle or ship.

(2) If when so required by any such or police officer the person in charge of any such vehicle or ship refuses to stop or to permit the vehicle or ship to be searched, he shall be liable to a fine of two hundred naira.

(3) No officer or police officer shall be liable to any prosecution or action at law on account of any stoppage or search in accordance with the provisions of this section.

150. (1) Where there are reasonable grounds to suspect that any person to whom this section applies is carrying any article —

- (a) which is chargeable with any duty which has not been paid or secure; or
- (b) the importation or exportation of which is prohibited, any officer or person acting under the directions of an officer may search him and any article he has with him:

Provided that —

(i) the person to be searched may require to be taken before a magistrate or officer appointed by the Board, for the purpose of this paragraph, who shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place;

(ii) no female shall be searched in pursuance of this section except by a female.

(2) No officer or person acting under the direction of an officer in pursuance of this section shall be liable to any prosecution or action at law on account of any search made in accordance with the provisions of this section.

(3) This section applies to —

(a) any person who is on board or has landed from any ship or aircraft;

(b) any person entering or about to leave Nigeria;

(c) any person within the wharf area of a Customs port;

(d) any person at a customs airport;

- (e) any person within a customs area;
- (f) any person travelling from or to any place which is on or beyond the frontier;
- (g) any person who the officer may suspect has received any goods from any such person.

151. The Board may, with the approval of the Minister, pay rewards in respect of any service which appears to it to merit reward rendered to it by any person in relation to any customs and excise matter: Provided that such approval need not be obtained for a reward not exceeding one hundred and fifty naira to a person not being a member of one of the public services of Nigeria.

152. When any goods are deposited in a customs area or in a Government warehouse under or by virtue of any provision of this Act and the Board is of the opinion that having regard to all the circumstances of the case no rent or a reduced rent shall be charged therefore, it may waive or reduce any rent payable or refund the whole or any part of any rent paid under this Act.

153. (1) If any person requests an officer to transact any business relating to customs or excise with him on behalf of another person, the officer may refuse to transact that business with him unless written authority from that other person is produced in such form as the Board may direct.

(2) Subject to subsection (1) of this section anything required by this Act to be done by the importer or exporter of any goods or an excise trader may, except where the Board otherwise requires, be done on his behalf by —

[CAP. 84 3679

Customs and Excise Management Act

- (a) a person exclusively in the employment of the importer or exporter; or
- (b) a person licensed as a customs agent or excise agent in accordance with regulations made under section 156 of this Act.

(3) No person shall transact any business relating to customs and excise with any officer on behalf of another person unless the first mentioned person —

(a) is a person authorised under subsection (1) of this section; or

(b) is a person mentioned in subsection (2) of this section.

(4) Any person who acts in contravention of this section shall be liable to a fine of two hundred naira.

154. Any person who acts as an agent of an importer, exporter or proprietor of goods shall be personally liable for the payment of any duties payable in respect of those goods and for the performance of all acts under the customs and excise laws in relation to those goods as though he were the importer, exporter or proprietor of those goods, as the case may be:

Provided that —

(i) the agent shall cease to be liable under this section after one year from the date any such duty became payable or any such act fell to be performed;

(ii) nothing in this section shall relieve the principal from any liability.

155. Any person who authorises an agent to act for him in relation to any goods for any of the purposes of the customs and excise laws shall be liable for the acts and declarations of his agent, and may accordingly be prosecuted for any offence against the customs and excise laws committed by the agent in respect of any such goods in the same manner as if he had himself committed the offence:

Provided that —

(i) in any prosecution for such offence it shall be a good defence for such person to prove that he had used due diligence to secure compliance with the provisions of Customs and Excise Management Act, the customs and excise laws,

as the case may be, and the offence was committed without his consent, connivance or willful default; and

(ii) nothing contained in this section shall relieve the agent from liability to prosecution for any offence under the customs and excise laws.

156. (1) The Minister may make regulations with respect to the licensing of customs agents and excise agents; and without prejudice to the generality of the powers conferred by this subsection, regulations may in particular provide for —

(a) the fees to be paid and the security to be given by such agents;

(b) the form of application for any such license.

(2) Any person contravening or failing to comply with any regulation made under this section shall be liable to a fine of four hundred naira and any goods or article in respect of which the offence was committed shall be forfeited.

157. No compensation shall be payable by 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 damage occurs as the direct result of the unlawful act or negligence of such officer:

Provided that if any warehoused goods or goods on the premises of the holder of an excise license are destroyed, stolen or unlawfully removed by or with the assistance or connivance of an officer, and that officer is convicted of the offence, then except where the warehouse keeper or proprietor of the goods or holder of the excise license was a party to the offence, the Board shall pay compensation for any loss caused by any such destruction, theft or removal, and, notwithstanding any provision of this Act, no duty shall be payable on the goods by the occupier or proprietor or holder of the excise license aforesaid, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

Customs and Excise Management Act

158. (1) The person in charge of any ship, aircraft or vehicle employed in the enforcement of the customs and excise laws —

(a) may take such ship, aircraft or vehicle to any place in Nigeria; and

(b) keep any ship, aircraft or vehicle at any place in Nigeria for such time as he shall deem necessary; and such person shall not be liable to any prosecution or action at law for so doing.

(2) Any officer engaged in the enforcement of the customs and excise laws may for that purpose patrol upon and pass freely over and enter any place in Nigeria, and such officer shall not be liable to any prosecution or action at law for so doing.

(3) Nothing in this section shall authorise entry into any dwelling house or other building.

159. (1) Any person who interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose of enforcing the customs and excise laws shall be liable to a fine of two hundred naira.

(2) Any person who fires upon any ship, aircraft or vehicle which is being used for the purpose of enforcing the customs and excise laws or by an officer while otherwise engaged in the execution of his duty shall be sentenced to death.

GENERAL OFFENCES

160. If any customs and excise duty is not paid at the time when it becomes payable under any enactment by any person from whom it is due, whether or not payment of that duty has been secured by bond or otherwise, it shall be paid on demand made by the Board either on that person personally or by delivering the

demand in writing to his place of abode or business, and if it is not so paid on demand, he shall, in addition to the amount of customs and excise duty be liable to a fine equal to twice the amount thereof or six hundred naira whichever is the greater.

3682 CAP. 84]

Customs and Excise Management Act

161. (1) If any person —

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered, to the Board or an officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by an officer which he is required by or under this Act to answer, being a document or statement produced or made for any purpose of customs and excise, which is untrue in any material particular, he shall be guilty of an offence under this section.

(2) Where by reason of any such document or statement required to be produced under subsection (1) of this section the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback or repayment of duty, the amount of the duty unpaid or the overpayment shall be recoverable as a debt due to the Federal Government.

(3) Without prejudice to subsection (2) of this section, where any person who commits an offence under this section does so either knowingly or recklessly, he shall be liable to a fine of one thousand naira or to imprisonment for two years or to both; and any goods in relation to which the document or statement was made shall be forfeited.

(4) Without prejudice to subsection (2) of this section, where any person commits an offence under this section in such circumstances that he is not liable

under subsection (3) of this section he shall be liable to a fine of six hundred naira. 162. If any person—

(a) counterfeits or falsifies any document which is required by or under the customs and excise laws or which is used for the transaction of any business relating to customs and excise; or

(b) knowingly accepts, receives or uses any such document so counterfeited or falsified; or

(c) alters any such document after it is officially issued; or

[CAP. 84 3683

Customs and Excise Management Act

(d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to customs and excise, he shall be liable to a fine of one thousand naira or to imprisonment for two years, or to both.

163. (1) If any person required by or under the customs and excise laws to provide scales for any purposes of those laws provides, uses, or permits to be used any scales which are false or unjust, he shall be guilty of an offence under this section.

(2) Where any goods are, or are to be, weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by an officer, if any such person as is mentioned in subsection (1) of this section, or any person by whom or on whose behalf the goods are weighed, counted, gauged, measured, does anything either before, during or after the weighing, counting, gauging or measuring, whereby the officer is or might be prevented from, or hindered or deceived in, taking account or making a due examination, he shall be guilty of an offence under this section.

(3) Any person committing an offence under this section shall be liable to a fine of four hundred naira and any false or unjust scales and any goods in connection with which the offence was committed shall be forfeited.

(4) In this section, the expression "scales" includes weights, measures machines or instruments.

164. Without prejudice to any other provision of this Act, if any person —

(a) knowingly and with intent to defraud the Federal Government of any duty payable thereon, or to evade any prohibition with respect thereto, acquires possession of, or is in any way concerned in the carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any goods which have been unlawfully removed from a warehouse or Government warehouse or which are chargeable Customs and Excise Management Act

with a duty which has not been paid, or with respect to the importation, exportation or carriage coastwise of which any prohibition is for the time being in force; or

(b) is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion of any duty chargeable thereon or of any such prohibition as aforesaid or of any provision of this Act applicable to those goods, he shall be liable to a fine of six times the value of the goods or four hundred naira, whichever is the greater, or to imprisonment for two years, or to both.

165. (1) Any —

(a) person who, while concerned in the commission of any offence against the customs and excise laws is armed with any offensive weapon; and

(b) person so found armed in Nigeria in possession of any goods liable to forfeiture under the customs laws, shall be liable to imprisonment for ten years

(2) If an offender under subsection (1) of this section is armed with any firearms and with such firearms causes injury to an officer he shall be sentenced to death.

(3) Any person who, while concerned in the commission of any offence against the customs and excise laws, is disguised in any way, and any person so disguised found in possession of any goods liable to forfeiture under the customs laws, shall be liable to imprisonment for three years.

166. Any person who assembles with two or more other persons for the purpose of contravening any of the provisions of the customs and excise laws shall be liable to imprisonment for one year.

PART XII. — FORFEITURE AND LEGAL PROCEEDINGS

FORFEITURE

167. (1) Any officer or police officer, or any other person authorised in that behalf by the Board, may at any time seize or detain any thing liable to forfeiture under the customs and excise laws or which such officer, police officer or other, person has reasonable grounds to believe is liable to forfeiture there under.

(2) Any thing seized or detained under the customs and excise laws shall forthwith be delivered into the care of the Board and, subject to the provisions of the Third Schedule to this Act, shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned as forfeited, shall be disposed of, in such manner as the Board may direct.

(3) The provisions of the Third 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 customs and excise laws.

168. Where, by or under any provision of this Act, goods of a kind subject to excise duty become liable to forfeiture by reason of some offence committed by an excise trader, but such goods are not available for forfeiture, the Board may seize from the stock of that trader goods of that kind to such quantity as would attract the same amount of duty as the amount of duty on the goods liable to forfeiture.

169. (l) Without prejudice to any other provision of this Act where any thing has become forfeited under the customs and excise laws —

(a) any ship, aircraft, vehicle, animal, container (including any article of passenger's baggage) or anything whatsoever which has been used for, the carriage, handling, deposit or concealment of the thing so forfeited either at a time which it was so liable or for the purposes of the commission of the offence for which it later became so forfeited, and

(b) any other thing mixed, packed or found with the thing so forfeited shall also be forfeited.

(2) Where any ship, aircraft, vehicle or animal has become, forfeited under the customs and excise laws, whether by virtue of subsection (1) of this section or otherwise, all tackle, apparel or furniture thereof shall also be forfeited.

170. (1) If any ship, aircraft or vehicle which is liable to forfeiture or inspection under the customs and excise laws does not bring to or stop when required so to do by an officer and so remain for such period as the officer may require, the master of ship, commander of the aircraft or person in charge of the vehicle shall be liable to a fine of two hundred naira.

(2) Where any ship liable to forfeiture or inspection under subsection (1) of this section has failed to bring to when required so to do by a Government ship and, after the commanding officer of such Government ship has hoisted the proper ensign and caused a shot to be fired as a signal, the ship liable to forfeiture or inspection still fails to bring to, such Government ship may, on the instruction

of the commanding officer, fire upon the ship liable to forfeiture or inspection with any weapon lawfully carried.

(3) In this section “Government ship” means a ship lawfully armed in the service of the Government of the Federation.

171. Any ship, aircraft or vehicle which is found to be engaged in, to have been engaged in or to be about to depart on, a voyage, flight or journey while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods shall be forfeited.

172. (1) If any part of the cargo of a ship is thrown jettisoning overboard, or staved or destroyed to prevent seizure after the ship has been properly summoned to bring to by any ship employed in the enforcement of the customs and excise laws, the ships from which such cargo was thrown overboard or on which such cargo was staved or destroyed shall be forfeited.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to if the ship did so by means of an international signal code or other recognized means and while flying her proper ensign

173. (1) Notwithstanding any other provision of this Act, a ship of two hundred and fifty or more tons register or an aircraft shall not be forfeited under or by virtue of any provision of this Act, unless the offence in respect of or in connection with which the forfeiture is claimed —

(a) was substantially the object of the voyage or flight in connection with which the offence was committed; or

(b) in the case of a ship, was committed while the ship was under chase by a ship employed in the enforcement of the customs and excise laws after failing to bring to when properly summoned to do so.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to if the ship making summons did so by means of an international signal code or other recognized means and while flying her proper ensign.

(3) The exemption from forfeiture of any ship or aircraft under this section shall not affect any liability to forfeiture of goods carried therein.

174. (1) Where any ship of two hundred and fifty or more tons register or any aircraft would but for section 173 of this Act be liable to forfeiture for or in connection with any offence under the customs and excise laws and, in the opinion of the Board, a responsible officer of the ship or aircraft is implicated either by his own act or by neglect in that offence, the Board may fine that ship or aircraft such sum not exceeding one hundred naira as it sees fit.

(2) Where any ship or aircraft is liable to a fine under subsection (1) of this section but the Board considers that fine an inadequate penalty for the offence, it may take proceedings in accordance with the Third Schedule to this Act, in like manner as it might but for section 173 of this Act have taken proceedings for the condemnation of the ship or aircraft if notice of claim had been given in respect thereof, for the condemnation of the ship or aircraft in such sum not exceeding one thousand naira as the court may see fit.

(3) Where any fine is to be imposed or any proceedings are to be taken under this section, the Board may, require such sum as it sees fit, not exceeding one hundred naira or, as the case may be, one thousand naira, to be deposited with the Board to await its final decision or, as the case may be, the decision of court, and may detain the ship or aircraft until that sum has been so deposited.

(4) No claim shall lie against the Board for damages in respect of the payment of any deposit or the detention of any ship under this section.

(5) For the purposes of this section —

(a) the expression “responsible officer” includes —

- (i) in the case of a ship not carrying a passenger certificate, the master, a mate, the chief steward and an engineer;
- (ii) in the case of a ship carrying a passenger certificate, the master, the purser, the chief steward and the chief engineer;
- (iii) in the case of an aircraft, the commander, a pilot, a navigator, the chief steward and the chief engineer;

(b) without prejudice to any other grounds upon which a responsible officer may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

175. (1) Where, in any proceedings for the condemnation of anything seized as liable to forfeiture under the customs and excise laws, judgment is given for the claimant, the court 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 under the customs and excise laws on account of the seizure or detention of anything, and judgment is given for the plaintiff or prosecutor, then if either —

- (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 customs and 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 section 157 of this Act shall affect any 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

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

GENERAL PROVISIONS AS TO LEGAL PROCEEDINGS

176. (1) Whereby or under any provision of the customs and excise laws a fine or imprisonment prescribed for any offence such fine or imprisonment shall be enforceable by the ordinary procedure applicable in respect of criminal matters in the place in Nigeria where the proceedings are brought.

(2) A court shall not, except with the consent of the person charged, proceed to hear any charge in respect of an offence under any provision of the customs and excise laws unless the continuation of such proceedings is sanctioned by the Board.

(3) No proceedings shall be instituted except within seven years of the date of the commission of the offence.

(4) Nothing in subsection (2) of this section, shall prevent the institution of proceedings for an offence under the customs and excise laws by or in the name of the Attorney-General of the Federation in accordance with the provisions of the Constitution of the Federal Republic of Nigeria in any case in which he thinks it proper that proceedings should be so instituted, or the continuation of proceedings so instituted.

177. Civil or criminal proceedings in a court by the Board under the customs and excise laws (including appeals arising there from) shall, notwithstanding anything to the contrary in any other law, take precedence over all other matters or proceedings instituted or pending before that court.

178. (1) Every offence committed under the customs and excise laws may be inquired into or tried — (a) in any court having jurisdiction in the place where the person charged with the offence resides or is found; or

(b) in any court having jurisdiction in that part of Nigeria where the offence was committed, and every such court shall be deemed to have jurisdiction to try the offence accordingly.

(2) Where an offence under the customs and excise laws is committed at some place on the water or in the air outside the area covered by the jurisdiction of any court in Nigeria, the offence shall, for the purpose of conferring jurisdiction, be deemed to have been committed at any place in Nigeria where the offender is found or to which he is first brought after the commission of the offence.

(3) The jurisdiction conferred under subsection (2) of this section shall be in addition to and not in derogation of any jurisdiction or power conferred under any other enactment.

179. Where, by or under any provision of the customs and excise laws, a fine or term of imprisonment is prescribed, such fine or term of imprisonment shall be deemed to be a fine or term of imprisonment not exceeding the fine or term of imprisonment so prescribed.

180. (1) Subject to the provisions of section 160 of the Constitution of the Federal Republic of Nigeria (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), any officer of the Department of Customs and Excise may, with the consent of the Director of that department, conduct

criminal or other proceedings in respect of matters relating to customs and excise under the customs and excise laws.

(2) As regards the conduct of proceedings under this Act (whether civil or criminal) in the Federal High Court, any reference to an officer shall be a reference to such officer who is a legal practitioner.

181. (1) Any offence under the customs and excise laws —

(a) where it is punishable with imprisonment for a term of two years or more, with or without a fine, shall be punishable either on summary conviction or on conviction on indictment;

(b) in any other case, shall be punishable on summary conviction.

(2) Notwithstanding anything in any enactment, every magistrate in any part of Nigeria shall have jurisdiction for the summary trial of any offence under the customs and excise laws, and may impose any fine or term of imprisonment provided by the customs and excise laws for that offence.

(3) Without prejudice to the powers of any other court of competent jurisdiction, any proceedings for condemnation under the Third Schedule to this Act or for the recovery of any duty or other sum payable under the customs and excise laws may be heard and determined, without limit of amount, by a court of summary jurisdiction.

182. (1) Where liability for any offence under the customs and excise laws is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against jointly or severally.

(2) In any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs and excise laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with

any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

(3) Where by or under any provision of the customs and excise laws a punishment is prescribed for an offence, and any person is convicted in the same proceedings or more than one such offence, that person shall be liable to that punishment for each such offence of which he is so convicted.

(4) Where a fine for any offence under the customs and excise laws is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty chargeable thereon, if he had been sold in the open market at or about the date of the commission of the offence for which the fine is imposed. A certificate as to the value of such goods under the hand of an officer shall be accepted as proof of such value, and shall be conclusive unless challenged by the person charged, in which event the court may proceed to hear evidence of value.

(5) Where an offence under the customs and excise laws which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. In this subsection the expression "director", in relation to any body corporate established for the purpose of carrying on under public ownership any industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

(6) Where, in any proceedings for an offence under the customs and excise laws, any question arises as to the duty or the rate thereof chargeable on any goods, and it is not possible to ascertain the relevant time of importation or

exportation specified in section 78 of this Act, that duty or rate shall be determined as if the goods had been imported or exported, as the case may be, without entry at the time when the proceedings were commenced.

183. (1) Where a person suspected of fraudulent evading payment of duty due on any goods or evading a prohibition in respect thereto is detained for any period not exceeding twenty-four hours by an officer in exercise of his powers under section 8 of this Act and proceedings, whether or not a charge is preferred in respect thereof, are thereupon or thereafter compounded under the provisions of this Act, any measurements, photographs or fingerprint impressions taken under the authority of the Police Act during any such detention may be retained and kept in the custody of the police.

(2) Accordingly, section 30 (1) of the Police Act shall in any such case be read and construed as if the proviso of that section (which requires in certain cases the disposal of measurements etc. so taken) had been omitted, so however that measurements, photographs or fingerprint impressions retained under the powers conferred by the foregoing subsection shall not be received in evidence without the consent of the judge or magistrate hearing the case, in any prosecution of a person for an offence thereafter committed otherwise than under this Act.

184. It is declared for the avoidance of doubt that, without prejudice to any right to require the statement of a case for the opinion of a superior court, a prosecutor may appeal to a superior court against any decision of a court of summary jurisdiction in proceedings for an offence under the customs and excise laws.

185. Any sum paid or recovered on account of any fine imposed under the customs and excise laws and all costs awarded in any proceedings relating to customs and excise to the Board or to any person discharging any duty under those laws shall be accounted for and paid to the Board or as it may direct.

186. The Board may —

(a) without prejudice to the provisions of section 160 of the Constitution of the Federal Republic of Nigeria (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law) and subject to such directions whether general or special as may be given by the Attorney-General of the Federation, stay or compound any proceedings for an offence or for the condemnation of anything forfeited under the customs and excise laws; or

(b) without prejudice to the generality of section 5 of this Act and subject to such directions whether general or special as may be given by the Minister, restore anything forfeited or seized under the customs and excise laws.

187. (1) If, in any court any book or document in the official custody of the Board or any officer is required to be used as evidences to the transactions to which it refers, copies thereof or of extract there from certified by the Board or the proper officer shall be admissible for that purpose, without production from the original.

(2) In any proceedings under the customs and excise laws certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs or of Customs and Excise in a Commonwealth country, or of any Nigerian Consul or, Vice-Consul in any foreign country, shall be sufficient evidence of the matters therein stated unless the contrary be proved.

188. (1) An averment in any process in proceedings under the customs and excise laws —

(a) that those proceedings were instituted by the order of the Board; or

(b) that any person is or was an officer or police officer; or

- (c) that any person is or was appointed or authorised by the Board to discharge, or is engaged by the order or with the concurrence of the Board in the discharged of, any duty; or
- (d) that the Board is or is not satisfied as to any matter as to which it is required by any provision of the customs and excise laws to be satisfied; or
- (e) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent the seizure of those goods; or
- (f) that any person was engaged in, or any ship, aircraft, vehicle or other thing was employed or used in, the enforcement of the customs and excise laws; or
- (g) that the offence was committed or that any act was done in a specified place in Nigeria, shall unless the contrary is proved sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs or excise any question arises as to the place from which any goods have been brought or as to whether or not —

- (a) any duty has been paid or secured in respect of any goods; or
- (b) any duty alleged to be payable is correctly assessed; or
- (c) any goods or other things whatsoever are of the description or nature alleged in the process; or
- (d) any goods have been lawfully imported or lawfully unloaded from any ship, aircraft or vehicle; or
- (e) any goods have been lawfully loaded into any ship, aircraft or vehicle or lawfully exported; or
- (f) any goods were lawfully brought to any place for the purpose of being loaded into any ship, aircraft or vehicle or exported; or

(g) any goods are or were goods prohibited to be imported, exported or carried coastwise, then, where those proceedings are brought by or against the Attorney-General of the Federation, the Board or an officer, or having been commenced by the police, are continued by the Board or an officer, the burden of proof shall lie upon the other party to the proceedings.

189. If in any proceedings under the customs and excise laws the question arises whether any person is an officer, his own evidence thereof shall be deemed sufficient unless contrary be proved.

190. In any prosecution for an offence under the customs and excise laws it shall not be necessary to prove knowledge or intent, but where the prosecution is in respect of an offence of doing any thing knowingly or recklessly or with a specified intent, the onus of disproving that he did such thing knowingly or recklessly or with such intent shall be on the defendant.

PART XII. — MISCELLANEOUS

191. The Sales by Auction Act shall not apply to sales under the customs and excise laws when conducted by an officer authorised by the Board to conduct such sales.

192. Where a claim is made to the Board for the repayment of any sum in respect of an amount paid by way of duty in excess of the amount chargeable in respect of that duty, the Board may if it thinks fit require the claimant to defray, in accordance with such reasonable scales as the Board may determine, the administrative expenses incurred by the Board in connection with the repayment.

193. (1) All orders, regulations, directions, terms, conditions, restrictions or forms having effect immediately before the commencement of this Act under any enactment repealed by this Act relating to any matter with respect to which the President, the Minister or the Board has under this Act power to make orders or regulations or to give directions or impose terms, conditions or restrictions shall,

unless and until revoked or varied as the case may be, by the President, the Minister, or by the Board and so far as is not inconsistent with the provisions of this Act, have effect as if made, given, imposed or directed under that power.

(2) Any appointment of or by, and any authority or license granted or approval given by, the President, the Minister or any officer under any Act repealed by this Act and in force immediately before the commencement of this Act shall have effect as if made, granted or given by the Federal Civil Service Commission, the Board or the Director as the case may be, under the corresponding provisions of this Act.

(3) Any document referring to any Act repealed by this Act shall, unless the contrary intention appears, be construed as referring to the corresponding provision of this Act.

194. (1) The President may make regulations or the establishment of a Customs and Excise Preventive Service and Customs and the terms and conditions of service therein.

(2) Members of the Preventive Service established in accordance with regulations made under subsection (1) of this section may, by an order in writing of the Board and under arrangements to be agreed between the Board and the Inspector-General of Police be seconded for training to the Nigeria Police Force.

(3) During the period of any such secondment for training a member of the Preventive Service shall for the purposes of discipline, rank and training in accordance with the Police Act and the Police Regulations, be deemed to hold the rank of a recruit in the Nigeria Police Force, or such other rank as may be agreed with the Inspector-General of Police and specified in the order of the Board, and, subject to any necessary delegation by the Federal Civil Service Commission, shall be liable to be dealt with by a superior officer accordingly save that any punishment of dismissal which may be imposed under such Act or regulations shall be subject to the approval of the Board and not of the Inspector-General of Police or a Commissioner.

(4) During the period of any such secondment for training a member of the Preventive Service shall be entitled to the same exemptions in respect of any enactment relating to arms and ammunition as is applicable in respect of a recruit in the Nigeria Police Force (or in respect of such other rank as may be specified as aforesaid).

195. (1) Notwithstanding anything in any other enactment, it shall be lawful for any member of the Customs Preventive Service not below the rank of Assistant Superintendent to have firearms and ammunition in his possession or under his control on such occasions as may be specified by regulations.

(2) Provisions shall be made by regulations for the safe custody of firearms and ammunition provided in pursuance of subsection (1) of this section.

(3) The authorisation to possess and control arms and ammunition given under subsection (1) of this section members of the Customs Preventive Service not below rank of Assistant Superintendent shall extend to officers of that service not below the rank of Senior Preventive Officer, and to members of that service below that rank when, but only when, they are acting under the personal supervision of such an officer.

(4) For the purposes of sections 194 and 195 of this Act —

“Ammunition” and “firearms” have the same meaning as in the Firearms Act.

“Preventive Service” means the Customs and Excise Preventive Service established by regulations made under section 194 of this Act.

“Regulations” means regulations made under section 194 of this Act.

FIRST SCHEDULE

VALUE OF IMPORTED GOODS

1. (1) The value of any goods imported for use in Nigeria shall be taken to be the normal price, that is to say, the price which, in the opinion of the of Board such goods would fetch at the time when the duty becomes payable on a sale in the open market between a buyer and a seller acting independent of each other.

(2) The normal price of any goods so imported shall be determined on the following assumptions —

(a) that the goods are treated as having been delivered to the buyer at the port or place of importation into

Nigeria;

(b) that the seller shall bear all costs, charges and expenses incidenta¹ to the sale and to the delivery of the goods at the port or place of importation into Nigeria which are hence included in the normal price;

(c) that the buyer shall bear any duties or taxes chargeable in Nigeria, which are hence not included in the normal price, and

(d) that the sale is a sale of the quantity to be valued.

(3) Where imported goods are the subject of a bona fide sale, the Board may use the price paid or payable as a basis for valuation of the normal price but the Board may—

(a) take measures aimed at preventing the evasion of customs duty by means of fictitious contracts or prices; and

(b) make such adjustments of that price as may be considered necessary on account of circumstances of the sale which differ from those envisage in the definition of value in sub-paragraph (1) of this paragraph.

(4) Adjustments mentioned in sub-paragraph (3) (b) of this paragraph refer particularly to —

- (i) costs, charges and expenses mentioned in sub-paragraph (6) of this paragraph;
- (ii) discounts or other reduction in price granted in favour of sole agents or sole concessionaires; or
- (iii) any abnormal discounts or other reduction from other competitive price.

(5) Where the determination of value or of the prices paid or payable depends upon factors which have been expressed in the currency of another country, such foreign currency shall be converted into the currency of Nigeria at the current official rate of exchange in Nigeria.

(6) The “costs, charges and expenses” referred to in paragraph 1(2) (b) of this Schedule include, inter alia, any the following —

(a) carriage and freight;

(b) insurance;

(c) commission;

(d) brokerage;

(e) all other costs, charges and expenses of drawing up outside Nigeria documents incidental to the importation of the goods into Nigeria, including consular fees, duties and taxes applicable outside Nigeria, except from those which the goods have been exempted or have been or shall be relieved by means of a refund;

(f) cost of containers (excluding those which are treated as separate articles for the purpose of levying duties of customs) and cost of packing (whether for labour, material or otherwise); and

(g) loading charges.

2. (1) For the purpose of this Schedule, a sale in the open market between a buyer and a seller acting independently of each other presupposes —

(a) that the price is the sole consideration;

(b) that the price is not influenced by any commercial or other relationship, whether by contract or otherwise, between seller and any person associated in business with him and the buyer or any other person associated in business with him (other than the relationship created by the sale of the goods in question); and

(c) that no part of the proceeds of any subsequent resale, use or other disposal of the goods shall accrue either directly or indirectly to the seller or any person associated in business with him;

(2) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third party has an interest in the business or property of both of them.

3. (1) When the imported goods to be valued —

(a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied; or

(b) are imported under a foreign trade mark, or

(c) are imported for sale, use or other disposal under a foreign trade mark; the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods.

(2) The provisions of subparagraph (1) of this paragraph shall apply to goods imported for sale, use or other disposal, after further manufacture, under a foreign trade mark.

3. A trade mark shall be treated as a foreign trade mark if it is the mark of —
- (a) any person by whom the goods to be valued have been grown, produced, manufactured, offered for sale or otherwise dealt with outside Nigeria; or
 - (b) any person associated in business with any person referred to in sub-paragraph (a) of this paragraph; or
 - (c) any person whose rights in the trade mark are restricted by an agreement with any person referred to in sub-paragraph (a) or (b) of this paragraph.
4. The provisions of this Schedule shall apply to the valuation of all goods subject to customs declaration, including duty-free goods and goods liable to specific customs duties.
5. The Minister may by order published in the Federal Gazette amend any provision of this Schedule as he may deem fit.

SECOND SCHEDULE

FORM OF WARRANT OF DISTRESS

To

The Customs, Immigration and Prisons Services Board, by virtue of the powers vested in it by section 134 of the

Customs and Excise Management Act, hereby authorises you to collect and recover the sum of

..... due for excise duty from

manufacturer, having his premises at

..... and for the 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 incident to the taking and keeping of such distress, on the goods, chattels and other lands distrainable things of the said manufacturer wherever the same may be found and on all machinery, 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 lands in the use or possession of the said manufacturer or of any person on his behalf or in trust of 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 for and on behalf of the Customs, Immigration and Prisons Services Board atthis day of 19

Collector (or as the case may be)

Customs and Excise Management Act

THIRD SCHEDULE

PROVISIONS RELATING TO FORFEITURE

NOTICE TO SEIZURE

1. The Customs, Immigration and Prisons Services Board shall give notice of the seizure of any thing as forfeited and of the grounds therefore to any person who to its knowledge was at the time of the seizure the owner or one of the owners thereof:

Provided that notice shall not be required to be given under this paragraph if that 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; or
- (c) in the case of any thing seized in any ship, aircraft or vehicle, the master of that ship, commander of that aircraft or person in charge of that vehicle.

2. Notice under paragraph 1 of this Schedule, shall be given in writing and shall be deemed to have been duly served on the person concerned — (a) if delivered to him personally: or

(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; or

(c) where he has no address within Nigeria, or his address is unknown, by publication of notice of seizure in the Federal Gazette.

NOTICE OF CLAIM

3. Any person claiming that any thing seized as forfeited 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.

4. Any notice under paragraph 3 of this Schedule shall specify the name and address of the claimant and, in the case of a claimant who is outside Nigeria, shall specify the name and address of a legal practitioner in Nigeria who is authorised to accept the service of process and to act on behalf of his claimant and service of

process upon a legal practitioner so specified shall be deemed to be proper service upon the claimant.

CONDEMNATION

5. 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 4 is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim is duly given in accordance with the foregoing 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.

7. Where any thing is in accordance with either of the two last foregoing 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 15 of this Schedule, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

PROCEEDINGS FOR CONDEMNATION BY THE COURT

8. Proceedings for condemnation shall be civil proceedings and may be instituted in a court of summary jurisdiction.

9. Proceedings for the condemnation of any thing instituted in a court of summary jurisdiction may be so instituted —

(a) in any such court having jurisdiction in the place where any offence in connection with that thing was committed or where any proceedings for such an offence are instituted;

(b) in any such court having jurisdiction in the place where the claimant resides, or if the claimant has specified a legal practitioner under paragraph 4 of this Schedule, in the place where that legal practitioner has his office;

(c) in any such court having jurisdiction in the place where that thing was found, detained or seized or to which it is first brought after having been found, detained or seized.

10. (1) In any proceedings for condemnation, the claimant or his legal practitioner shall make oath that the thing seized was, or was to the best of his knowledge or belief, the property of the claimant at the time of the seizure,

(2) If the requirements of this paragraph are not complied with, the court shall give judgment for the Board.

11. Where an appeal has been made against the decision of the court in any proceedings for the condemnation of any thing, that thing shall, pending the final determination of the matter, be left with the Board.

PROVISIONS AS TO PROOF

12. In any proceedings arising out of the seizure of any thing, the effect, form and manner of the seizure shall be taken to have been as set forth in the process without any further evidence thereof, unless the contrary is proved.

13. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or of 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

14. For the purpose of a claim to, or proceedings for the condemnation of, any thing, 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 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 is to say — (a) where the owner is a body corporate, the secretary or some duty authorised officer of that body;

(b) where the owners are in partnership, any one of those owners;

(c) where the owners are any numbers of persons exceeding five, not being in partnership, any two of those persons on behalf of their co-owners.

POWER TO DEAL WITH SEIZURES BEFORE CONDEMNATION, ETC.

15. Where any thing has been seized as forfeited, 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 as not been paid; or

(b) if the thing seized is a living creature or is in the opinion of the Board of a perishable nature, sell or destroy it.

16. (1) If, where anything is 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 sub-paragraph (a) of paragraph 15 of this Schedule; or

THIRD SCHEDULE —continued

(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;

Provided that where the said amount includes any sum on account of any 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.

(2) If the claimant accepts any amount tendered to him under sub-section (1) of
this paragraph, he shall not be entitled to maintain any action on account of the
seizure, detention, sale or destruction of the thing.

CUSTOMS AND EXCISE MANAGEMENT ACT

CHAPTER 84

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

PAGE

1. Brewing Regulations	3707
2. Drawback (Customs) Regulations	3713
3. Importation and Exportation by Air Regulations	3719
4. Importation and Exportation by Post Regulations	3721
5. Importation and Exportation by Sea Regulations	3722
6. Small Craft Regulations	3725
7. Tobacco (Manufacture) Regulations	3726
8. Valuation (Export Duties) Regulations	3727
9. Customs Ports Order	3728

10. Customs (Importation of Positive Cinematograph Film) Order	3732
11. Small Craft (Customs Licensing) Regulations	3732
12. Customs and Excise Preventive Service Regulations	3733
13. General Excise Regulations	3750
14. Importation and Exportation by Land and Inland Waters Regulations ...	3755
15. Customs and Excise-(Warehousing of Goods)	3760
16. Customs Airports (Re-designation) Order	3760
17. Customs Ports (Designation) Order	3761
18. Customs and Excise (Ship Chandlers) (Licensing) Regulations	3762
19. Customs and Excise Agents (Licensing) Regulations	3766

The measurements in these Regulations are in English measurements but should be converted to the metric system of measurement when intended to be applied.

BREWING REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
2. Effect of these Regulations.
3. Entry of premises.
4. Placing of vessels.
5. Brewing book.
6. Alteration in brewing book.
7. Notice of brewing.

8. Brewing.
9. Brews to be kept separate.
10. Entry of sugar-store, etc.
11. Possession of sugar.
12. Excise duty.
13. Ascertainment of worts.
14. Board may permit deviation.

BREWING REGULATIONS

UNDER SECTION 111 Commencement: 1st April, 1959

A— GENERAL

1. These Regulations may be cited as Brewing Regulations.
2. These Regulations shall have effect as if priming and colouring solutions were worts.

B—ENTRY OF PREMISES AND VESSELS

3. No brewer shall begin to brew beer until he has made entry, in accordance with the Act, of all premises, rooms, places and vessels intended to be used by him for such purpose.
4. All mash tuns, underbacks, worts receivers, coppers, heating tanks, coolers, collecting and fermenting vessels or other vessels used for the brewing of beer shall be so placed and fixed as to admit at all times of the contents being accurately ascertained by gauge or measure, and shall not be altered in shape,

position or capacity without fourteen days notice in writing to the proper officer.

C—BREWING BOOK

5. Every brewer shall provide a brewing book in the form prescribed by the Board, and shall —

- (a) keep the book in such part of his entered premises as the Board may require, available at all times for inspection by an officer, and shall permit an officer at any time to inspect it and make extracts there from;
- (b) enter separately in the book in the appropriate column the quantities of material which he intends to use in his next brewing and also the day and hour when such materials are to be used;
- (c) make such entry, so far as respects the day and hour of brewing, twenty-four hours at the least before he shall begin to brew and, so far as respects the quantities of materials, two hours at the least before the hour entered for their use;
- (d) two hours at the least before the hour entered for brewing, enter in the book the time when all the worts will be drawn off the grains in the mash tun and the time when the worts shall be removed from the worts receiver to the fermenting or collecting vessels;
- (e) within two hours of the worts being collected in the collecting or fermenting vessels, enter in the book the particulars of the quantity and gravity of the worts produced from each brewing, and also the description and number of the collecting or fermenting vessel or vessels into which the worts have been conveyed. Should the process of brewing adopted be such that it is inconvenient to take account of the quantity of worts in any collecting or fermenting vessels, then at least two hours before the worts are removed from the worts receiver to the collecting or fermenting vessel or vessels enter

in the book the particulars of the quantity and gravity of the worts produced from each brewing, and also the description and number of the collecting or fermenting vessel or vessels into which such worts shall be conveyed;

(f) if fermentation has commenced in any worts before he has entered the quantity and gravity thereof in the book, enter the true original gravity of such worts before fermentation;

(g) enter separately in the book in the appropriate column the quantity of water he intends to add to the brewed wort at any stage of the brewing;

(h) at the time of making any entry, insert the date and hour when such entry was made.

6. A brewer shall not, without the permission of the proper officer, alter any entry in the brewing book.

7. A brewer shall, if so required by the Board, send notice in writing to the proper officer forty-eight hours before a brewing is to take place.

D—BREWING OPERATIONS

8. (1) All grains in the mash tun shall be kept untouched for the space of one hour after the time entered in the brewing book as the time for the worts to be drawn off, unless the proper officer has attended and taken account of such grains.

(2) All worts shall be removed successively, and in the customary order of brewing, from the mash tun to the under back and thence to the coppers, coolers and collecting and fermenting vessels, and shall not be removed from the last mentioned vessels until after the expiration of twenty-four hours from the time at which the whole of such worts shall have been collected in such vessels, unless in the meantime the proper officer shall have attended and taken an account of such worts.

(3) When worts shall have commenced running into a collecting or fermenting vessel, the whole of the produce of that brewing shall be collected within twelve hours.

9. (1) Every brewer shall keep the total produce of a brewing separate from the produce of any other brewing for the space of twenty-four hours, unless an account of the first mentioned brewing is sooner taken by the proper officer.

(2) A brewer shall not mix the produce of one brewing with that of any other brewing unless he has given twelve hours previous notice in writing to the proper officer, and he shall specify in writing the quantity and gravity of the worts when mixed, but a brewer having weak worts of an original gravity not exceeding 1025 degrees may, if he thinks fit, reserve them for mixing with the worts of his next brewing, but in such case he shall keep all such weak worts in the coppers, heating tanks or other vessels entered for the purpose.

(3). Whether or not fermentation has ceased, a brewer shall not transfer a brewing from one fermenting vessel to another fermenting vessel unless he has given twelve hours previous notice in writing to the proper officer.

E—SUGAR

10. (1) Every brewer who shall use any description of sugar or saccharine substance, extract or syrup (hereinafter referred to as “sugar”) in the brewing of beer shall, before he begins to store or use the same make entry of a room on his premises (hereinafter called the “sugar store”) for the purpose of storing such sugar.

(2) A brewer shall not receive on the entered premises any sugar unless it is accompanied by an invoice from the supplier thereof, showing the marks on each package and the particulars of the description, and the weight or quantity of the contents.

(3) All sugar received on the entered premises shall be immediately deposited in the sugar store and shall not be removed there from except for the purpose of being used in brewing in accordance with an entry in the brewing book kept under regulation 5 of these Regulations.

(4) Accounts may be taken, as the Beard may direct, of any description of sugar received by a brewer on the entered premises, and any brewer to whom the Board shall give notice in writing that such accounts shall be taken, shall deliver to the proper officer all sugar of each and every description on the entered premises, and every invoice relating thereto, and such brewer shall thereafter and until further notice deliver to the officer all invoices relating to sugar of every description subsequently received on the entered premises.

11. A brewer shall not have any sugar in his possession elsewhere than in the sugar store, mash tun or other vessel entered for dissolving sugar, or in the course of removal thereto.

F—CHARGE OF EXCISE DUTY ON BEER

12. (1) The excise duty in respect of beer brewed by a brewer shall be charged and paid in accordance with the following provisions of this regulation.

(2) In respect of each brewing, duty shall first be charged by reference to the quantity and original gravity of the worts produced, as recorded by the brewer in pursuance of regulation 5 of these Regulations or as ascertained by the proper officer, whichever quantity and whichever gravity is the greater.

(3) There shall be ascertained in respect of each brewing —

(a) the quantity of worts of an original gravity of 1055 degrees which is the equivalent of the worts produced; and

(b) the quantity of worts of that gravity deemed to have been brewed from the material used calculated in accordance with regulation 13 of these Regulations;

and if the quantity mentioned in paragraph (b) of this regulation, less four per cent, exceeds the quantity mentioned in sub-paragraph (a) of this paragraph, duty shall in addition be charged on the excess.

(4) In respect of accidental loss and waste as arises in the brewing of beer, a deduction of six percent shall be made from the quantity of worts on which duty is to be charged.

(5) For the purpose of paragraph (3)(a) of this regulation, the equivalent therein mentioned shall be taken to be the quantity of the worts produced —

(a) multiplied by the number less 1,000 of the degrees representing their original gravity; and

(b) divided by fifty-five.

(6) If at any time while any worts are in the collecting or fermenting vessels at a brewery the original gravity of the worts is found to exceed by five or more degrees the gravity recorded by the brewer in pursuance of regulation 5 of these Regulations or that ascertained by the proper officer, those worts may be deemed to be the produce of a fresh brewing and charged with duty accordingly.

(7) Subject to paragraph (8) of this regulation, the amount payable in respect of duty shall become due immediately the worts are collected in a storage vessel already for bottling.

(8) The Board may cause the charge to be made up at the close of each month in respect of all the brewing during that month and, in that case, the aggregate of the quantities of the worts deemed to have been brewed from the material used shall be treated as worts produced or deemed to have been brewed in one brewing, and the Board may, if it thinks fit, allow payment of the duty to be deferred upon such terms as it sees fit but so that the date of payment shall not be later than the 21st day of the month next following that in which the duty was charged.

13. (1) For the purpose of ascertaining the quantity of worts of an original gravity of 1055 degrees deemed to have been brewed from the materials used, a brewer shall be deemed to have brewed thirty-six gallons of worts of the said gravity for every unit of materials recorded by him in pursuance of regulation 5 of these Regulations or used by him in any brewing.

(2) For the purpose of paragraph (1) of this regulation, the expression “unit of materials” means

(a) eighty-four pounds weight of malt or corn if any description; or

(b) fifty-six pounds weight of sugar; or

(c) a quantity of malt, corn and sugar or any two of those materials, which by relation to sub-paragraphs (a) and (b) of this paragraph is the equivalent of either of the quantities mentioned in those paragraphs.

(3) Where any materials used for brewing by the brewer are proved to the satisfaction of the Board to be of such description or nature that some deduction from the quantity deemed to have been brewed should be made, the Board shall make such a deduction from that quantity as will in its opinion afford just relief to the brewer.

(CAP.84 3713

(4) In paragraph (2) of this regulation, the expression “sugar” includes —

(a) any saccharine, substance, extract or syrup;

(b) rice;

(c) flaked maize and any other description of corn which in the opinion of the Board is prepared in a manner similar to flaked maize;

(d) any, other material capable of being used in brewing except malt or corn, and the expression “corn” in that subsection means corn other than corn included in the foregoing definition of sugar.

G —BOARD’S DISCRETIONARY POWER IN SPECIAL CIRCUMSTANCES

14. Notwithstanding anything contained in these Regulations, the Board may permit such deviation from the customary operations in the course of brewing and the keeping of the brewing book as it may consider necessary to meet the exigencies of any case to which these Regulations may not be conveniently applicable.

DRAWBACK (CUSTOMS) REGULATIONS

under section 137

Commencement: 1st April, 1959

PART I —GENERAL

1. (1) These regulations may be cited as the Drawback (Customs) Regulations.

(2) This part of these Regulations shall apply in relation to the grant of a drawback of customs duties paid on the importation of any goods, Part II in relation to the grant of a drawback of customs duties paid on the importation of goods which are subsequently exported in the same state as that in which they were imported, and Part III in relation to the grant of a drawback of customs duties paid on the importation of goods which are used in any process of manufacture in Nigeria.

2. (1) In these Regulations —

“Exportation” includes putting on board a foreign-going ship or aircraft for use as stores;

“Imported in bulk in its application to aviation and motor spirit and refined petroleum illuminating oil means imported in receptacles having capacities not less than those specified in any regulations made from time to time under the Petroleum Act relating to the importation of petroleum in bulk;

“Manufacture” includes processing and assembly.

(2) For the purpose of these Regulations goods shall be regarded as having been used in manufacture, if they have formed part of the raw material on which the process of manufacture has been carried out, and not otherwise.

3. (1) It shall be a condition of the granting of any drawback in respect of any goods —

(a) that at the time of importation the goods are completely enclosed in packages to the satisfaction of the proper officer or if not so enclosed consist of identifiable single units or if in bulk are capable of measurement or identification;

(b) that if in regard to any particular description of goods or any particular consignment the Board so directs each package or unit on importation shall prior to delivery be marked or secured by the importer and shall be kept so marked and secured;

(c) that the person presenting the goods for examination shall furnish the proper officer with such samples as he requires for purposes of test or otherwise and duly assist such officer in examining and taking an account of such goods.

(2) It shall be a further condition of the granting of any drawback on any goods, where the drawback is claimed on the exportation of such goods —

(a) that the goods are not prohibited by law from being exported;

(b) that perfect entry of the goods shall have been made at importation and that such other documents shall have been submitted with the entry as the Board may from time to time direct;

(c) that the goods shall have been duly produced to the proper officer at the approved place of examination prior to loading and also, if the proper officer so requires, on board the aircraft, ship or vehicle on which they were to be exported;

(d) that the goods shall have been conveyed direct and without delay from the place of examination on to the aircraft, ship or vehicle in which they were to be exported:

Provided that in his discretion the proper officer may allow good to remain in official custody for a reasonable period at the risk and expense of the exporter in which case drawback shall not be allowed unless thereafter the goods are conveyed direct and without delay after receiving the permission of the proper officer from the place of deposit on to the aforementioned aircraft, ship or vehicle;

(e) that the person claiming drawback shall have given due notice of his intention to ship the goods and shall ship them under the direction of an officer after entering them in accordance with form C. 2; and

(f) that if the proper officer so requires the person claiming drawback shall produce within the time allowed by the Board a certificate in respect of the landing of such goods as are entered for exportation issued by the competent authority at the port of place of discharge.

4. (1) No drawback shall be paid in respect of any goods —

(a) where in its discretion the Board considers that the value of the goods has on account of deterioration or any other cause whatsoever substantially depreciated since the importation thereof; or

(b) where goods other than aviation spirit, motor spirit and refined petroleum illuminating oil imported in bulk are exported or used as prescribed in column 2 of the Schedule to these Regulations after the expiration of two years from the date of the inward report of the aircraft, vessel or vehicle at the port or place where goods were first imported into Nigeria.

(2) No drawback shall be paid in respect of any exported —

(a) where the goods are exported by inland water or overland otherwise than by air:



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