

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Authority and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly and publish it as soon as reasonably practicable thereafter.

26. Subject to the provisions of this Act, any right of any person, including a right of appeal, subsisting against the Commissioner of Taxes, the Commissioner of Sales Tax or the Controller of Customs and Excise immediately before the commencement of this Act shall after commencement be treated as subsisting against the Commissioner-General in so far as that right relates to the duties of the Commissioner-General under this Act. Savings

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REPUBLIC OF ZAMBIA

THE CUSTOMS AND EXCISE ACT

CHAPTER 322 OF THE LAWS OF ZAMBIA

CHAPTER 322 THE CUSTOMS AND EXCISE ACT CHAPTER 322

THE CUSTOMS AND EXCISE ACT

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CHAPTER 322

CUSTOMS AND EXCISE

An Act to provide for the imposition, collection and management of customs, excise and other duties, the licensing and control of warehouses and of premises for the manufacture of certain goods, the regulating, controlling and prohibiting of imports and exports, the conclusion of customs and trade agreements with other countries, forfeitures, and for other matters connected therewith or incidental thereto.

[1st July, 1955]

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PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Customs and Excise Act.

(As amended by G.N. No. 407 of 1963)Short title

2. In this Act, unless the context otherwise requires-Interpretation

"agreement" means any customs or trade agreement entered into by the President in terms of section eighty-one;

"alcoholic spirits" means a mixture of alcohol in distilled water containing 57.1 per centum of alcohol by volume at 15.6 degrees Celsius or 49.28 per centum of alcohol by weight, and having a specific gravity at 15.6 degrees Celsius of 0.91976 referred to distilled water at the same temperature.

"aircraft" includes balloons, kites, gliders, airships, and flying machines;

"alcoholic strength," in relation to spirits, means the strength of alcohol by volume ascertained by Gay Lussac's hydrometer.

"Assistant Commissioner" means the Assistant Commissioner of Customs and Excise;

"Authority" means the Zambia Revenue Authority established by the Zambia Revenue Authority Act;Cap. 321

"beer" includes-

(a) ale, stout, porter, spruce beer, lager beer and black beer; and

(b) any other potable liquid containing two per centum of alcohol by volume which is derived by fermentation other than honey beer, opaque beer, cider, perry or wine;"

"Board" means the Zambia Revenue Authority Board established by the Zambia Revenue Authority Act;Cap. 321

"brandy" means-

(a) a distillate produced solely by the distillation of wine derived from the fermented juice of grapes, by a pot still or similar process at a strength not exceeding eighty per centum of alcohol by volume; or

(b) a mixture of two or more distillates as defined in paragraph (a) of this definition; or

(c) a distillate or mixture of distillates as defined in paragraph (a) or (b) of this definition to which has been added wine spirit or neutral spirit and flavouring matter so, however, that the finished product contains not less than twenty per centum of distillate referred to in paragraph (a) calculated by

alcoholic strength by volume at a temperature of 20 degrees Celsius; or

(d) marc brandy; and includes synthetic or imitation brandy which means a potable liquor containing more than two per centum of alcohol by volume and which purports to have or has the appearance and flavour of brandy but was produced by methods other than those specified in paragraph (a), (b) or (c) of this definition, and is not marc brandy;"

"brewer" means a brewer of beer, and includes the proprietor, lessee, or possessor of a brewery;

"cigar" includes cheroot and cigarillo;

"cigarette" means any article made from cigarette tobacco rolled or enveloped in paper or other covering;

"cigarette tobacco" means-

(a) any tobacco cut into strips less than one millimetre in width and includes any cut tobacco described or offered for sale as tobacco for making into cigarettes;

(b) a mixture of any cut tobacco with tobacco as defined in paragraph (a) of this definition;

"Commissioner" means the Commissioner of Customs and Excise;

"Commissioner-General" means the Commissioner-General appointed under the Zambia Revenue Authority Act;Cap. 321

"consumption" means consumption or use in Zambia;

"container", in relation to tobacco or cigarettes, means any tin, box, package, or other immediate container in which such tobacco or cigarettes is contained;

"crew" includes every person, except the master or pilot, employed in any capacity on any ship, aircraft or vehicle;

"custom house" means a custom house appointed in terms of paragraph (f) of subsection (1) of section thirteen;

"customs aerodrome" means any aerodrome appointed by the Minister in terms of paragraph (d) of subsection (1) of section thirteen;

"customs area" means any place appointed by the Commissioner-General in terms of subsection (1) of section seventeen for the deposit of uncustomed goods;

"dealer", in relation to cigarettes, means any person, including a club, who deals in cigarettes;

"Deputy Commissioner" means the Deputy Commissioner of Customs and Excise appointed by the Authority;

"department" means the Customs and Excise Division of the Zambia Revenue Authority;

"distiller" means any person who conducts, works, or carries on any distillery

either by himself or through his agent or servant;

"distillery" means any place or premises where any process of distillation whatever of spirits is carried on, or where any process of rectification of spirits is carried on, or where any spirits are manufactured or produced from any substance whatever by any process other than fermentation;

"duty" means any duty leviable under any law relating to customs and excise and includes surtax;

"duty-paid value", in respect of any penalty or forfeiture imposed under this Act, means the value, including the duty payable thereon, of similar goods at the time and place of the commission of the offence by which the penalty or forfeiture is incurred;

"entry", in relation to the clearance of goods for importation, warehousing, removal from warehouse or exportation, means the presentation, in accordance with the provisions of this Act, of a correctly completed declaration in writing in the form prescribed, together with such bills of lading, invoices, certificates and other documents as are, by or under any provision of this Act, required to be furnished with that declaration, and cognate expressions shall be construed accordingly;

"excise duty" means a tax on particular goods or products or on a limited range of goods or products, whether imported or produced domestically, which may be imposed at any stage of production or distribution, by reference to the weight, strength, or quantity of the goods or products, or by reference to their value.

"export" means to take goods or cause goods to be taken out of Zambia, and cognate expressions shall be construed accordingly;

"exporter" means any person in Zambia who takes goods or causes goods to be taken out of Zambia, and includes any employee or agent of such person and the owner of such goods as are exported;

"feints" means any liquid which, in the course of distillation, redistillation or rectification, is conveyed to-

(a) a feints receiver; or

(b) a vessel, the use of which as a feints receiver is authorised by or under this Act;

"fortified wine" means wine, grape must or concentrated grape must to which-

(a) spirits, as defined in paragraph (c) of the definition of that term in this section, have been added; or

(b) wine mixed with spirits, as defined in paragraph (c) of the definition of that term in this section, has been added;

but does not include wine, grape must, or concentrated grape must containing more than thirty per centum of alcohol by volume;

"free on board" means free on board any ship, aircraft, or vehicle;

"gin" means-

(a) a distillate resulting from the redistillation of neutral spirit in the presence of juniper berries with or without the addition of common salt and harmless aromatic or other flavouring matter in a pot or gin still; or

(b) a distillate as defined in paragraph (a) of this definition compounded with neutral spirit;

and includes synthetic or imitation gin which means a potable liquor containing more than two per centum of alcohol by volume and which purports to have or has the appearance and flavour of gin but was produced by methods other than those specified in paragraph (a) or (b) of this definition;

"goods" includes all wares, articles, merchandise, animals, matter, baggage, stores, or things;

"honey beer" means any potable liquid containing more than two per centum of alcohol by volume but not more than ten per centum of alcohol by volume which is derived by the fermentation of a mixture of honey and water;

"hydrocarbon oil" includes petroleum oil and oil produced from coal, shale, peat or any other bituminous substance, and all liquid hydrocarbons, but does not include any oil which is a hydrocarbon or a bituminous or asphaltic substance and is, when tested in a manner prescribed by the Commissioner-General, solid or semi-solid at a temperature of twenty degrees Celsius;

"import" means to bring goods or cause goods to be brought into Zambia, and cognate expressions shall be construed accordingly;

"importer", in relation to goods, includes any owner of or other person for the time being possessed of or beneficially interested in any goods before entry of the same has been made and the requirements of this Act fulfilled, and the agent of any such person;

"landing", in relation to goods, includes the discharging of goods from a pipeline;

"leaf tobacco" means the cured leaves of the tobacco plant;

"level of trade" means the capacity, whether as concessionaire, wholesaler, retailer or otherwise, in which a person buys or sells goods;

"licence", in relation to the manufacture of goods liable to excise duty or surtax, means a licence issued in terms of section ninety-three, and cognate expressions shall be construed accordingly;

"licensed premises" means any premises in respect of which a licence is issued in terms of section ninety-three, and includes any building situate outside the immediate precincts of any such premises which is used, with the approval of the Commissioner-General, in conjunction with those premises for reducing, bottling, or the disposal of spirits distilled within Zambia;

"loading", in relation to goods, includes the pumping or insertion of goods into a pipeline;

"low-wines" means spirits of first extraction by a single still and conveyed

into a low-wines receiver;

"manufacture", in relation to goods liable to excise duty or surtax, other than imported goods, includes the mixing, brewing, distilling, or production of goods liable to excise duty or surtax;

"manufactured tobacco" means-

(a) leaf tobacco which has been subjected to any process of manufacture including cutting, grinding, crushing, rolling, breaking, tearing or rubbing; and

(b) manufactured or partially manufactured tobacco which is subjected to any further process of manufacture including cutting, grinding, crushing, rolling, breaking, tearing or rubbing; and

(c) scrap tobacco, tobacco waste, tobacco clippings or stems or deposits of tobacco resulting from any processing or handling of leaf tobacco, made up for consumption or use in or outside Zambia;

"manufacturer", in relation to goods liable to excise duty or surtax, other than imported goods, includes any person who is required to be licensed in terms of section ninety-three and any person who mixes, brews, distils, or produces goods liable to excise duty or surtax or who employs others to do so on his account;

"master", in relation to any ship or vehicle, means any person, other than the pilot of a ship, having charge of such ship or vehicle;

"methylate" includes any prescribed method of denaturation, and cognate expressions shall be construed accordingly;

"neutral spirit" means a spirit derived from the fermentation of carbohydrate materials and rectified at a strength of not more than ninety per centum of alcohol by volume;

"officer"-

(a) means an officer of the Customs and Excise Division; and

(b) includes a person exercising the powers or performing the duties of an officer conferred or imposed upon him in terms of subsection (3) of section three;

"opaque beer" means any potable liquor containing more than two per centum of alcohol by volume which-

(a) is derived by the fermentation of a mash of cereal grain or vegetables or of grain or vegetable products, with or without the addition of sucrose; and

(b) contains the mash or residue of the mash from which it is derived;

"open stock" means any goods which have been released within Zambia after the requirements of this Act have been satisfied;

"operator", in relation to a pipeline, includes any person responsible for the management thereof or for the pumping or insertion of goods into or the discharge of goods from the pipeline;

"package" means any container, wrapping or outer cover and its contents, or any bundle or single piece where the goods are not packed;

"pilot", in relation to any aircraft, means any person having charge of such aircraft;

"pipe tobacco" means any manufactured tobacco including tobacco in the form of cake, plug or stick but not including cigars, cigarette tobacco, roll tobacco, snuff or tobacco processed for any purpose other than chewing or smoking;

"port" means any place appointed by the Minister in terms of paragraph (a) of subsection (1) or paragraph (a) of subsection (2) of section thirteen and any customs aerodrome, whether within a port or not, shall be deemed to be a port for aircraft;

"potable" means suitable for consumption as an alcoholic beverage;

"premises" means any building or place whatsoever;

"proper officer" means, in respect of any port or matter, the officer designated by rule or regulation or by the Commissioner-General to be the proper officer at that port or in that matter;

"refiner" means the proprietor or occupier of a refinery;

"refinery" means any premises used for the manufacture, production or treatment of hydrocarbon oil, but shall not include any premises used solely for cleaning, straining or blending of hydrocarbon oil:

"revenue lock" or "revenue rod" means any lock or rod, as the case may be, affixed by an officer to any premises, other storage places, or goods, for the protection of the revenue;

"roll tobacco" means-

(a) leaf tobacco which is grown in Zambia and is twisted and put up for sale in the form of a roll, which is commonly known in Zambia as roll tobacco;

(b) tobacco grown in Zambia and made up into balls and commonly known as inyoka tobacco;

"rum" means-

(a) a distillate resulting from the distillation of the fermented juice of sugar cane or its by-products at a strength not exceeding eighty-five per centum of alcohol by volume; or

(b) a mixture of two or more distillates as defined in paragraph (a) of this definition; or

(c) a distillate or mixture of distillates as defined in (a) and (b) of this definition compounded with neutral spirit derived from sugar cane or its by-products so, however, that the finished product contains not less than twenty per centum of distillates referred to in paragraph (a) calculated by alcoholic strength measurement; and includes synthetic or imitation rum which means a potable liquor containing more than two per centum of alcohol by volume and

which purports to have or has the appearance and flavour of rum but was produced by methods other than those specified in paragraph (a), (b) or (c) of this definition;

"sealable goods" means-

(a) tobacco, cigars, cigarettes, and any other preparations of tobacco or substitutes therefor;

(b) wet goods;

(c) opium and preparations of opium in any form;

(d) cocaine, preparations of cocaine, and other habit-forming drugs;

(e) articles brought or intended as gifts for, or for sale to or for exchange with, any person;

(f) all goods liable to excise duty or surtax and goods on which duty has not been paid, shipped at a place in Zambia as ship's or aircraft stores;

(g) any other goods which may from time to time be declared by rule or regulation to be sealable goods;

"ship" includes any ship, vessel, or boat of any kind whatsoever, whether propelled by steam or otherwise or towed;

"smuggling" means any importation, introduction, exportation, or attempted importation, introduction, or exportation of goods with intent to defraud the Government or to evade any prohibition of, restriction on, or regulation as to, the importation, introduction, or exportation of any goods required to be accounted for under this Act, and "smuggle" and "smuggled goods" have corresponding meanings;

"spirits" means-

(a) ethyl alcohol; and

(b) feints; and

(c) potable liquid containing more than two per centum of alcohol by volume which is not-

(i) beer, honey beer, opaque beer, cider or perry; or

(ii) wine containing thirty per centum of alcohol by volume;

"stamp label" means any piece of paper or other material, having thereon the stamp, mark or impression of any die, plate, or other instrument, made or used under this Act for the purpose of denoting any duty:

"State warehouse" means any premises appointed by the Commissioner-General in terms of section one hundred and ninety-five;

"still" includes any part of a still and any distilling apparatus whatever;

"tax payer identification number" means, the National Registration Card Number

or any other number as may be designated by the Minister.

"transit shed" means any premises appointed by the Commissioner-General in terms of subsection (1) of section seventeen for the deposit of uncustomed goods;

"uncustomed goods" means goods liable to duty on which the full duties have not been paid, and any goods, whether liable to duty or not, which, being required to be accounted for in terms of this Act, have not been so accounted for;

"vehicle" means any train, motor car, van, lorry, cart, or other conveyance of any kind, except a ship or aircraft, and includes fittings, furnishings, and equipment thereof and also animals and their harness and tackle;

"warehouse" means a warehouse, bonded and licensed in terms of section fifty-five, in which goods may be lodged, kept and secured without the payment of duty or until the requirements of this Act have been satisfied, and includes any store, house, shed, yard, or other place in which goods are so lodged;

"wash" means the liquid from any substance prepared for distillation after fermentation has commenced;

"weight" means-

(a) in relation to tobacco, the net weight of such tobacco plus the weight of the moisture and other substances contained therein at the time of manufacture; and

(b) in relation to cigarettes, the weight of the cigarettes as a whole including the weight of the tobacco, the paper or other wrapping material, and the tipping material, if any;

"wet goods" means potable liquid of any description containing more than two per centum of alcohol by volume other than honey beer;

"wine"-

(a) means any potable liquid derived by the fermentation of the juices of fruit or vegetables or fruit or vegetable products; and

(b) includes fortified wine;

but does not include opaque beer, cider or perry;

"wort" means any liquid or substance containing saccharine matter before fermentation has commenced.

(As amended by No. 24 of 1955, No. 16 of 1956, No. 20 of 1957, Nos. 7 and 22 of 1959, No. 18 of 1960, No. 36 of 1962, No. 3 of 1963, G.N. No. 407 of 1963, Act No. 16 of 1964, S.I. No. 173 of 1965, Acts No. 38 of 1966, No. 48 of 1968, No. 6 of 1973, No. 24 of 1973, No. 2 of 1975, No. 4 of 1984, No. 10 of 1988, No. 25 of 1988, No. 20 of 1992, No. 16 of 1996 and No. 9 of 1997)

3. (1) There shall be a Commissioner-General of Zambia Revenue Authority, who shall be responsible for the administration of this Act and any other law relating to customs or excise. Commissioner-General and Commissioner of Customs and Excise

(2) There shall be a Commissioner of Customs and Excise who shall, if the Commissioner-General is unable to exercise any power conferred on him to perform any duty imposed upon him by or under this Act by reason of illness, absence from Zambia or any other cause, exercise that power or perform that duty:

Provided that the Board may, if necessary, appoint additional Commissioners of Customs and Excise, who shall exercise the same powers and perform the same duties referred to in this subsection.

(3) The *Commissioner-General may-

(a) with the consent of and subject to such conditions as the President may fix, confer all or any of the powers and impose all or any of the duties of an officer under this Act-

(i) upon any public officer or class of public officer;

(ii) upon any member, or class of member, of the Defence Force, or upon any prison officer as defined in the Prisons Act, or upon any police officer;
andCap. 97

(b) with the consent of any person who is not a person or a member of a class of persons referred to in paragraph (a), confer all or any of the powers and impose all or any of the duties of an officer under this Act upon that person.

(As amended by No. 18 of 1960, G.N. No. 407 of 1963,
S.I. No. 173 of 1965, Acts No. 1 of 1971 and No. 16 of 1996)

4. The management and control of the collection of duties under this Act and any other law relating to customs and excise and of all things connected therewith shall be vested in the Commissioner-General who shall have for that purpose the charge of the Customs and Excise Division and of the officers employed in carrying out the provisions of this Act.

(No. 18 of 1960 as amended by G.N. No. 407 of 1963
and Act No. 16 of 1996) Powers of Commissioner-General

* See G.N. No. 107 of 1969.

PART II POWERS OF OFFICERSPART II

POWERS OF OFFICERS

5. The Commissioner-General, or the proper officer at any port or place in Zambia, may station any officer on any ship or train while such ship or train is within the limits of that port or place, and the master of any ship and the person in charge or control of any train upon which an officer is so stationed shall provide for such officer such accommodation and board as the Commissioner-General may reasonably require.

(As amended by G.N. No. 407 of 1963) Stationing of officers on ships or trains

6. Any officer, when travelling on any duty connected with the administration of this Act in any ship or train, shall be entitled to travel free of charge as a passenger of such class as the Commissioner-General may direct. Officers to travel free when on duty

7. (1) An officer may board any ship arriving at or being about to depart from any port in Zambia, or being within Zambian waters, and may freely stay on board for so long as he deems necessary for the proper performance of his duties or until all goods laden therein have been delivered from such ship. Such officer shall have free access to and the right to search every part of the ship and to examine all goods on board, shall have power to fasten down hatchways, doors and other openings, to lock up, seal, mark, or otherwise secure any goods on board that ship or to remove any goods to a State warehouse, and shall have the right to lock up, seal, or otherwise secure the ship's wireless apparatus. Powers of officers in relation to ships, aircraft, or vehicles

(2) An officer may enter any aircraft or vehicle arriving in or being about to depart from Zambia, or any aircraft or vehicle within Zambia which is suspected of containing uncustomed goods, and may, mutatis mutandis, exercise the powers provided for in subsection (1).

(3) If any place or any package within or upon any ship, aircraft, or vehicle is locked or otherwise secured and the keys thereto or other means of opening it are not produced on demand, the officer may open such place or package in any manner in his power.

(4) An officer may, in the pursuance of his duties, stop and detain within the borders of Zambia any ship, aircraft, or vehicle entering or being about to depart from Zambia or any ship, aircraft, or vehicle suspected of containing uncustomed goods.

(As amended by G.N. No. 407 of 1963, Act No. 16 of 1964 and S.I. No. 173 of 1965)

8. (1) In addition to the powers conferred by section seven, an officer, if he enters any ship, aircraft, or vehicle under the powers conferred by section seven, may, subject to such regulations as may be prescribed or to such rules as the Commissioner-General may make, seal up all sealable goods on the ship, aircraft, or vehicle which are either unconsumed stores of the ship, aircraft, or vehicle or the personal property or in the possession of the master or pilot or any member of the crew thereof, and the master or pilot and members of the crew shall declare all such sealable goods when called upon by an officer to do so. Sealing of goods on ships, aircraft, or vehicles

(2) An officer may also, at his discretion, seal up any goods other than sealable goods in the possession of the master, pilot, members of the crew, or passengers on the ship, aircraft, or vehicle. Except by the authority of an officer, no seal placed by an officer upon such goods shall be broken or disturbed while the ship, aircraft, or vehicle remains at any place in Zambia.

(3) Nothing in this section contained shall in any way affect the provisions of sections twenty, twenty-one, twenty-two and twenty-three.

(4) The proper officer may permit surplus stores to be entered for consumption under and subject to the same rules, regulations, and duties to which the like kinds of goods would be subject on importation, or permit any surplus stores to be entered and warehoused for future use as ship's, aircraft or vehicle stores, even if they could not legally be imported for consumption.

(As amended by G.N. No. 407 of 1963)

9. (1) An officer may stop and search any person, including any person within

or upon any ship, aircraft, or vehicle, whom he has good reason to suspect of having secreted about him or in his possession any dutiable goods or any goods in respect of which there has been a contravention of any of the provisions of this Act:General powers of officers

Provided that-

(i) before being searched, such person may demand to be taken before the proper officer, who may, at his discretion, discharge such person or direct that he be searched;

(ii) a person shall be searched only by a person of the same sex.

(2) For the protection of the revenue and the proper administration of this Act, a proper officer appointed for the purposes of this subsection or an officer authorised by such a proper officer may-

(a) without previous notice, at any time enter any store, shop, structure, or enclosed area for the reception of goods, for the purpose of making such examination and inquiry as he considers necessary, and may seal, mark, or otherwise secure any package there found;

(b) while he is on such premises or at any other time, require from any person the production then and there, or at a time and place to be fixed by the officer, of any book, document, or thing which is required under the provisions of this Act to be kept or exhibited, or which is or has been on such premises or in the possession or custody or under the control of any such person or his employee;

(c) at any time and at any place require from any person who has the possession, custody, or control of any such book, document, or thing, as is mentioned in paragraph (b), the production thereof then and there, or at a time and place to be fixed by the officer;

(d) examine and make extracts from and copies of such books or documents as are mentioned in paragraph (b) and may require from any person an explanation of any entry therein and may seize such books, documents, or things as in his opinion may afford evidence of an offence under this Act; and

(e) take with him on to such premises an assistant or a police officer.

(3) Any person who is in occupation, ownership, or control of any premises referred to in subsection (2) and every person employed by him shall at all times furnish such facilities as are required by an officer for entering such premises in the course of his duties and for the exercise of the powers conferred by subsection (2).

(4) If an officer, after having declared his official capacity and his purpose and having demanded admission into any premises referred to in subsection (2), is not immediately admitted thereto, he and any person assisting him may at any time, but during the hours of darkness only in the presence of a police officer, break open any door or window or break through any wall on such premises for the purpose of entry and search.

(5) An officer and any person assisting him may at any time break up any part of any premises referred to in subsection (2) for the purpose of search, and if any safe, chest, box, or package is locked or otherwise secured and the keys

thereof or other means of opening it are not produced upon demand, may open such safe, chest, box, or package by any means at his disposal.

(6) If a search reveals no breach of this Act, any damage done by an officer or person assisting him shall be made good at the expense of the Government, unless such officer or other person has been obstructed in the exercise of his powers under this section.

(7) Where the Commissioner-General has reasonable grounds to suspect that any person, company or institution has contravened or failed to comply with any provision of this Act, he may apply to the High Court *ex parte* for an order requiring any bank or financial institution to furnish him within, the time limited by the order, a statement in writing containing particulars of:

(a) all bank accounts, whether current or deposit, business or private, of such person, company or institution kept at any branch of that bank or financial institution; and

(b) deposits or sources of deposits made by such person, company or institution in any account maintained at that bank or financial institution; and

(c) all payments made by or to any such person, company or institution.

(8) Upon any such examination or inspection as is referred to in this section or in respect of any matter connected with the provisions of this Act, an officer shall have the right to put such questions to any person as may be required for obtaining all necessary information.

(As amended by G.N. No. 407 of 1963 and Act No. 16 of 1996)

10. An officer may at any time take, without payment, samples of any goods for examination or for ascertaining the duties payable thereon or for such other purpose as the Commissioner-General may consider necessary, and such samples shall be dealt with and accounted for in such manner as the Commissioner-General may direct: Taking of samples

Provided that any sample so taken shall, whenever possible, be returned to the owner of the goods.

11. (1) An officer may require the owner of any package imported or believed to have been imported into Zambia, or entered for export or believed to be intended for export from Zambia, or containing or suspected of containing any goods which are liable to duty, or required to be accounted for in terms of this Act, to open such package and may examine, weigh, mark, or seal such goods as are contained therein. Opening of packages

(2) An officer may, in the absence of the owner of any such package as is mentioned in subsection (1), open and examine such package at the owner's risk and expense.

(As amended by G.N. No. 407 of 1963 and Act No. 16 of 1964)

12. If a proper officer has reasonable grounds for suspecting that any person has contravened or failed to comply with any provision of this Act, such proper officer may-

(a) take such person forthwith to a police station and lay a charge against

him; or

(b) if there is no police station in the vicinity, take such person forthwith before a magistrate with a view to obtaining a warrant for his arrest. Arrest of offenders by proper officer

PART III IMPORTATION OF GOODS PART III

IMPORTATION OF GOODS

13. (1) The Minister may, subject to such conditions as he may specify, by statutory order-Ports of entry and routes

(a) appoint places to be ports for Zambia at or through which alone goods may be imported or exported;

(b) define the roads or routes in Zambia over which imported goods or goods intended for export shall be conveyed to or from a particular port;

(c) appoint places within Zambia as warehousing ports where bonded warehouses may be established in terms of section fifty-five;

(d) appoint places within Zambia to be customs aerodromes at which aircraft entering Zambia may land, from which aircraft leaving Zambia may depart, and through which alone goods may be imported or exported by air;

(e) specify the hours during which goods shall not be imported or exported without the special permission in writing of the proper officer;

(f) appoint custom houses within Zambia, or beyond its borders for the collection of revenue and the general administration of the provisions of this Act except, in the case of custom houses situated beyond the borders of Zambia, such provisions as refer to excise or to other matters which cannot properly be dealt with outside Zambia;

(g) specify the custom houses or customs posts at which uncustomed goods consigned to certain places within Zambia or imported by passengers shall be entered;

(h) direct that goods consigned to such place or area within Zambia as he may specify shall only be imported when entry has been effected at such custom house as he may specify and thereupon such goods shall only be imported in accordance with the terms of such direction.

(2) The Minister may, subject to such conditions as he may specify, by statutory order or otherwise-

(a) appoint ports within Zambia for particular or limited purposes and for such periods as may be specified in the order; and

(b) appoint customs posts within Zambia for particular or limited purposes.

(As amended by No. 18 of 1960 and G.N. No. 407 of 1963)

14. (1) The Commissioner-General may establish customs barriers on any road or route for the control of imports and exports. Establishment of customs barriers

(2) Any person who fails to stop at a customs barrier established in terms of subsection (1) or who breaks or damages such barrier shall be guilty of an offence.

(As amended by No. 1 of 1957)

15. (1) Subject to the provisions of subsections (2) and (3), all ships, aircraft and vehicles and all persons engaged in importing or exporting goods shall enter or leave Zambia through ports or through aerodromes appointed in terms of section thirteen, and shall follow such routes as may have been appointed or defined under that section, and shall comply with all such rules and regulations as may under the provisions of this or any other law be in force for the protection of the revenue and trade of Zambia. Prohibition of importation or exportation except through appointed ports

(2) The Commissioner-General may, at his discretion, permit, subject to such conditions as he may specify, ships, aircraft and vehicles and persons engaged in importing or exporting goods to enter or leave Zambia through places or aerodromes or by routes other than those appointed or defined in terms of section thirteen.

(3) Any pipeline through which goods may be imported shall, for its length in Zambia, be laid along such route as may be defined in respect thereof under section thirteen, and shall be constructed and operated in accordance with such regulations as may be prescribed.

(Act No. 16 of 1964 as amended by Act No. 48 of 1968)

16. (1) The Commissioner-General may appoint at any port places for the landing and embarkation of persons, and the landing, loading, and examination of goods, including baggage, and may from time to time make such rules and lay down such conditions in connection therewith as he considers necessary. Appointment of landing, loading, and examination places

(2) Where, at any port, a place has been appointed in terms of this section, any person who lands or loads goods otherwise than at such place, except with the written permission of the Commissioner-General, shall be guilty of an offence.

17. (1) The Commissioner-General may appoint sheds or places erected, owned, or occupied by any carrier or by the Zambia Postal Services Corporation Ltd or by clearing and forwarding agents, as transit sheds or customs areas into which goods may, before entry, be removed from a ship, aircraft, pipeline, or vehicle. Appointment of transit sheds, customs areas, and licensing of other places

(2) The owner or occupier of a transit shed or customs area appointed in terms of subsection (1) shall, if required by the Commissioner-General, provide office accommodation to the satisfaction of the Commissioner-General for any officer whom the Commissioner-General may consider it necessary to station at such transit shed or customs area.

(3) The Commissioner-General may at his discretion appoint and license places, other than transit sheds or customs areas, where uncustomed goods may be delivered to the licensee, subject to the following conditions and such other safeguards as the Commissioner-General may require:

(a) the licensee shall enter into a bond with sufficient surety, to the satisfaction of the Commissioner-General, for the securing of the duty and compliance with the requirements of this Act in respect of goods delivered or to be delivered at the place licensed;

(b) the goods shall not be taken into stock, sold, or otherwise disposed of until entry thereof has been made and all the requirements of this Act have been satisfied;

(c) licences issued in terms of this subsection shall expire on the 31st December in each year; and

(d) if the licensee fails to comply with the conditions of his bond or fails to comply with the provisions of this Act or any instructions given by the Commissioner-General in this or any other matter connected with the administration of this Act, the Commissioner-General may cancel his licence immediately or refuse to renew it.

(4) With the exception of-

(a) goods which are removed to a State warehouse or other place of security at the direction of an officer;

(b) goods which are removed to a place licensed in terms of subsection (3); and

(c) goods which, having been entered for warehousing, are removed to a warehouse licensed in terms of section fifty-five;

no uncustomed goods shall be removed from any ship, aircraft, pipeline, or vehicle to any place other than a transit shed or customs area.

(5) Where goods are imported by ship, the importer shall be responsible for all fees or charges due to the Government in respect of lighterage, wharfage, handling and transportation to a transit shed, customs area, State warehouse, or other place under customs control.

(As amended by No. 16 of 1956, No. 4 of 1962, G.N. No. 407 of 1963, S.I. No. 173 of 1965 Acts No. 1 of 1971, 25 of 1988 and No. 9 of 1997)

18. (1) The Commissioner-General may, subject to such restrictions and conditions as he may specify, appoint entrances and exists generally or specially to or from any customs area within Zambia. Entrance and exit to or from customs areas

(2) Where entrances to or exits from a customs area have been appointed in terms of subsection (1), no person or vehicle shall enter or leave and no goods, whether dutiable or not, shall be brought into or taken out of such area otherwise than through an entrance or exit so appointed.

(3) Any person or vehicle entering or leaving any customs area and all goods which are being brought into or out of such area may be detained by any officer for the purpose of search or examination.

(As amended by G.N. No. 407 of 1963)

19. The driver or person in charge or having the control of any vehicle which is within or is entering or leaving any customs area in which there is a customs officer or where an officer is stationed shall, when requested to do so by an officer by word, sign, or in any other manner, cause the vehicle to stop for the purpose of search and examination, and no person shall cause the vehicle to be set in motion again until permitted by such officer to do so. Vehicles entering or leaving customs areas

20. (1) Upon the arrival at any port of any train carrying uncustomed goods, the stationmaster or other person in charge of the railway station at the port shall deliver to the proper officer copies of all invoices, waybills, or other documents received by him and relating to the uncustomed goods conveyed by that train and consigned to that station or required to be entered at that port. Stationmaster to supply documents to proper officer

(2) The conductor, guard, or any other person in charge of a train shall, on demand by an officer, furnish that officer with all information at his disposal in respect of any goods on such train, including sealable goods, whether such goods are for consumption, stores, or the personal property or in the possession of any member of the crew or the person in charge of the train.

(3) The stationmaster or other person in charge of the railway station shall deliver to the officers of customs concerned copies of all advice and delivery notes and such other documents as may be required relating to goods detained at the ports from which delivery of such goods may be authorised.

(4) With the exception of goods which are removed to a place licensed in terms of subsection (3) of section seventeen, no stationmaster or other person in charge of a railway station at a port shall, without the written permission of an officer, permit uncustomed goods required to be entered at that port and conveyed to that station in any train to be removed from the transit shed or customs area appointed for such station or to be forwarded to any other railway station, and it shall be an offence to remove any goods from such shed or area before delivery or removal has been authorised by an officer.

(5) No stationmaster or other person in charge of a railway station shall, without the written permission of an officer, deliver to the consignee or any other person at his station any goods which are required to be entered at any other station.

(6) No person, being the proprietor or lessee of a private railway siding, may receive railway trucks containing uncustomed goods into his private siding unless he has been granted a licence by the Commissioner-General in terms of subsection (3) of section seventeen.

21. (1) The person in charge of any vehicle, other than a railway train, arriving in Zambia, whether conveying goods or not, shall proceed immediately with the vehicle to the custom house or customs post at the port of entry and before unloading or in any manner disposing of such vehicle or goods, make full report in such manner as the officer may require or as may be prescribed concerning the vehicle, the goods in his possession or charge, and the journey or destination of such goods. If a report in writing is prescribed or required by the officer, such person shall make and subscribe before the officer a declaration, at the foot of the report, as to the truth of the same, and shall answer to the best of his knowledge all such questions and produce all waybills or other documents relating to the goods, freight, and journey as may be demanded of him by such officer. Person in charge of vehicle to report goods in

his charge

(2) No person shall remove a vehicle mentioned in subsection (1) from the custom house or customs post mentioned in that subsection until permission for removal has been granted by an officer.

(3) Any person arriving in Zambia, whether or not he has goods in his possession, shall proceed to-

(a) the custom house or customs post at the place of arrival in the case of a passenger by ship or vehicle other than a railway train;

(b) the customs post or the officer at the aerodrome of first landing and such other aerodrome as the Commissioner-General may direct in the case of a passenger by aircraft;

(c) the customs post or the officer at the place appointed in accordance with the provisions of this Act in the case of a passenger by railway train;

(d) the custom house or customs post nearest to the point at which he crossed the border in the case of a person arriving on foot;

and shall there make a full report to an officer in such manner as the officer may require of any goods in his possession and shall fully and truthfully answer any questions put to him by that officer. Such person shall not in any manner dispose of any goods in his possession until they have been released by such officer.

(As amended by No. 16 of 1956 and G.N. No. 407 of 1963)

22. (1) The pilot of every aircraft arriving in Zambia, whether with or without goods or passengers, shall, except with the special permission of the Commissioner-General or as required by any law relating to aviation, make his first landing at one of the aerodromes appointed in terms of paragraph (d) of subsection (1) of section thirteen and shall forthwith take his aircraft to the customs post at that aerodrome: Report of arrival of aircraft

Provided that the provisions of this subsection shall not apply if the pilot proves to the satisfaction of an officer that he was compelled to land elsewhere, or could not take his aircraft to such post owing to stress of weather, unavoidable accident, or other circumstances beyond his control.

(2) Within three hours after the landing at a customs aerodrome of an aircraft from a place outside Zambia or within such further time as the Commissioner-General may allow, but in any event before any goods are unloaded from the aircraft, the pilot shall-

(a) make a report to the officer on duty in such manner and in such form as may be prescribed; and

(b) answer to the best of his knowledge all questions concerning the aircraft and cargo and the crew and passengers and journey as are put to him by the officer on duty.

(3) When making the report referred to in paragraph (a) of subsection (2), the pilot shall, if required to do so by the officer on duty, provide the officer with-

- (a) the particulars of the arrival and journey of the aircraft;
- (b) a list of sealable goods on board, whether such goods are for consumption, stores, or the personal property or in the possession of the pilot or any member of the crew;
- (c) a list of the passengers and crew; and
- (d) manifests of the goods on board, signed by the person authorised to sign such manifests at the aerodrome from which the aircraft departed for Zambia.

(4) The pilot shall, if required to do so by the officer, disembark from the aircraft all passengers and their baggage for examination.

(5) Except with the permission of an officer-

(a) no person shall enter any aircraft carrying goods or passengers in transit through Zambia while such aircraft remains at any aerodrome within Zambia; and

(b) no person shall enter any aircraft which has arrived at a customs aerodrome from beyond the borders of Zambia until a report has been made in terms of this section and the officer has carried out such examination of the aircraft and any goods contained therein as he may consider necessary.

(6) If an aircraft flying from outside Zambia lands within Zambia at any place other than a customs aerodrome, the pilot shall forthwith report to the official in charge of any aerodrome at such place or, if there is no aerodrome there, to the nearest officer, magistrate or police officer, and shall on demand produce to such person all papers belonging to the aircraft and shall not allow any goods to be unloaded from the aircraft without the consent of such person. Save for reasons of health or safety or in order to report in terms of this subsection, no person shall leave the immediate vicinity of the place of landing without the consent of such official in charge, officer, magistrate, or police officer.

(As amended by No. 16 of 1956 and G.N. No. 407 of 1963)

23. (1) The master of a ship carrying uncustomed goods arriving in Zambia shall not call at any place therein other than a port appointed in terms of paragraph (a) of subsection (1) of section thirteen unless forced to do so by stress of weather, accident, or other circumstances beyond his control, in which case he shall come to the custom house or customs post at the first port at which the ship afterwards arrives and there make full report to the proper officer concerning the circumstances which so forced him. Report of arrival of ships

(2) The master of every ship carrying uncustomed goods arriving at any port in Zambia shall-

(a) within twenty-four hours after the ship's arrival and before any goods are discharged, come to the custom house or customs post at that port and there-

(i) make a report in writing in the form prescribed or in such other form as the Commissioner-General may direct, with as many copies or extracts as the proper officer may require;

(ii) make and subscribe to a declaration as to the truth of the report, before the proper officer, and answer to the best of his knowledge all such questions concerning the ship and cargo, and the crew, passengers, and voyage as may be put to him by that officer;

(b) produce, if required, the official log books for the voyage, the stowage plans and any other documents in his possession relating to the cargo.

(3) The report referred to in subsection (2) shall state-

(a) the particulars of the arrival and voyage of the ship;

(b) the name, country, tonnage, and port of registry of the ship;

(c) the name and nationality of the master and the owners of the ship;

(d) the number of the crew; and

(e) whether the ship is laden or in ballast:

and shall include-

(i) a list of sealable goods on board, whether such goods are for consumption, stores, or the personal property or in the possession of the master or any member of the crew;

(ii) a list of the passengers; and

(iii) a manifest, in the prescribed form, of goods on board.

(4) When the ship is granted clearance to leave the port, the manifest, bills of lading, or other documents in respect of goods on board not consigned to Zambia shall be returned to the master, and the manifest or bills of lading for goods consigned to any other port in Zambia shall likewise be returned to the master but enclosed with a copy or extract of the report and under the seal of the proper officer, which sealed copy or extract shall be delivered by the master to the proper officer at such other port.

(As amended by G.N. No. 407 of 1963)

24. When a ship arrives at one port in Zambia and proceeds to another port or other ports in Zambia, the Commissioner-General may, subject to such rules and under such conditions as he may prescribe, dispense with the report mentioned in section twenty-three and with the production of the manifest or bills of lading at any port other than the first port.

(As amended by G.N. No. 407 of 1963) Report or production of documents may be dispensed with by the Commissioner-General

25. The nature and quantities of goods imported or exported through a pipeline shall be recorded and reported by the operator of the pipeline in such manner as the Commissioner-General may direct, and, for the purpose of keeping such record and making such report, the operator shall, at his own expense, provide such apparatus and appliances as the Commissioner-General may specify.

(Act No. 48 of 1968) Report by operator of a pipeline

26. If a report required in terms of section twenty-one, twenty-two, twenty-three or twenty-five is found to be in any way incomplete or incorrect, the proper officer may, if he is satisfied that there was no fraudulent intention, permit the report to be amended by the person who made it.

(As amended by Act No. 48 of 1968) Report may be amended

27. With the permission of and under conditions imposed by the proper officer at any port or customs aerodrome, the master of a ship or the pilot of an aircraft may retain on board cargo consigned to that port or aerodrome or may land at that port or aerodrome cargo not consigned thereto. Cargo may remain on board ships or aircraft

28. (1) The master of a ship, the pilot of an aircraft, the operator of a pipeline or the owner or person in charge of any other vehicle, as the case may be, shall be liable for the duty on all goods which are removed from the said ship, aircraft, pipeline or other vehicle at any place in Zambia other than that to which they have been consigned or at which they are required to be entered, and such liability shall continue until the goods have been accounted for to the satisfaction of the Commissioner-General. Liability for duty

(2) In all cases where under the provisions of subsection (1) liability for duty does not rest upon the master of a ship, the pilot of an aircraft, the operator of a pipeline or the owner or person in charge of any other vehicle, liability for duty on all imported goods or goods deemed to have been imported in terms of section thirty shall rest upon the importer or, in the case of goods consigned to Zambia, for transshipment to a place outside Zambia, upon the person within Zambia who deals with the goods on behalf of the owner thereof.

(3) If it can be shown before delivery of any goods has been granted that such goods have been wrongly consigned or addressed to Zambia or have been imported through error or oversight on the part of the master of a ship, the pilot of an aircraft, the operator of a pipeline or the owner or person in charge of any other vehicle, the Commissioner-General may allow the said goods to be exported without the payment of duty under such conditions as he may impose.

(As amended by G.N. No. 407 of 1963 and Act No. 24 of 1973)

29. Notwithstanding anything to the contrary contained in sections twenty-two, twenty-three, twenty-five, forty-four and forty-five, the master of a ship, the pilot of an aircraft, or the operator of a pipeline, instead of himself performing any act, including the answering of questions, required by or under any of those sections to be performed by him, may, at his own risk, appoint an agent to perform any such act, and any such act performed by such agent shall in all respects and for all purposes be deemed to be the act of the master, pilot, or operator, as the case may be, so, however, that the personal attendance of the master, pilot, or operator may be demanded at any time by the proper officer.

(Act No. 48 of 1968) Master, pilot or pipeline operator may appoint agent

30. All goods reported under the provisions of this Part or shown on the bill of lading, manifest, consignment note, waybill, or other document as having been consigned to Zambia shall be deemed to have been imported unless it is proved to the satisfaction of the Commissioner-General that they were not imported.

(As amended by G.N. No. 407 of 1963) Goods deemed to have been imported

31. (1) With the exception of goods imported by post, the time of importation of any goods into Zambia shall be deemed to be—Time of importation

(a) where goods are imported by ship, the time when the ship arrives at its first port of call in Zambia;

(b) where goods are imported by aircraft, the time when the aircraft makes its first landing in Zambia;

(c) where goods are imported by train, the time when the train arrives at the first port of entry in Zambia;

(d) where goods are imported by pipeline, the time when the goods are discharged from the pipeline in Zambia;

(e) where goods are imported by means other than ship, aircraft, train or pipeline, the time when the goods cross the borders of Zambia.

(2) The time of importation of any goods imported into Zambia by post shall be deemed to be the time when the goods arrive at the post office where duty is assessed.

(As amended by G.N. No. 407 of 1963, Acts No. 48 of 1968 and No 14 of 1984)

32. (1) Goods shall not be imported into Zambia without entry being made and without such duties as may be imposed by law being paid or secured. No importation without entry

(2) The owner or occupier of a customs area or transit shed shall not remove or permit the removal of uncustomed goods placed in the customs area or transit shed without written authority from an officer, and no person shall remove or take delivery of uncustomed goods from a customs area or transit shed without written authority from an officer.

(3) A carrier of goods or operator of a pipeline shall not remove or discharge or permit the removal or discharge of uncustomed goods from the ship, aircraft, vehicle or pipeline in his charge or control without written authority from an officer, and a person shall not remove, discharge or take delivery of uncustomed goods from any ship, aircraft, vehicle or pipeline without written authority from an officer.

(As amended by No. 16 of 1956, G.N. No. 407 of 1963 and Act No. 48 of 1968)

33. (1) Subject to the provisions of any regulations made in terms of subsection (2) of section one hundred and ninety-eight, every importer of goods shall, within ten days after the time of their importation as defined in section thirty-one, or within such further time as the Commissioner-General may allow, make entry of those goods at a custom house. Entry of goods to be made; consequences of default

(2) In default of entry in terms of subsection (1), the proper officer may cause the goods to be conveyed to a State warehouse or to any other place indicated by him or may himself so remove them and, if entry is not made within

three months, together with payment of any duty due and all charges of removal and warehouse rent, the Commissioner-General may, subject to the provisions of this section, cause the goods to be sold by public auction, if they have not been entered before the date fixed for their sale.

(3) Any sale by public auction in terms of subsection (2) shall, subject to the provisions of subsections (4) and (5), take place after not less than one month's notice thereof has been given in the Gazette or in any of the daily newspapers with a national circulation and the proceeds of the sale shall be applied in payment of-

- (a) customs duty and the expenses incurred in connection with the sale;
- (b) carriage charges due to any carrier;
- (c) warehouse rent, storage charges, clearing charges, handling charges and any other charges due to any carrier or clearing agent; and portage charges;

in that order. Any balance of the proceeds after making such payments shall, unless the Commissioner-General is satisfied that such goods were imported in contravention of any law, be paid on application to the importer or to the person who would have been entitled to receive the goods if entry had been made and the duty paid. If the balance of the proceeds after making the payments referred to in paragraphs (a) and (b) is insufficient to make in full the payments referred to in paragraph (c), it shall be applied pro rata in making such last mentioned payments.

(4) The offer for sale by public auction shall be subject to a reserve sufficient to cover the customs duty and the expenses incurred in connection with the sale. If the goods are not sold at such sale they may, by direction of the Commissioner-General, be sold out of hand or destroyed or appropriated to the Government without compensation.

(5) If the goods are unsuitable for storage or are of a dangerous or perishable nature, or if the Commissioner-General considers that the proceeds of the sale by public action will not be sufficient to cover the customs duty and the expenses incurred in connection with the auction sale, he may direct that they be sold immediately out of hand, and the proceeds of such sale shall be applied in accordance with the provisions of subsection (3). If such goods cannot be sold immediately out of hand, the Commissioner-General may direct that they be destroyed or appropriated to the Government without compensation.

(As amended by No. 16 of 1956, G.N. No. 407 of 1963, Act No. 16 of 1964 S.I. No. 173 of 1965 and Act No. 17 of 1993)

34. (1) Subject to the provisions of subsection (2) and of sections thirty-eight and thirty-nine, the person making entry of any imported goods shall deliver to the proper officer a bill of entry in the prescribed form, setting forth the full particulars as indicated on the form and as required by that officer, and shall make and subscribe to a declaration in the prescribed form as to the correctness of the particulars on such bill of entry. At the same time he shall deliver such copies of the bill of entry as may be prescribed or as may be required by such officer and, unless the goods are entered to be warehoused or to be removed in bond, shall pay all duties due thereon. He shall further produce all bills of lading, invoices, or other documents and answer all such questions relating to the goods as may be demanded of or put to him by the officer, and shall also, if required, produce for retention by the officer a

true copy of any invoice or other document relating to the goods. Entry of imported goods

(2) Where-

- (a) goods are imported temporarily;
- (b) goods are imported in the baggage of passengers and are not merchandise;
- (c) goods are not merchandise or goods imported in the baggage of passengers;
- (d) merchandise is valued at not more than two kwacha;

the presentation of a bill of entry may be dispensed with and entry may be effected in such other manner as may be prescribed or, where no such manner has been prescribed, in such manner as the Commissioner-General may direct.

(3) An importer shall, at his own risk and expense, unload and reload, remove to or from any place indicated by an officer, open, unpack, repack, and close up such of the packages as an officer may require for examination, and all charges incurred in the examination of goods shall be borne by the importer.

(4) Any person who represents, either personally or through an agent, to any officer that he is the importer of any goods shall, in respect of those goods, be liable for the fulfilment of all obligations imposed on importers by this Act or any law relating to customs and excise to prosecution for infringements thereof and to penalties and forfeitures incurred thereunder.

(5) Every person shall provide his taxpayer identification number with all forms, notices, certificates, documents and any other Communication required to be submitted to the Commissioner-General under this Act.

(6) Any person carrying on any business in partnership shall submit the taxpayer identification number of every partner with all documents, forms, notices, certificates, and other communications required to be submitted to the Commissioner-General under this Act.

(As amended by Act No. 20 of 1992)

35. For the purposes of ascertaining the nature, quantity, value and origin of any goods imported into Zambia, the Commissioner-General may require the production by the importer of an invoice certified by the exporter in such a way and to such effect as may be prescribed.

(As amended by G.N. No. 407 of 1963) Commissioner-General may require certain invoices

36. (1) If an importer makes and subscribes to a declaration before an officer that he cannot for want of full information make entry of his goods, the proper officer may authorise him to present a bill of sight describing the goods according to whatever information may be available. On presentation of the bill of sight, the proper officer may order the goods to be brought at the expense of the importer to a place indicated by such officer in order that they may be examined in his presence by the importer. Entry after sight

(2) The importer shall make entry of the goods and pay the duty due thereon, or duly warehouse the goods in terms of section fifty-seven, or remove them in bond

within ten days of the date on which they were brought to the place of examination, which place shall be regarded as a customs area for the purpose of securing the duties payable upon the goods, until such duties have been paid or the goods are warehoused or removed in bond:

Provided that in default of entry the goods shall be taken to the State warehouse and if the importer or his agent does not, within three months after expiry of the aforesaid period, make entry of the goods and pay the duties thereon or duly warehouse them or remove them in bond, and at the same time pay the charges of removal and State warehouse rent and all other charges incurred by the Government, the goods may be disposed of in the manner set out in and subject to the provisions of section thirty-three.

(3) Goods in respect of which a bill of sight has been accepted in terms of subsection (1) shall not be delivered, warehoused, or removed without entry and the payment of duty in the case of delivery, and the provisions of this Act in respect of the incorrect or false entry of goods shall also apply in respect of goods dealt with in terms of this section.

(As amended by S.I. No. 173 of 1965)

37. (1) Entry in terms of section thirty-four or subsection (2) of section thirty-six shall not be valid unless-Particulars of goods in entry

(a) particulars of the goods and packages in that entry correspond with the particulars of the goods and packages as reported in terms of section twenty, twenty-one, twenty-two, twenty-three, or twenty-five, and in the certificate or other document, where any is required, by which the importation of those goods is authorised;

(b) the goods have been properly described in the entry by the denomination and with the characters, circumstances, and origin according to which they may be imported or are charged with duty;

(c) the value of the goods in terms of section eighty-five has been declared; and

(d) a sufficient invoice in the prescribed form, together with any other document which may be required, has been produced to the officer in respect of goods purchased by or consigned to any person in Zambia:

Provided that-

(i) in the absence of such invoice or other document, the proper officer may, in his discretion, permit the person who entered the goods to deposit with him, in lieu of production of the said invoice or other document, a sum to be determined by that officer and, if the invoice or other document is not produced within a time specified by the officer, the sum so deposited shall, subject to a right of appeal to the Commissioner-General, be forfeited;

(ii) in the case of goods which are not merchandise for sale, the Commissioner-General may dispense with the production of an invoice in the prescribed form.

(2) Goods taken or delivered by virtue of an entry which is not valid, out of any ship, aircraft, vehicle, pipeline, transit shed, or bonded warehouse, or other place where they have been deposited in terms of this Act shall be deemed

to be goods landed or taken without entry, and any person taking or delivering such goods shall be guilty of an offence.

(3) If any goods in respect of which a valid entry has been made-

(a) are delivered to any person from any transit shed or other place where they have been deposited in terms of this Act pending clearance through customs, or from any ship, aircraft, vehicle, or pipeline; or

(b) are tampered with in any way whatsoever;

before authority for delivery has been granted in such manner as may be prescribed, the person delivering or tampering with them shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963 and Act No. 48 of 1968)

38. (1) For the purpose of entry and the collection of duty on goods imported into Zambia by post, any form or label affixed to the parcel, package, or letter packet, or any other declaration made under the provisions of this Act and the statement of value and the particulars as to the nature, quantity, and origin of the goods shown in such form, label, or other declaration shall, for the purpose of ascertaining the duty payable on the goods or for any other purpose connected with this Act, take the place of the bill of entry, the declaration to be made by the importer and the other documents required in terms of section thirty-four:Form or label affixed to parcels imported through the post

Provided that an officer may at his discretion call upon the importer to make entry in terms of section thirty-four of any goods contained in any postal parcel, package, or letter packet, or to furnish such documents as are required in terms of section thirty-four to be submitted in support of a bill of entry or other form of clearance.

(2) The duty payable on any goods imported by post shall be paid in the manner prescribed.

(3) Any goods contained in any parcel, package, or letter packet imported by post and found not to agree with the value, nature, quantity, or origin entered in the form, label, or declaration mentioned in subsection (1), shall be liable to forfeiture and the importer shall be as liable to the penalties prescribed for under-valuation or false declaration of the nature, quantity, or origin of the goods as if the entry and declaration had been made in the manner prescribed in section thirty-four.

(4) Notwithstanding anything contained in subsection (1), any goods imported by post which the addressee decides to enter for warehousing without payment of duty, or for removal or export in bond, or under rebate of duty, or under any item of the tariff which requires that a certificate be given or a condition complied with, shall be entered in the manner prescribed in section thirty-four as if such goods had not been imported by post.

(As amended by G.N. No. 407 of 1963)

39. (1) Subject to the provisions of subsection (2), the provisions of section thirty-eight may be applied, mutatis mutandis, to any goods imported into Zambia as freight in any aircraft.Entry of goods imported as freight in aircraft

(2) If the pilot or owner of any aircraft engaged in the importation of goods into Zambia wishes the entry of such goods to be made under the provisions of subsection (1), the Commissioner-General may at his discretion grant him a licence to do so, subject to the following conditions and such other safeguards as he may consider it necessary to impose:

(a) the licensee shall enter into a bond with sufficient surety, to the satisfaction of the Commissioner-General, for the securing of the duty on goods imported or to be imported and for compliance with all the provisions of this Act in respect of such goods;

(b) the goods shall not be delivered until the duty due thereon has been paid in the manner prescribed and all the requirements of this Act have been satisfied;

(c) the licensee shall be responsible for the collection of duty, as directed by an officer, from the importer and the payment thereof to the Commissioner-General in such manner as may be prescribed;

(d) licences issued in terms of this section shall expire on the 31st December in each year and in respect of each licence issued or renewed, the sum of two kwacha shall be paid;

(e) the goods shall be held in transit sheds duly appointed by the Commissioner-General until all the requirements of this Act have been satisfied; and

(f) if the licensee fails to comply with the conditions of his bond or neglects or fails to comply with the provisions of this Act or any rule or instruction given by the Commissioner-General in this or any other matter connected with the administration of this Act, the Commissioner-General may cancel his licence immediately or refuse to renew it.

(As amended by G.N. No. 407 of 1963 and Act No. 1 of 1971)

40. (1) Subject to the provisions of subsection (3), the importation into Zambia of the goods described in this subsection is totally prohibited-Goods prohibited from importation

(a) base or counterfeit coins;

(b) any goods which are indecent, obscene, or objectionable;

(c) any goods which might tend to deprave the morals of the inhabitants, or any class of the inhabitants of Zambia;

(d) prison-made and penitentiary-made goods;

(e) qilika;

(f) spirituous beverages which contain preparations, extracts, essences, or chemical products which are noxious or injurious;

(g) any goods the importation of which is prohibited by or under the authority of any law.

(2) Any goods imported in contravention of subsection (1) shall be liable to

forfeiture.

(3) The Minister may authorise the importation of any goods described in subsection (1) for the purpose of study, scientific investigation, or use as evidence in any proceedings.

(As amended by No. 24 of 1955, G.N. No. 407 of 1963 and Act No. 21 of 1966)

41. (1) Except with the written permission of the Commissioner-General and under such conditions as he may consider it necessary to impose, the importation into Zambia of stills and all apparatus or parts of apparatus capable of being used for the production or refining of alcohols is prohibited. Restricted importations

(2) Goods, the importation of which is restricted by this Act or any other law, shall only be imported in conformity with the provisions of such Act or other law.

(As amended by G.N. No. 407 of 1963)

41A. (1) Any person importing into, or exporting from, Zambia currency notes, in any currency, exceeding in value the equivalent of five thousand United States Dollars shall make a declaration in the prescribed form. Declaration of currency notes

(2) Where an officer has reason to believe that a person has made a false declaration under subsection (1), or refuse to make the declaration, the officer may search the person, or that person's baggage or package.

(3) Where, after the search referred to in subsection (2), an officer finds currency notes in excess of the amount specified in subsection (1), the officer shall seize the currency notes in excess of that amount and that amount so seized shall be forfeited to the State.

(4) A registered commercial bank, a bureau de change or any other financial institution licensed under any law relating to the registration of banks and financial institutions is exempt from the provisions of this section.

(5) Any person aggrieved by the seizure and forfeiture of his currency notes may appeal to the Commissioner-General against the seizure and forfeiture within thirty days from the date of seizure.

(As amended by Act No. 15 of 1994).

42. (1) For the purposes of this section, wreck" includes-Wreck

(a) flotsam and jetsam;

(b) any portion of a ship lost, abandoned, or stranded or of the cargo, stores, or equipment thereof; and

(c) any portion of an aircraft or vehicle which has been wrecked or abandoned or of the cargo, stores, or equipment thereof.

(2) Every person who has in his possession any uncustomed wreck shall without delay give notice thereof to the nearest officer and shall, unless he is the

owner of such wreck or the duly authorised agent of the owner, if required forthwith deliver that wreck or permit it to be delivered to the said officer, and unless it is necessary for the preservation or safe keeping thereof, no person shall without the permission of an officer remove or alter in quantity or quality any such wreck.

(3) Uncustomed wreck found in or brought into Zambia may, at any time after it has come under the control of the Commissioner-General, be disposed of by him in the manner set out in subsection (2) of section thirty-three, but shall otherwise be subject to the same duty, laws, and regulations as imported goods of the like kind.

(As amended by G.N. No. 407 of 1963)

PART IV COASTING TRADEPART IV

COASTING TRADE

43. (1) All transport of goods by water from any place within to any other place within Zambia shall be deemed to be coasting trade, and all ships while employed therein shall be deemed to be coasting ships.Coasting trade

(2) Except in such circumstances as the Commissioner-General may allow, cargo shall not be laden on or discharged from coasting ships at any place in Zambia other than a port.

(As amended by G.N. No. 407 of 1963)

44. Except in such circumstances as the Commissioner-General may permit, before any coasting ship departs from the port or place where it was loaded, the master shall sign a report in the prescribed form containing the prescribed particulars and shall deliver it to the proper officer, who shall sign and return it to the master, and such report shall be the clearance for the goods mentioned therein and for the ship for the voyage.Report to be delivered before departure of ship

45. Within twenty-four hours or within such further time as the Commissioner-General may under special circumstances permit after the arrival of any coasting ship at a port or place of discharge, and before any goods are discharged, the report required in terms of section forty-four shall be delivered to the proper officer who shall note thereon the date of delivery. The report shall be returned to the master by the proper officer at each intermediate port named in the report, and retained by the proper officer at the last port so named.Report to be delivered before goods are landed

46. The responsibility for payment of fees and charges due to the Government in respect of lighterage, wharfage, or handling of goods conveyed by coasting ship shall lie upon the consignor for all such fees and charges incurred at the port of lading and upon the consignee for all such fees and charges incurred at the port of discharge.Payment of wharfage and other fees

PART V EXPORTATION OF GOODSPART V

EXPORTATION OF GOODS

47. (1) Subject to the provisions of subsection (5), every person or his authorised agent exporting any goods from Zambia shall, before such exportation

takes place, deliver to an officer a bill of entry or such other documents as may be prescribed, with such copies as may be required by the officer, showing full details and particulars of the goods and their destination with such other information as the officer may require, and no goods shall be exported or accepted for carriage for export until such entry or other customs documents have been so delivered:Exporter to deliver customs documents and produce goods

Provided that-

(a) where-

- (i) certain prescribed goods are to be exported temporarily; or
- (ii) goods are to be exported after having been imported under special temporary clearance arrangements;

the presentation of a bill of entry or other customs documents may be dispensed with at the Commissioner-General's discretion and entry for exportation shall be effected in such other manner as the Commissioner-General may direct;

(b) the presentation of a bill of entry or other customs documents in respect of the baggage of passengers, not being merchandise, shall not be necessary, unless specifically or generally required by the Commissioner-General or a proper officer.

(2) Notwithstanding anything to the contrary contained in subsection (1), the bill of entry or other customs documents may be delivered within such time after exportation of the goods as the officer may allow.

(3) Except in such circumstances as the Commissioner-General may permit, a separate bill of entry or other customs document, as the case may be, shall be delivered in respect of each separate consignment of goods exported by any one exporter.

(4) Where goods are exported by post, any form or label affixed to the parcel on which a description of the contents and their value are set forth, together with such other form as may be prescribed, shall be deemed to be the document or documents required under the provisions of subsection (1).

(5) Every exporter shall, if he is requested to do so by an officer, produce for his inspection all invoices and other documents relating to any goods entered for export in terms of this section and shall, at his own risk and expense, unload, reload, remove to or from any place indicated by the officer, open, unpack, repack, and close up such of the packages as the officer may require for examination and all charges incurred in the examination shall be borne by the exporter.

(6) Any person who exports or assists in exporting any goods in contravention of this section shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963)

48. (1) Except with the prior permission of an officer, no person shall load any goods, except the personal effects of passengers contained in their baggage, into a ship, aircraft, vehicle, or pipeline for exportation from Zambia. Exportation of goods

(2) Any person leaving Zambia shall, if called upon to do so by an officer, unreservedly declare all goods in his possession which he proposes to take with him beyond the borders of Zambia and shall, if so required, produce such goods for inspection by such officer.

(3) Any person exporting goods by ship shall be responsible for all fees or charges due to the Government in respect of lighterage, wharfage, or handling at the port of shipment.

(As amended by G.N. No. 407 of 1963 and Act No. 48 of 1968)

49. A person in charge of a vehicle used in the exportation of goods overland shall not remove such vehicle beyond the borders of Zambia without the permission of an officer and under such conditions as the Commissioner-General may specify. The Commissioner-General may, in his discretion, grant a general permission to any such person.

(As amended by G.N. No. 407 of 1963)Exportation of goods overland

50. (1) The master of every ship bound from any place within to any place beyond the borders of Zambia shall, before any goods are laden therein, make application to the proper officer in the form prescribed for permission to load goods on such ship.Outward clearance of ships

(2) Goods or ballast shall not be laden before all inward cargo to be discharged has been discharged, except such goods or ballast as may be permitted by the proper officer.

(3) Before the ship departs, whether in ballast or laden, the master shall-

(a) come before the proper officer and deliver to him in the prescribed form a report together with a full account of all goods liable to excise duty or surtax and goods on which duty has not been paid shipped as stores on board that ship;

(b) make and subscribe to a declaration as to the truth of such report and account; and

(c) answer all such questions concerning the ship and cargo, if any, and the crew, passengers, and voyage, as may be put to him by such officer.

(4) The master shall not cause or permit the ship to depart without first obtaining a certificate of clearance for the intended voyage from the proper officer, who shall not without reasonable cause withhold such certificate.

(5) If a ship in respect of which a clearance has been issued at any place in terms of this section does not depart from that place within thirty-six hours of the time when the clearance was issued, or within such further time as the proper officer may allow, such clearance shall lapse and the master shall obtain fresh clearance before permitting the ship to depart.

(As amended by G.N. No. 407 of 1963)

51. (1) The pilot of every aircraft bound from any place within to any place outside Zambia shall furnish to an officer before any goods are taken on board particulars of the departure and journey of the aircraft and deliver, before the

aircraft departs, in the form prescribed and with as many copies as that officer may require—Outward clearance of aircraft

- (a) a report;
- (b) a manifest of the goods on board; and
- (c) a statement of stores on board;

and such forms when signed by such officer shall be the clearance and authority for the aircraft to proceed to its destination outside Zambia.

(2) Save as may be permitted by the Commissioner-General, every aircraft shall depart from Zambia from a customs aerodrome.

(3) An aircraft shall not depart from a customs aerodrome in Zambia until the pilot has obtained the clearance and authority referred to in subsection (1) and the pilot shall not, after departure, call at any place in Zambia other than a customs aerodrome unless forced to do so by accident, stress of weather, or other circumstances beyond his control.

(4) If the aircraft in respect of which a clearance has been issued at any place in terms of this section does not depart from that place within thirty-six hours of the time when the clearance was issued, or within such further time as the officer may allow, such clearance shall lapse and the pilot shall, before permitting the aircraft to depart, obtain fresh authority for the aircraft to proceed outside Zambia.

(As amended by No. 16 of 1956 and G.N. No. 407 of 1963)

52. The master of any ship, the pilot of any aircraft, or the operator of any pipeline may, instead of himself performing any act, including the answering of questions, required by or under this Part to be performed by him, appoint an agent on his behalf and at his risk to perform any such act, and any such act performed by such agent shall in all respects and for all purposes be deemed to be the act of the master, pilot, or operator, as the case may be, so, however, that the personal attendance of the master, pilot, or operator may be demanded at any time by the proper officer at any port.

(Act No. 48 of 1968) Master, pilot or pipeline operator may appoint agent

53. (1) With the exception of goods exported from Zambia by post or by pipeline, the time of exportation shall be deemed to be the time when the bill of entry or other document required in terms of section forty-seven is delivered to an officer or the time when the goods cross the borders of Zambia, whichever shall be the earlier. Time of exportation of goods

(2) Where goods are exported from Zambia by post, the time of exportation shall be the time when any export document which may be prescribed in terms of subsection (4) of section forty-seven is delivered to an officer or the time when the goods are placed in the post, whichever shall be the earlier.

(3) Where goods are exported by pipeline, the time of exportation shall be deemed to be the time when the bill of entry or other document required under section forty-seven is delivered to an officer or the time when the goods are first placed in the pipeline, whichever shall be the earlier.

(As amended by G.N. No. 407 of 1963 and Act No. 48 of 1968)

54. (1) If the exportation of any goods is restricted by any law, such goods shall only be exported in conformity with the provisions of such law. Restriction of exportation

(2) Any person who exports or assists in exporting any goods the exportation of which is prohibited by any law, and any person who exports or assists in exporting any goods in contravention of any law which restricts the exportation of such goods, shall be guilty of an offence.

(3) For the purpose of this Act, the entry of goods for export, the loading or placing of any goods upon a ship, aircraft, or vehicle which is about to leave Zambia or has other goods upon it which are to be exported, the taking of goods aboard such a ship, aircraft, or vehicle by a person, the handing of any goods to any carrier or transport company or to the master of a ship or the pilot or owner of any aircraft for the purpose of exportation, the placing of any goods in a pipeline which has been prepared for the exportation of goods, or the placing in the post of any package addressed to a place outside Zambia, shall be deemed to be an attempt to export.

(As amended by G.N. No. 407 of 1963 and Act No. 48 of 1968)

PART VI WAREHOUSING OF GOODS PART VI

WAREHOUSING OF GOODS

55. (1) Subject to the provision of any regulations governing the erection, maintenance, and control of such warehouses, the controller may by Gazette notice, appoint and license warehouses, approved by him and to be known as bonded warehouses, for the warehousing and securing of goods without payment of duty under this Act or any other law relating to customs or excise, at any place appointed in terms of paragraph (c) of subsection (1) of section thirteen, and may in like manner revoke such appointment of warehouses. The Commissioner-General may also determine what kind of goods may be placed in bonded warehouses. Bonded warehouses

(2) Each of the following may be appointed and licensed as a separate warehouse for the purposes of this section, whether or not it is situated within a wire or other enclosure:

(a) a bulk storage tank, for the storage of any commodity, which is unconnected by pipes to another similar storage tank;

(b) two or more bulk storage tanks, for the storage of any commodity, which are permanently connected by pipes for the purpose of transferring the contents from one to another such tank;

(c) a store, house, or shed which is so constructed as to provide to the satisfaction of the Commissioner-General for the securing of the goods to be stored therein and of the duties payable on such goods.

(3) A fenced or walled enclosure shall only be appointed and licensed as a separate warehouse for the purposes of this section if it is of such a nature as to provide to the satisfaction of the Commissioner-General for the securing of the goods to be warehoused and of the duties payable on such goods without regard to any store, house, or shed which may be situated within such enclosure.

(4) All licences issued in terms of this section shall be issued by the Commissioner-General and shall, whenever issued, expire on the 31st December in each year.

(5) If the licensee fails to comply with the conditions of his bond or fails to comply with the provisions of this Act or any rule or instruction made or given by the Commissioner-General in this or any other matter connected with the administration of this Act, the Commissioner-General may cancel his licence or refuse to renew it.

(6) A licence may be transferred from one warehouse to another duly appointed warehouse in the possession of the person to whom the licence has been issued, but shall not be transferable from one person to another.

(7) The proprietor or occupier of a bonded warehouse shall, as long as there is space available in his warehouse, give accommodation at a reasonable and uniform charge for the goods of other importers.

(As amended by No. 18 of 1960, No. 4 of 1962, G.N. No. 407 of 1963 and Act No. 4 of 1987)

56. (1) The proprietor or occupier of any warehouse shall give general security by bond, with sufficient surety to the satisfaction of the Commissioner-General for compliance with the provisions of this Act and for the payment of the full duties on all such goods as may at any time be warehoused therein, or for the removal of such goods, in accordance with such conditions as may be prescribed, to another warehouse or port, or to a place outside Zambia. General bond of proprietor or occupier of bonded warehouse

(2) The bond shall include-

(a) a condition for the safe deposit in the warehouse of such goods as may be entered for warehousing;

(b) a condition that no goods shall be taken out of the warehouse for consumption, exportation, or removal in bond, except upon an order in writing from an officer after entry has been made.

(3) The Commissioner-General may at any time require that the form or amount of such security shall be altered in such manner as he may determine.

(As amended by Act No. 16 of 1964)

57. (1) The importer of any dutiable goods may warehouse them in any warehouse duly licensed in terms of section fifty-five without the payment of duty on the first importation thereof, except dumping duty and such duty as may become due as a result of the loss or diminution of the goods during their transportation to the warehouse in which they are to be deposited. All goods so warehoused shall be subject to such restrictions and conditions as may be prescribed. Storing of goods in warehouses without payment of duty

(2) The importer or owner of any dutiable goods may, before duty is paid on them, store the goods without payment of duty, except dumping duty, in a place other than a warehouse licensed in terms of section fifty-five if such place is first approved by the Commissioner-General for that purpose and if the importer or owner furnishes such security and complies with such conditions as the

Commissioner-General may fix.

(3) The purchaser or manufacturer of any goods liable to excise duty or surtax may, before such excise duty or surtax has been paid, warehouse the goods without payment of duty or surtax in any warehouse duly licensed in terms of section fifty-five or in a place approved by the Commissioner-General in terms of subsection (2), and all goods so warehoused or stored shall be subject to such restrictions and conditions as may be imposed in terms of subsection (1) or (2), as the case may be.

(As amended by Act No. 16 of 1964)

58. (1) Goods which have been warehoused shall not be taken or delivered from a warehouse except in accordance with the regulations and upon entry and payment of any duty due thereon and payable in terms of this section. Removal of goods from warehouse

(2) Subject to the provisions of this Act in respect of rebates, and manufacture, assembly or conversion in bond, duty shall be paid on goods delivered from a warehouse for consumption in Zambia, and such duty shall be paid in accordance with the quantities and the values of those goods as accepted at the time of their entry for warehousing in Zambia:

Provided that if any deficiency has already been accounted for in terms of subsection (4), duty shall only be paid on the actual quantity of goods delivered for consumption in Zambia.

(3) Notwithstanding the provisions of subsection (1)-

(a) entry shall not be made of or duty paid on wet goods which are-

(i) removed in the prescribed manner and in accordance with prescribed conditions from a warehouse to a place on or a part of licensed premises approved by the Commissioner-General for regauging, racking, blending, mixing, reducing, fining, bottling or other manipulation; and

(ii) returned to the warehouse from which they were removed; and

(b) duty shall not be paid on goods which are-

(i) released from a warehouse in terms of section fifty-nine; or

(ii) taken from a warehouse for re-warehousing or for removal or export in bond.

(4) If at any time while they are in a warehouse, or when they are delivered from a warehouse for any purpose, the quantity of any goods is found to be less than that which was declared and accepted at the time of their entry for warehousing, duty shall be paid on the deficiency:

Provided that-

(a) in the case of-

(i) wet goods;

(ii) oil in bulk storage tanks;

(iii) petrol and any other spirit derived from petroleum shale or coal tar, in bulk storage tanks; and

(iv) such other goods as are specified by regulation;

an officer may, when assessing duty in respect of a deficiency, make such allowances as are specified by or in accordance with the provisions of regulations if he is satisfied that no part of such deficiency was wilfully or negligently caused;

(b) nothing contained in this subsection shall be deemed to release the owner of any goods or the proprietor or occupier of any warehouse from liability to prosecution under the provisions of this Act for the removal of goods from a warehouse without entry thereof; and

(c) any deficiency in the goods in a warehouse, except a deficiency not in excess of that specified by or in accordance with the provisions of regulations, shall, in the absence of proof to the contrary, be deemed to have come about by the removal of goods from the warehouse without entry.

(5) Any part of licensed premises where goods are manipulated or manufactured shall, if the Commissioner-General so directs, be treated as a warehouse for the purposes of subsection (4).

(As amended by No. 18 of 1960 and G.N. No. 407 of 1963)

59. (1) An officer may release goods free of duty from any bonded warehouse in Zambia, in original packages as imported or as repacked in bond under the provisions of this Act, for shipment in accordance with the regulations, as stores for the use of any ship or aircraft which is not then on any voyage or journey from one place in Zambia to any other place in Zambia. Bonded goods as stores for aircraft or ships

(2) If any goods warehoused have been declared to be for export as ship's or aircraft stores or otherwise, an officer may refuse to allow their removal from the warehouse for any purpose other than that which has been declared.

(As amended by G.N. No. 407 of 1963)

60. Subject to the provisions of section sixty-three and to the allowances made under subsection (4) of section fifty-eight, all goods warehoused or re-warehoused shall be duly cleared either for consumption, export, or removal in bond according to the conditions of the bond under which such goods were warehoused or re-warehoused. Clearance in terms of bond

61. All goods whatsoever which have been deposited in terms of this Act in any warehouse or place of security under lawful authority without payment of duty upon the first importation thereof shall, upon being entered for consumption, be subject to such rate of duty as may be in force at the time of their being entered for consumption. Liability of goods to duty at date of entry for consumption

62. (1) Goods of a particular kind entered for warehousing or re-warehousing on any particular bill of entry—When warehoused goods must be cleared

(a) on which the duty due does not exceed one thousand fee units and which

have been warehoused for a period of one year from the date on which they were placed in the warehouse; or

(b) on which the duty due exceeds one thousand fee units and which have been warehoused for a period of two years from the date on which they were placed in the warehouse;

shall immediately after such period of one year or two years, as the case may be, be entered for exportation in bond and duly exported or entered for consumption and delivered from the warehouse.

(2) If any goods referred to in subsection (1) are not entered, the Commissioner-General may cause them to be sold, and shall apply the proceeds first to the payment of duty, next to warehouse rent and charges incurred by the Authority, and shall pay the balance, if any, to the owner of the goods.

(3) If the goods referred to in subsection (2) cannot be sold for a sum sufficient to pay the duty, rent and charges as aforesaid, they may, by direction of the Commissioner-General, be destroyed or be appropriated to the Government without compensation.

(As amended by Acts No. 17 of 1993, No. 13 of 1994 and No. 16 of 1996)

63. (1) Subject to such safeguards as he may prescribe, the Commissioner-General may permit-Sorting, repacking or destroying goods under customs authority

(a) the owner of or person having control over warehoused goods to sort, separate, pack, or repack any such goods and to make such alterations therein or arrangements as may be necessary for the preservation of those goods, or for the sale, exportation, or other legal disposal thereof, and, in the case of wines and spirits, to bottle from bulk stocks or to break down from greater to lesser strengths;

(b) any parts of goods separated in terms of paragraph (a) to be destroyed, but without prejudice to the claim for duty upon the remaining goods;

(c) the assembly, blending, mixing, conversion or manufacture in bond of any goods wholly or partly consisting of materials liable to duty:

Provided that-

(i) the provisions of this paragraph shall not apply if the finished products of any such process would be liable to excise duty or surtax; and

(ii) when the finished product is entered for consumption, duty shall be paid upon any material liable to duty contained therein or consumed in its manufacture and, when such duty is payable on value, the value of such materials, as accepted at the time of their warehousing in Zambia, shall be their value for duty purposes.

(2) Anything done or performed under any permission granted in terms of subsection (1) shall be done or performed in accordance with rules made by the Commissioner-General for the due protection of revenue and for the payment of any expenses incurred in respect of the attendance of officers.

(As amended by No. 22 of 1959 and
G.N. No. 407 of 1963)

64. The owner of any goods warehoused may transfer such ownership to any other person who may lawfully own the said goods, but the Commissioner-General may refuse to recognise any such transfer of ownership unless notice thereof in writing has been given to him by the owner prior to the transfer. Transfer of ownership of goods warehoused

65. An officer may cause any bonded warehouse to be locked with a customs lock for so long as he deems fit, and no person shall during such period remove or break such lock or enter such warehouse or remove any goods therefrom without the permission of the officer. Warehouses may be locked by an officer

66. An officer may at any time take stock of the goods in any bonded warehouse and duty shall be paid upon deficiencies in terms of subsection (4) of section fifty-eight. Taking stock and duty on deficiencies

67. (1) An officer may permit-Sampling of warehoused goods

(a) the taking, subject to such conditions as may be prescribed, of samples of warehoused goods by the owner or importer of the goods; and

(b) the payment of duty on samples taken in terms of paragraph (a) to be deferred until the consignment of the goods from which the samples were taken is entered for consumption or for removal or export in bond.

(2) The Commissioner-General may remit the duty on samples taken in terms of subsection (1).

(No. 18 of 1960)

68. (1) If the Commissioner-General is satisfied that-Remittal of duty on certain warehoused goods which are destroyed, etc.

(a) goods were destroyed by accident or lost by accident without going into consumption whilst in a bonded warehouse or place deemed to be a bonded warehouse in terms of subsection (5) of section fifty-eight or whilst in transit to a bonded warehouse or whilst in transit for export in bond or when removed from a bonded warehouse in terms of sub-paragraph (i) of paragraph (a) of subsection (3) of section fifty-eight; and

(b) every reasonable effort was made and precaution taken to prevent their loss or destruction;

the Commissioner-General shall remit the duty payable on the goods.

(2) The Commissioner-General shall remit the duty due upon warehoused goods which, with his consent-

(a) are destroyed by the owner or other person having control of the goods under the supervision of a proper officer; or

(b) are given up to the control of a proper officer in whole packages to avoid the payment of the duty.

(No. 18 of 1960)

69. (1) If an importer, instead of paying duties on any goods or depositing such goods in a bonded warehouse or other place approved by the Commissioner-General in terms of section fifty-seven, wishes to remove such goods in bond to any other port of entry within Zambia or to export such goods in bond to some place beyond the borders of Zambia, he shall-Removal of goods in bond to any other port of entry or any other country

(a) give a bond with sufficient surety to the satisfaction of the proper officer conditioned for the payment of the duties on such goods unless evidence of removal or export acceptable to the Commissioner-General is produced within a reasonable time to be stated in the bond; or

(b) make a deposit in cash of not less than the amount of duty leviable upon the goods in question pending production by him within a reasonable period of evidence of removal or export acceptable to the Commissioner-General.

(2) The method and means whereby goods are removed in bond in terms of subsection (1) shall be subject to such conditions and restrictions as may be prescribed.

(As amended by G.N. No. 407 of 1963 and Act No. 16 of 1964)

70. The Government and the Authority shall in no case be liable for any loss or damage of whatsoever nature to any goods lodged in any warehouse appointed or licensed in terms of this Part or through wrong delivery of such goods.

(As amended by Act No. 16 of 1996)Responsibility for goods placed in a bonded warehouse

PART VII ORDINARY DUTIES AND DUMPING DUTIESPART VII

ORDINARY DUTIES AND DUMPING DUTIES

71. For the purposes of this Part, "goods produced" means goods which have not been submitted to any process of manufacture.Definition of production of goods

72. Subject to the provisions of section seventy-nine, there shall be charged, levied, collected, and paid in respect of goods imported into Zambia customs duties at the rates specified in the customs tariff set out in the First Schedule, in this Act referred to as the customs tariff.

(As amended by G.N. No. 407 of 1963, Acts No. 16 of 1964 and No. 21 of 1966)Customs duties

73. For the purposes of this Act, the country of origin of any manufactured goods shall be deemed to be the country in which the last process of manufacture has been performed.

(As amended by Act No. 21 of 1966)Determination of origin of manufactured goods

74. (1) In addition to any other duties payable under this Act, there shall be charged, levied, collected and paid in respect of goods imported into Zambia which are of a class or kind specified in the Third Schedule a dumping duty calculated in accordance with the provisions of this section.Dumping duties

(2) The amount of dumping duty payable under this section in respect of any goods shall be-

(a) in the case of goods for which there is an export price, an amount equal to the amount by which the domestic value of the goods exceeds the export price thereof;

(b) in the case of goods for which there is no export price, an amount equal to the domestic value of the goods; or

(c) in the case of goods for which there is no export price or domestic value, such amount as may be determined by the Commissioner-General.

(3) For the purposes of this section-

(a) "export price", in relation to any goods, means the price free on board at which the goods are sold by the exporter to the importer in Zambia;

(b) "domestic value", in relation to any goods, means the market price at which, at the time of exportation to Zambia, such or similar goods are freely offered for sale, for consumption in the country from which the goods are exported, to any purchaser trading at the same or substantially the same level of trade as that of the importer in Zambia, but shall not include any drawback of duty allowed or other taxation remitted by the government of that country on the exportation of the goods therefrom.

(Act No. 3 of 1966 as amended by Act No. 38 of 1966)

74A. (1) In addition to any other duty payable under this Act and subject to sections seventy-five and seventy-nine there shall be charged, levied, collected and paid in respect of goods imported into Zambia which are of a class or kind specified by the Minister, in a statutory instrument, countervailing duty calculated in accordance with this section. Countervailing duties

(2) The amount of countervailing duty payable under this section in respect of any goods shall be an amount equal to the amount of any export compensation, incentive, subsidy or other payment paid or payable to an exporter, manufacturer or supplier in respect of the export of the goods specified under subsection (1).

(As amended by Act No. 15 of 1994).

75. A dumping duty or countervailing duty imposed under the provisions of section seventy-four or seventy-four A shall not apply to goods admitted into Zambia under rebate of the ordinary duty in terms of subsection (1) of section eighty-nine.

(As amended by Act No. 15 of 1994) No dumping duty or countervailing duty on goods imported under rebate

76. There shall be charged, levied, collected, and paid in respect of goods manufactured or produced within Zambia excise duties at the rates specified in the excise tariff set out in the Second Schedule, in this Act referred to as the excise tariff.

(As amended by G.N. No. 407 of 1963, G.N. No. 143 of 1964 and Act No. 16 of 1964) Excise duties

76A. There shall be charged, levied, collected and paid in respect of goods imported into Zambia excise duties at the rates specified in the excise tariff set out in the Second Schedule.

(As amended by Act No. 20 of 1992) Payment of excise duties on imported goods.

77. There shall be charged, levied, collected, and paid in respect of goods which are imported into or manufactured or produced in Zambia surtax at the rates specified in the surtax tariff set out in the Fourth Schedule, in this Act referred to as the surtax tariff.

(As amended by G.N. No. 407 of 1963, G.N. No. 143 of 1964 and Act No. 16 of 1964) Surtax

78. Any duties of surtax in respect of cigarettes shall be assessed in respect of each separate immediate container of cigarettes. Assessment of surtax on cigarettes

79. The duties imposed under the provisions of this Act shall be subject to all the provisions of this Act relative to agreements, suspensions, rebates, refunds, drawbacks, or remissions of duty, or to the warehousing of goods. Duties shall be subject to certain provisions

80. For the purposes of sections seventy-two, seventy-six and seventy-seven, and notwithstanding the provisions of the Bank of Zambia Act, rates specified may be for or include an amount representing a fraction of an ngwee: Rates may include an amount representing a fraction of an ngwee.
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Provided that where the duty calculated on the basis of such rates includes an amount representing a fraction of an ngwee, such fraction shall not be treated as part of the duty to be charged, levied or collected.

(Act No. 15 of 1968)

PART VIII AGREEMENTS PART VIII

AGREEMENTS

81. (1) The President may conclude agreements with the government of any country, under such conditions as he may consider necessary, whereby, in consideration of the extension by that government of privileges in respect of goods grown, produced or manufactured in, or imported into its territory from, Zambia, concessions as to, or exemptions from, the duties normally payable may be allowed in respect of goods grown, produced, or manufactured in, or imported from, a territory of that government. President may enter into customs agreements

(2) Any concession as to, or exemption from, duty referred to in subsection (1) may be made or granted with retrospective effect if the President deems it expedient to do so.

(No. 7 of 1959 as amended by G.N. No. 407 of 1963)

82. The Minister may, by statutory instrument, make regulations in order to give effect to any agreement concluded in terms of this Act.

(As amended by G.N. No. 407 of 1963 and S.I. No. 173 of 1965) Minister may make regulations to give effect to agreements

83. The provisions of any agreement concluded in terms of this Act or any regulation relative to such agreement shall have force and effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law or instrument having effect by virtue of any law.

Provisions of agreements and regulations to prevail when inconsistent with this Act or any other law

84. Any suspension, rebate, or remission of duty granted in terms of section eighty-nine in respect of any duty in the customs tariff may be extended in whole or in part by the Minister by regulation to any corresponding special rate of duty which may be applicable under an agreement to goods grown, produced, or manufactured in any particular country. Such suspensions, rebates, or remissions of duty may in like manner be amended or repealed.

(As amended by G.N. No. 407 of 1963 and S.I. No. 173 of 1965) Minister may suspend, rebate, or remit duties payable under an agreement

PART IX VALUE FOR DUTY PURPOSES PART IX

VALUE FOR DUTY PURPOSES

85. (1) For the purposes of assessing the amount of any customs duty or surtax payable ad valorem on any goods imported into Zambia, the sum of the cost price and the other costs, charges and expenses, as calculated in accordance with subsections (2) and (3) respectively, shall be accepted as the value of such goods at the time when the duty or surtax become payable. Value for duty purposes

(2) In respect of the cost price of any goods-

(a) the Commissioner-General shall accept the price declared by the importer if he is satisfied that it represents a bona fide sale in the open market between a buyer and seller acting independently of each other, and may accept a reasonable price in any case where he is satisfied that the goods are of a kind, type or design substantially different from those sold in the open market in the country of exportation; or

(b) in any case other than those provided for in paragraph (a), the cost price shall be the price which such goods, or similar goods, would, in the opinion of the Commissioner-General, fetch, at the time of their exportation to Zambia, in the country of exportation, on a sale in the open market between a buyer and seller acting independently of each other, the buyer being a person trading at the same level of trade in that country as that of the importer in Zambia, but shall not include any drawback of duty allowed or other taxation remitted by the government of that country on the exportation of the goods therefrom.

(3) In respect of the other costs, charges and expenses, the Commissioner-General shall satisfy himself that due account has been taken of all bona fide costs, charges and expenses incidental to the sale and to the delivery of the goods up to the time of importation into Zambia, including any of the following, as applicable-

(a) carriage and freight;

(b) insurance;

(c) commission;

(d) brokerage;

(e) costs, charges and expenses of drawing up outside Zambia documents incidental to the introduction of the goods into Zambia, including consular fees;

(f) duties and taxes applicable outside Zambia except those from which the goods have been exempted or have been or will be relieved by means of refund;

(g) cost of containers excluding those which are treated as separate articles for the purpose of levying duties; cost of packing (whether for labour, materials or otherwise);

(h) loading charges; and

(i) fluctuations in rates of foreign exchange:

Provided that any abnormal costs, charges or expenses incidental to the importation (other than the cost price) incurred as the result of a state of war, strikes, lock-outs, riot or civil commotion shall not be regarded as forming part of the value for duty purposes.

(4) For the purposes of this section-

(a) a sale in the open market between a buyer and a seller independent of each other pre-supposes-

(i) that the price is the sole consideration;

(ii) that the price includes the value of the right, if any, to use the patent, design or trade mark in respect of the goods;

(iii) that the price paid is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, other than the relationship created by the sale of the goods in question; and

(iv) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him;

(b) 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 person has an interest in the business or property of both of them;

(c) "country of exportation" in relation to any particular goods, means the country where the goods are physically held prior to export to Zambia, but does not include any country through which such goods may pass in transit to Zambia.

(5) If the value of any goods according to the provisions of this section is in excess of one kwacha but is not an exact number of kwacha, then, for the purposes of assessing the amount of duty payable, such value shall be calculated to the nearest kwacha, and for this purpose, the amount of fifty ngwee shall be deemed to be less than one-half of one kwacha:

Provided that-

(i) if the values of individual items of goods are less than one kwacha, such values shall be entered to the nearest ngwee; and

(ii) where goods are imported by post or as passengers' baggage, the value for the purposes of assessing duty shall be the value as declared, subject to such values being in conformity with the requirements of subsection (1).

(As amended by Acts No. 14 of 1984 and No. 4 of 1987)

86. The Commissioner-General may determine the rate at which the value for duty purposes calculated in terms of section eighty-five, and any export price or domestic value calculated in terms of section seventy-four, shall be converted to Zambian currency, where such values and prices have been expressed in the currency of another country.

(Act No. 1 of 1971)Rate of exchange

87. (1) In this section-

"factory cost" means-

(a) the sum of all the costs, direct and indirect, incurred by the manufacturer in the manufacture, finishing and packing of goods-

(i) before their removal from the licensed premises of the manufacturer; or

(ii) or use in the manufacture of other goods on the licensed premises of the manufacturer; and

(b) includes, in the case where the goods are manufactured on behalf of another person from material supplied by or on behalf of such person, the cost of the material supplied by or on behalf of that person and any costs incurred in delivering that material to the licensed premises of the manufacturer;

"goods" means goods subject to excise duty or surtax;

"selling price" means the price at which the manufacturer sells any goods in the ordinary course of trade to merchants in Zambia for warehousing without payment of the excise duty or surtax thereon. Value for purposes of excise duty and surtax on goods manufactured in Zambia

(2) The value for the purposes of assessing the amount of excise duty or surtax payable on goods manufactured in Zambia shall be the value as determined by the Commissioner-General from time to time (hereinafter in this section called the dutiable value).

(3) The value for the purposes of assessing the amount of excise duty on goods imported into Zambia shall be the value for duty purposes as determined under

section eighty-five plus any customs duty payable on those goods.

(4) In determining the dutiable value the Commissioner-General shall have regard to any information supplied to him by the manufacturer or any other information available to him and shall, as far as practicable in the light of such information, determine the dutiable value as-

(a) the factory cost plus twenty-five per centum of such cost or such percentage as may be prescribed in relation to any class of goods; or

(b) the selling price, if any, if that price is greater than the amount referred to in paragraph (a).

(5) The manufacturer of goods shall, within one month after the receipt of a request from the Commissioner-General or within such further period as the Commissioner-General may allow, submit to the Commissioner-General a declaration in such form as the Commissioner-General may require giving an analysis of-

(a) the factory cost; and

(b) the amount by which the factory cost is exceeded by-

(i) the selling price, if any; and

(ii) the price including the excise duty or surtax, if any, at which the manufacturer sells the goods in the ordinary course of trade to merchants in Zambia.

The declaration shall be prepared at the expense of the manufacturer by an accountant or auditor approved by the Commissioner-General and shall be signed by the manufacturer and accountant or auditor who prepared it.

(6) The Commissioner-General shall, if-

(a) the declaration submitted to him in terms of subsection (5) is in his opinion satisfactory; and

(b) it appears to him that the determination made in terms of subsection (2) was incorrect;

again determine the dutiable value in accordance with the provisions of subsection (4).

(7) If the declaration referred to in subsection (4) is-

(a) not submitted in accordance with the provisions of that subsection; or

(b) submitted but is, in the opinion of the Commissioner-General, deficient, inaccurate or for any other reasons unsatisfactory;

the Commissioner-General shall reconsider the determination made in terms of subsection (2) in the light of such information as may be available to him and, if it appears to him in the light of that information that the determination made in terms of that subsection was incorrect, he shall again determine the dutiable value in accordance with the provisions of subsection (4).

(8) If, by virtue of any determination made in terms of subsection (6) or (7),

the dutiable value of any goods is less than the dutiable value determined in terms of subsection (2), any excess of excise duty or surtax which has been paid on such goods shall be refunded to the manufacturer notwithstanding anything contained in section ninety-two.

(No. 36 of 1962 as amended by G.N. No. 407 of 1963, Acts No. 20 of 1992 and No. 16 of 1996)

88. The value for customs purposes of any goods exported from Zambia shall be-

(a) the selling price free on board at the place of despatch or port of shipment in Zambia, including the cost of packing and packages;

(b) in the case of goods for which there is no local selling price, the price realised less the cost of freight, railage, insurance, and charges other than packing incidental to placing the goods on board a ship, aircraft or vehicle; or Value of exported goods

(c) in the case of goods for which there is no selling price, the value assessed by the Commissioner-General.

(As amended by G.N. No. 407 of 1963 and Act No. 2 of 1975)

PART X REBATES, REFUNDS, AND REMISSIONS OF DUTY PART X

REBATES, REFUNDS, AND REMISSIONS OF DUTY

89. (1) The Minister may, by regulation-Suspension and rebate of certain duties

(a) suspend or provide for the suspension of the whole or any part of the duty on any goods;

(b) grant or provide for the grant of a drawback, refund, rebate or remission of the whole or any part of the duty on any goods;

in such circumstances, subject to such conditions and to such extent as may be provided by or determined under the regulations.

(2) Regulations under this section suspending any duty or granting a drawback, refund, rebate or remission of duty may, if the Minister deems it expedient to do so, be made with retrospective effect.

(3) In regulations made in terms of this section providing for the grant of a drawback, remission or rebate of duty, the Minister may make provision for the payment of a fee upon-

(a) the registration of a person in terms of such regulations as a manufacturer under rebate; and

(b) the registration of a person in terms of such regulations as a user of spirits under rebate; and

(c) the authorisation of a person in terms of such regulations as a user of spirits under rebate;

and for the payment of an annual fee by any person who is so registered or authorised.

(As amended by No. 24 of 1955, Nos, 16, 20 and 29 of 1956, No. 15 of 1958, No. 18 of 1960, No. 4 of 1962, No. 3 of 1963, G.N. No. 407 of 1963, G.N. No. 13 of 1964, Act No. 16 of 1964, S.I. No. 173 of 1965, Acts No. 30 of 1965 and No. 21 and 54 of 1966)

90. When any claim is made for exemption from or drawback, rebate, refund, or remission of any duty, fee, or charge in accordance with the provisions of this Act, the burden of proof shall lie upon the claimant to show that he is entitled to such exemption, drawback, rebate, refund, or remission. Claims for exemption; burden of proof on claimant

91. A rebate, remission, or refund of any duty shall be granted on goods imported into or acquired from duty-paid stocks or stocks in bond within Zambia for the use of the President.

(As amended by G.N. No. 407 of 1963) Goods for President to be exempt from duty

92. (1) Except as otherwise provided in this Act, refunds of duty shall only be made in accordance with the provisions of this section. Refunds generally

(2) Applications for refund of duty overpaid shall be presented to an officer in the form prescribed, and if he considers that an application is based on reasonable grounds, such officer shall submit to the Commissioner-General for consideration.

(3) If the Commissioner-General is satisfied that the applicant has paid duty exceeding the amount due, he may authorise refund to be made to the applicant of the amount overpaid:

Provided that the Commissioner-General may, before authorising any refund to be made to the applicant, require that the applicant should produce sufficient evidence or give satisfactory assurance that he has remitted or shall remit to the purchaser of the goods the amount of such refund.

(4) No refund of duty paid in excess or in error shall be granted in terms of this section unless the application therefor is received by an officer within a period of two years from the date when such duty was paid.

(As amended by No. 18 of 1960 Act No. 2 of 1975 7 of 1974, and 1 of 1980)

PART XI EXCISE AND SURTAX MANAGEMENT PART XI

EXCISE AND SURTAX MANAGEMENT

93. (1) Subject to the provisions of subsection (2), no person shall manufacture on any premises any of the goods set out in the excise tariff or the surtax tariff or any potable liquid, other than honey beer, containing more than two per centum of alcohol by volume otherwise than in accordance with the conditions of a licence or whilst the licence authorising him to manufacture the goods or liquid is suspended. Licence to manufacture or produce goods liable to excise or surtax

(2) A licence to distil spirits shall entitle the licensee to distil or produce all types of spirits and wine, and a licence to manufacture tobacco shall entitle the licensee to manufacture cigarettes, cigarette tobacco, pipe tobacco, cigars and snuff, and a licence to manufacture hydrocarbon oils shall entitle the licensee to manufacture, produce or treat all by-products of hydrocarbon oils, but in every other case where more than one of the commodities set out in the excise tariff or the surtax tariff are manufactured, mixed, brewed, distilled or produced on any premises, separate licences shall be required in respect of each commodity.

(3) Every licence shall, whenever issued or renewed, expire on the 31st December in the year in respect of which it was issued.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and, in addition to any other penalty which may be imposed, all goods subject to excise duty or surtax, whether or not such duty or surtax has been paid, and all machinery, utensils, and materials for the manufacture of such goods found in his possession or on the premises not licensed under the provisions of this section shall be liable to forfeiture.

(As amended by Acts No. 16 of 1956, No. 18 of 1960, No. 4 of 1962, No. 16 of 1964, No. 24 of 1973, and No. 25 of 1988)

94. (1) An applicant for a licence shall-Applications for licences:
information to be supplied by applicant, etc.

(a) make application in writing to the Commissioner-General; and

(b) furnish such information as to-

(i) the nature of the goods liable to excise duty or surtax which the applicant proposes to manufacture; and

(ii) the process of manufacture which the applicant proposes to adopt; and

(iii) the premises at which and the machinery and equipment with which the goods liable to excise duty or surtax are to be manufactured;

as the Commissioner-General may require.

(2) The Commissioner-General may refuse to issue a licence to an applicant unless the applicant has submitted to the Commissioner-General a list in the appropriate form describing in such detail as the Commissioner-General may require-

(a) the machinery, equipment and vessels capable of use in connection with the manufacture of goods liable to excise duty or surtax to be kept or installed in each room, building or other place at the applicant's premises and the purpose for which each piece of machinery, equipment and vessel is to be used; and, additionally or alternatively;

(b) the rooms, buildings and other places at the applicant's premises to be used for or in connection with the manufacture of goods liable to excise duty or surtax and the nature of the operations to be carried out in each room, building and other place.

(3) The Commissioner-General may, at the request of a manufacturer of goods

liable to excise duty or surtax, amend at any time the list submitted by the manufacturer in terms of subsection (2).

(4) If-

(a) machinery, equipment or vessels capable of use in connection with the manufacture of goods liable to excise duty or surtax which are not described in a list submitted in terms of subsection (2) or a list amended in terms of subsection (3) are brought into, kept or installed in the licensed premises in respect of which the list was submitted; or

(b) machinery, equipment or vessels described in a list such as is referred to in paragraph (a) are-

(i) kept or installed in a room, building or other place on the licensed premises in respect of which the list was submitted which, according to the list, is not a room, building or other place where they are to be kept or installed; or

(ii) used for any purpose other than the purpose described in the list; or

(c) goods liable to excise duty or surtax are manufactured in a room, building or other place at the licensed premises in respect of which a list such as is referred to in paragraph (a) was submitted which, according to the list, is not a room, building or other place to be used for that purpose;

the licensee shall be guilty of an offence:

Provided that the provisions of this subsection shall not apply in relation to anything done with the permission of a proper officer or in accordance with the instructions given in terms of section one hundred and fourteen.

(No. 18 of 1960)

95. (1) A person shall not keep or use a still unless-Still's kept or used otherwise than for the manufacture of spirits

(a) he is licensed to distil spirits; or

(b) he-

(i) is the holder of a certificate referred to in paragraph (b) of subsection (2); and

(ii) keeps and uses the still in accordance with the conditions fixed by the Commissioner-General in terms of paragraph (a) of subsection (2).

(2) The Commissioner-General-

(a) may authorise the keeping or use of a still for the purpose of-

(i) the manufacture of goods other than spirits; or

(ii) the performance of laboratory work, analysis and experiments, including experiments in the manufacture of spirits, and the purification of alcohol for those purposes;

in accordance with such conditions as the Commissioner-General may in each case fix; and

(b) shall issue a certificate of registration in respect of any still the keeping and use of which he has authorised in terms of paragraph (a); and

(c) may cancel the certificate of registration issued in respect of any still which is kept or used otherwise than in accordance with the conditions fixed by him in terms of paragraph (a); and

(d) may remit the duty on spirits produced by the holder of a certificate of registration when using a still for the purposes specified in sub-paragraph (ii) of paragraph (b) of subsection (1).

(No. 18 of 1960)

96. (1) Notwithstanding anything to the contrary contained in this Act, and subject to the provisions of this section, any person may manufacture for his own personal or domestic use, but not for sale or disposal for profit to any other person, the following goods: Exemption from licensing requirements and from payment of duty in certain circumstances

(a) fermented liquor, other than opaque beer, containing more than three per centum of proof spirits; and

(b) tobacco in the form of cigars, cigarettes, pipe tobacco or snuff when made from manufactured tobacco on which duty has been paid or from roll tobacco.

(2) A licence shall not be required in respect of the premises on which such goods are manufactured in terms of subsection (1) and goods manufactured and consumed in terms of that subsection shall not be liable to duty.

(3) Any person who sells or disposes of for profit goods manufactured in terms of subsection (1) shall be guilty of an offence.

(4) Nothing in this section shall be deemed to affect the operation of any provision in any law relating to the manufacture, sale or consumption of any goods mentioned in subsection (1).

(No. 22 of 1959 as amended by No. 36 of 1962, G.N. No. 407 of 1963 and Act No. 16 of 1964)

97. (1) Notwithstanding anything to the contrary contained in this Act, the Commissioner-General may, subject to the provisions of this section and the provisions of any rules made by the Commissioner-General, authorise a person to manufacture for experimental purposes but not for sale or disposal for profit the following goods: Power of Commissioner-General to authorise the manufacture of certain goods for experimental purposes

(a) cigarettes;

(b) pipe tobacco;

(c) cigarette tobacco;

(d) cigars.

(2) A licence shall not be required in respect of the premises on which goods referred to in subsection (1) are manufactured in terms of that subsection and such goods shall not be liable to duty if they are disposed of in terms of rules made by the Commissioner-General.

(3) If a person who is authorised by the Commissioner-General in terms of subsection (1) to manufacture goods referred to in that subsection fails to comply with the provisions of rules made by the Commissioner-General, the Commissioner-General may cancel the authority granted by him in terms of subsection (1).

(4) Any person authorised by the Commissioner-General in terms of subsection (1) to manufacture the goods referred to in that subsection who sells or disposes of such goods otherwise than in accordance with rules made by the Commissioner-General shall be guilty of an offence.

(No. 4 of 1962 as amended by No. 3 of 1963)

98. (1) Notwithstanding anything to the contrary contained in this Act, and subject to the provisions of this section, any person may manufacture for his own personal or domestic use or for sale or disposal for profit to any other person opaque beer if such opaque beer is fermented in vessels not exceeding the prescribed capacity. Manufacture and disposal of opaque beer without licence in certain cases

(2) A licence shall not be required in respect of the premises on which opaque beer is manufactured in terms of subsection (1) and opaque beer manufactured, consumed or disposed of in terms of that subsection shall not be liable to duty.

(3) Nothing in this section shall be deemed to affect the operation of any provision in any other law relating to the manufacture, sale or consumption of any beer mentioned in subsection (1).

(Act No. 16 of 1964)

99. The Commissioner-General shall have a discretion to refuse any application for a new licence, and the applicant shall have the right of appeal against such refusal to the Minister, whose decision shall be final.

(As amended by G.N. No. 407 of 1963 and Act No. 16 of 1996) Refusal of licence

100. (1) The Commissioner-General shall have a discretion to refuse to renew the licence of any person who has contravened any provision of this Act or has failed to comply with any rule made by the Commissioner-General in terms of this Act, and may at his discretion cancel any current licence which has been issued to such a person. Refusal and cancellation of licences when offences have been committed

(2) Any contravention of this Act by a manager or responsible representative of the applicant or licensee or any failure by such a person to comply with any rule made by the Commissioner-General in terms of this Act shall be deemed to be a contravention or failure by the applicant or licensee.

(3) The applicant or licensee shall have a right to appeal to the Minister against any action taken by the Commissioner-General in terms of this section and the decision of the Minister shall be final.

(As amended by No. 18 of 1960 and G.N. No. 407 of 1963 and Act No. 16 of 1996)

101. (1) If the holder of any licence fails to carry out any duty imposed upon him by this Act with respect to his premises or any buildings, appliances, stock books, or the like, or the mode of conducting his business, the Commissioner-General, after having given one month's notice in writing requiring the omission to be rectified or the irregularities to be corrected, may, upon failure by the licensee to comply with the notice, declare in writing that the licence is suspended, and such suspension shall continue until withdrawn by the Commissioner-General upon full compliance with the requirements of the law. Suspension of licence

(2) If the requirements of the law are not complied with within a period to be specified by the Commissioner-General, the licence may be cancelled by him.

102. (1) A licence entitling a person to manufacture goods subject to excise duty or surtax shall not be issued until the applicant therefor has entered into a bond, with sufficient surety to be approved by the Commissioner-General, in a sum likewise to be approved, for the security of excise duty or surtax or both excise duty and surtax and for compliance with the provisions of this Act. Licensee to enter into a bond

(2) The conditions of the bond shall be that the applicant-

(a) shall not engage in any attempt by himself or in collusion with others to defraud the Government of any duty or surtax on any goods manufactured by him;

(b) shall render truly and completely all the returns, statements, and inventories prescribed or required under any of the provisions of this Act;

(c) shall in all respects comply with all the requirements of this Act with respect to the manufacturing of goods liable to excise duty or surtax and shall pay such duty or surtax as and when required under the provisions of this Act; and

(d) shall comply with such other conditions as the Commissioner-General may require.

(3) The Commissioner-General may at his discretion at any time require additional or new security to be given.

(As amended by No. 16 of 1956)

103. (1) A licence shall not be granted in respect of any premises which appear to the Commissioner-General from their situation or otherwise, with reference to surrounding buildings or places of business, to be so constructed or arranged as to endanger the collection of revenue. Conditions to grant of licence

(2) A licence shall not be granted in respect of any premises unless the premises are situated within sixteen kilometres of a town in which a custom house is situated:

Provided that the Commissioner-General may grant a licence in respect of premises situated at a greater distance than that so specified if the applicant for a licence provides suitable office accommodation, free of rent, for an officer to supervise the premises and satisfactory board and lodging for and at

a reasonable charge to such officer, or if other arrangements are made to the satisfaction of the Commissioner-General for the safeguarding of revenue.

(As amended by No. 18 of 1960)

104. A licence may be transferred by the Commissioner-General to an approved successor of the licence holder carrying on the business upon the same premises. Transfer of licence

105. If the holder of a licence obtains the permission of the Commissioner-General to remove his business to other premises, approved as hereinbefore provided, such change of premises may be noted by the Commissioner-General on the licence, and such licence shall thereafter apply to the new premises. Change of premises

106. Every holder of a licence shall have his name securely affixed in a conspicuous place on the outside of the licensed premises in legible letters of at least five centimetres in height. Name of licensee to be exhibited on premises

107. Unless he has obtained the written permission of the Commissioner-General to do so, no manufacturer shall carry on any business on premises licensed in terms of section ninety-three other than the business for which the licence was issued. No other business to be carried on on licensed premises

108. (1) Every manufacturer of goods liable to excise duty or surtax shall—Books to be kept and returns to be rendered by persons engaged in the manufacture of commodities liable to excise duty or surtax

(a) keep a book in which shall be clearly recorded in the English language an account of all goods manufactured or partially manufactured by him during each month, the quantity sold, used or otherwise disposed of, the excise duty paid thereon, and the quantity on hand at the end of the month and, if such information is required by the Commissioner-General, the names and addresses of the persons to whom the goods have been sold or delivered, and, in addition, every manufacturer of tobacco shall keep an accurate account of all receipts of raw or leaf tobacco, whether in the leaf or other form, and disposals thereof, whether in the form of manufactured tobacco or not, in respect of each month, and the stock on hand at the end of each month;

(b) if he is a manufacturer of tobacco, transmit to the proper officer, on or before the twentieth day of each month, a correct and legible return, in duplicate, in the form approved by the Commissioner-General, of the quantity of goods manufactured by him and the quantity of manufactured tobacco which was manufactured by him during the previous month, the quantity of such goods removed from his licensed premises or otherwise disposed of during that month, the quantity of such goods on hand at the end of that month, the quantity of raw or leaf tobacco or manufactured tobacco received by him during that month, and the quantity of such tobacco removed from his licensed premises or otherwise disposed of during that month;

(c) if he is not a manufacturer of tobacco, transmit to the proper officer, on or before the twentieth day of each month, a correct and legible return, in duplicate, in the form approved by the Commissioner-General, of the quantity of goods manufactured or partially manufactured by him during the previous month, the quantity of such goods removed from his licensed premises or otherwise disposed of during that month, and the quantity of such goods on hand at the end

of that month;

(d) remit to the proper officer, with the return referred to in paragraph (b) or (c), the amount of duty payable in respect of the goods which are specified in the return as having been removed from his licensed premises or otherwise disposed of during the period to which the return and particulars relate:

Provided that-

(i) subject to the approval of the Commissioner-General and to such conditions as he may fix, manufactured or partially manufactured goods, including manufactured tobacco, intended for further manufacture or for blending or packing may be removed without payment of duty from any licensed premises to any other licensed premises;

(ii) the Commissioner-General shall not approve in terms of proviso (i) of the removal of-

A. wines;

B. spirits; or

C. goods on which a rebate has been granted in terms of section eighty-nine

(2) The provisions of subsection (1) shall be applied, mutatis mutandis, to the manufacture, production or treatment of hydrocarbon oils, save that the remittance of duty payable to the proper officer shall fall due on the third day following the week of manufacture, production or treatment, or such other period as the Commissioner-General may determine.

(3) A manufacturer who uses any goods mentioned in the excise tariff or the surtax tariff, which have been manufactured upon his licensed premises, in the manufacture of other goods upon those premises shall pay the excise duty or surtax on the goods so used in addition to any other duty which may be payable on the finished product and shall, in respect of the goods so used, comply with the provisions of subsections (1) and (2):

Provided that the provisions of this subsection shall not apply where-

(a) a licensee uses-

(i) spirits produced on his licensed premises for the manufacture upon those premises of spirits (other than synthetic or imitation brandy, gin or rum) as defined in paragraph (c) of the definition of that term in section two;

(ii) wines produced on his licensed premises in the manufacture upon the premises of other wines;

(iii) soap manufactured on his licensed premises for the manufacture upon such premises of other soaps;

(iv) cells manufactured on his licensed premises for the manufacture upon such premises of electric dry batteries; or

(b) a tobacco manufacturer uses tobacco manufactured upon his licensed premises in the manufacture upon those premises of cigars, cigarettes, pipe

tobacco or snuff; or

(c) appropriate rebate or remissions of duty have been granted in terms of section eighty-nine.

(As amended by No. 16 of 1956, No. 20 of 1957, No. 22 of 1959, No. 4 and 18 of 1960, No. 36 of 1962 and No. 3 of 1963 and No 24 of 1973)

109. Every manufacturer of goods liable to excise duty or surtax shall keep such book as is required by section one hundred and eight on his premises at all times accessible to an officer for his inspection, shall allow such officer at any time to inspect it or to make notes therefrom or to remove it if he considers it necessary to do so, and shall allow him to enter any part of the premises and take account of the materials used or to be used in the manufacture of such goods. Books to be kept on licensed premises

110. Any person paying any excise duty or surtax shall, when making such payment, present to an officer a bill of entry in the prescribed form, together with such additional copies of such bill of entry as may be required by that officer.

(Act No. 1 of 1971) Submission of bill of entry when payment of excise duty or surtax is made

111. When a surplus is found on licensed premises in the stock of goods liable to duty, the manufacturer shall forthwith pay duty on so much of the surplus as is not accounted for to the satisfaction of the Commissioner-General.

(No. 18 of 1960 and No. 16 of 1996) Duty to be paid on surplus stock

112. (1) When a deficiency is found on licensed premises in the stock of goods liable to excise duty or surtax, the manufacturer shall, subject to the provisions of this Act, forthwith pay duty on the amount of the deficiency less any allowance which may be granted in accordance with the provisions of this Act. Duty to be paid in respect of deficiency in stock, etc.

(2) If the Commissioner-General is satisfied that-

(a) goods liable to duty were-

(i) lost in the course of and by reason of the process of their manufacture; or

(ii) destroyed by accident, or lost by accident without going into consumption, in the course of manufacture; or

(iii) destroyed by accident or lost, by accident or otherwise, without going into consumption, in the course of manipulation;

in or at a place on licensed premises which is not a place deemed to be a warehouse in terms of subsection (5) of section fifty-eight; or

(b) wines or spirits liable to excise duty or surtax were destroyed by accident or lost, by accident or otherwise, without going into consumption, whilst in a wine or spirit store or a place on licensed premises set aside for the ageing of wines or spirits; or

(c) goods liable to excise duty or surtax were destroyed by accident or lost, without going into consumption, whilst in transit in bond or in transit for export in bond or under a non-duty paid warrant for their removal;

and that every reasonable effort was made and precaution taken⁷ to prevent their loss or destruction, the Commissioner-General shall remit the duty or the excise duty or surtax, as the case may be, payable on the goods.

(No. 18 of 1960)

113. (1) An officer may at all times enter and search any premises licensed in terms of section ninety-three or the premises of any person who sells goods liable to excise duty or surtax or who is suspected of manufacturing or selling such goods in contravention of or without complying with the provisions of this Act, and may seize upon such premises any goods, together with all books, accounts, or documents relating thereto, in respect of which a contravention of or non-compliance with this Act is suspected of having taken place. Entry and search of premises

(2) An officer may either remove such goods or, pending removal, seal the premises in which they are contained.

114. (1) The proper officer may give instructions in writing to any manufacturer specifying in what parts of licensed premises and under what conditions-Where processes in licensed premises are to be carried out and goods kept

(a) any process in the manufacture is to be carried on; and

(b) materials for use in manufacture and manufactured goods liable to excise duty or surtax respectively are to be kept.

(2) A manufacturer who fails to comply with such instructions shall be guilty of an offence.

115. (1) An officer may supervise any operation connected with the manufacture or disposal of goods liable to excise duty or surtax. Supervision of operations

(2) All premises, machinery, utensils, pipes and vessels used for the purposes of manufacturing goods liable to excise duty or surtax shall be-

(a) of a pattern or type approved by the Commissioner-General; and

(b) installed, marked, numbered and distinguished in accordance with the provisions of regulations.

(No. 18 of 1960)

116. For the purpose of calculating the full quantity of goods liable to excise duty or surtax which have been produced on any licensed premises, tables may be prescribed showing the quantity of such goods which shall be deemed to have been produced from a given quantity of material, or the quantity of fully manufactured goods which shall be deemed to have been produced from a given quantity of partly manufactured goods. Tables for calculating quantities of goods liable to excise duty or surtax

117. Every manufacturer of goods liable to excise duty or surtax shall

provide free of charge such lighting, office accommodation, equipment, assistance and other facilities as may be prescribed to enable officers to exercise their powers of inspection and supervision under this Act. Obligations of manufacturers of goods liable to excise duty or surtax

118. (1) The Commissioner-General may require a licensee to provide any store or room and to lock or secure any warehouse, storeroom, place, still, vessel, utensil, or fitting, or to provide and affix a prescribed meter to any vessel or pipe on the licensed premises, and such licensee shall, to the satisfaction of the proper officer, provide, affix, repair, and renew all plugs, cocks, taps, covers, fastenings, and other requisites for the purpose of enabling officers to affix locks or seals thereto or otherwise to secure the same. Licensee to provide storerooms, plugs, taps, etc.

(2) In the event of any failure on the part of the licensee to comply with the provisions of subsection (1), an officer may make good the defect at the expense of the licensee.

119. (1) If on any licensed premises any meter, rod, lock, key, or fitting is tampered with or damaged, or if any pipe, cock, fastening, or fitting connected with a safe, receiver, or charger is pierced or damaged, the licensee shall forthwith repair or renew the article in question to the satisfaction of the proper officer, or an officer may effect such repair or renewal at the expense of the licensee. Damages to locks, pipes, safes, etc.

(2) If on any licensed premises any goods liable to excise duty or surtax are lost as the result of any deliberate or negligent breakage of, tampering with, or damage to any of the articles mentioned in subsection (1) or to any lock or seal affixed by an officer on such premises, the licensee of such premises shall, in addition to liability for the cost of repair or renewal of such articles, lock, or seal, be liable for the payment of duty on any such lost goods.

(3) If on any licensed premises any person breaks, tampers with, or damages any of the articles mentioned in subsection (1) or any lock or seal affixed by an officer, he shall be guilty of an offence.

120. (1) Every distiller shall, before using any still for distilling any low-wines, feints, or spirits, erect and keep erected in his distillery a secure safe and receiver, or safes and receivers, for low-wines, feints, or spirits: Erection of safes, receivers, and requisites in connection therewith

Provided that where an alcoholometer is used the Commissioner-General may dispense with the necessity for receivers.

(2) The worm end of every still shall be enclosed in the safe erected in terms of subsection (1), and such safe shall communicate only by a closed metal pipe with the respective receivers for low-wines, feints, or spirits, or with the alcoholometer, when such is used.

(3) Every still, safe, and receiver and the pipes connected therewith shall be constructed and provided with fastenings, cocks, taps, or other requirements for the reception of revenue locks or rods to the satisfaction of the Commissioner-General.

(4) Only such rods and revenue locks and keys as shall be approved and provided by the Commissioner-General at the Authority's expense shall be used in any

distillery. Every safe and receiver shall be kept locked unless opened for a lawful purpose under the supervision of an officer.

(As amended by Act No. 16 of 1996)

121. (1) Every vat and butt, other than the receivers, required to be kept at any distillery for the reception of low-wines, feints, or spirits for redistillation shall be constructed and erected in accordance with regulations. Vats and butts

(2) The Commissioner-General may specify the conditions for the running off of low-wines, feints, or spirits from the receivers for redistillation and for the gauging and marking of all vats and other vessels.

122. The capacity of all distillery and refinery tanks, receivers, fixed vats, or butts, and of movable casks in a distillery shall be ascertained in such manner as shall be specified by the Commissioner-General, and all the weights and appliances necessary for that purpose shall be supplied by the distiller or refiner, as the case may be.

(As amended by Act No. 24 of 1973) Ascertaining capacity of distillery, refinery tanks, etc.

123. All spirits shall be deemed to be of the strength denoted by Gay Lussacs' hydrometer as approved and supplied by the Commissioner-General and as ascertained by an officer.

(As amended by Act No. 20 of 1992) Strength to be as denoted by Gay Lussacs' Hydrometer

124. (1) Every distiller shall provide at his distillery such suitable and secure spirits stores as may be required and approved by the Commissioner-General, and the said spirits stores shall be set apart solely for the storing of spirits distilled or blended in the distillery. Spirits store

(2) The spirits stores shall be placed under two locks, namely, a revenue lock, for which the distiller must provide at his own expense all necessary fastenings, and a private lock, the key of which shall be kept by the distiller.

(3) The spirits stores shall be kept locked at all times except when an officer is in attendance.

125. (1) All spirits distilled by a distiller shall be placed and kept in stores provided in terms of section one hundred and twenty-four and shall be conveyed directly from the spirit receiver to such stores. Receipt into spirits store

(2) Spirits which have been removed from the licensed premises of a distiller shall not be brought back into a spirits store.

126. (1) Every manufacturer of wines shall provide at his licensed premises a suitable and secure wine store approved by the Commissioner-General. Storing of manufactured wines

(2) The store shall be set apart solely for the storing of wines which have been produced on those licensed premises, and all wines produced on such premises by the manufacturer shall be conveyed directly to such store.

(3) The store shall be placed under two locks, namely, a revenue lock, for which the manufacturer must provide at his own expense all necessary fastenings, and a private lock, the key of which shall be kept by the manufacturer.

(4) The store shall be kept locked at all times except when an officer is in attendance.

(5) Wines which have been removed from the premises of a manufacturer shall not be brought back into any wine store.

127. Spirits shall not be removed from a spirits store and wine shall not be removed from a wine store until an officer has regauged every vessel of spirits or wine to be removed and until the duty thereon has been secured to the satisfaction of the Commissioner-General. Removal of and securing of duty on spirits or wines

128. If a distiller or a manufacturer of wine or any person employed by a distiller or manufacturer of wine opens or connives at the opening of the locks or doors of a spirits store or a wine store except in the presence of an officer, or removes any spirits or wine except as provided by law, or by any contrivance or device removes or conceals any spirits or wine, either before or after they are stored, he shall be guilty of an offence. Opening of store in the absence of an officer

129. On the last day of every month, or as soon as possible thereafter, an officer shall take stock of all spirits in a distillery and all wine upon the premises of a manufacturer of wine, and in the case of a refinery, stock of all hydrocarbon oils shall be taken on the third day following the week of manufacture, production or treatment.

(As amended by Act No. 24 of 1973) Officer to take stock periodically

130. (1) The Commissioner-General may, in writing and for such period as he may fix, exempt from all or any of the provisions of this Part regulating and controlling the manufacture of wine any manufacturer of wine from fruit grown within Zambia. Temporary exemption of manufacturers of wine from fruit grown within Zambia

(2) In granting exemption to a manufacturer of wine as provided in subsection (1), the Commissioner-General may-

(a) direct that the manufacturer shall comply with such terms and conditions as the Commissioner-General may fix; and

(b) make such amendments, adaptations and modifications to any provision of this Part regulating or controlling the manufacture of wine as may appear to him to be necessary to meet the circumstances of any particular case.

(3) The Commissioner-General may at any time with the approval of the Minister cancel any exemption granted to a manufacturer in terms of this section.

(4) A manufacturer of wine who fails to comply with any term or condition fixed by the Commissioner-General in granting exemption in terms of this section shall be guilty of an offence.

(5) The provisions of this section shall cease to have effect on a date to be

fixed by the Minister by statutory order, and thereafter the provisions of this Part regulating and controlling the manufacture of wine shall apply to every manufacturer of wine as if this section had not been enacted.

(No. 16 of 1956 as amended by G.N. No. 407 of 1963 S.I. No. 173 of 1965 and 4 of 1982)

131. A brewer shall not conceal any worts or beer so as to prevent an officer from taking an account thereof or, without the permission of an officer, add to worts or beer any substance which increases the quantity or gravity thereof after such quantity or gravity has been ascertained by an officer. Prohibitions in respect of brewing

132. A distiller shall not in his distillery-

(a) use or add to any worts, wash, low-wines, feints, or spirits any substance which interferes with the ascertaining by means of the prescribed saccharometer or hydrometer of their specific gravity or true strength;

(b) without the written permission of the proper officer previously obtained, have in his distillery any worts or wash not made in that distillery, or mix any worts or wash made in his distillery with worts or wash made elsewhere. Prohibitions in respect of worts, wash, low-wines, etc.

133. If any worts or wash, low-wines, feints, or spirits are found in any unauthorised part of any licensed premises, or in any vessels other than those duly marked and provided for their reception, or in any premises or place not authorised for their reception, they shall be liable to forfeiture and any person responsible for placing such articles in any unauthorised place, premises, or vessels shall be guilty of an offence. Spirits worts, etc., illicitly kept

134. Any person who-

(a) removes or permits to be removed from licensed premises any tobacco in respect of which any contravention of or non-compliance with this Act has taken place; or

(b) sells, offers or exposes for sale or has in his possession for sale, any tobacco in respect of which any contravention of or non-compliance with this Act has to his knowledge taken place;

shall be guilty of an offence. Removing or selling tobacco in respect of which any provision of this Act has been contravened to be an offence

135. Any person who, for the purpose of stamping any container of cigarettes, uses or supplies or offers to supply any stamp label other than a stamp label supplied by the Government for the purpose, or any stamp label so supplied but previously used, shall be guilty of an offence. Using or supplying unauthorised or previously used stamp labels to be an offence

136. A person shall not manufacture for sale within Zambia any cigarettes which weigh more than two kilograms per thousand cigarettes.

(As amended by G.N. No. 407 of 1963 and Act No. 1 of 1979) Restriction of weight of cigarettes which may be manufactured

137. Any person who removes, assists in, permits, or connives at the removal of any goods liable to excise duty or surtax from the premises of a manufacturer, except in accordance with the prescribed procedure, shall be guilty of an offence. Removal of goods liable to excise duty or surtax

138. (1) If a person licensed in terms of section ninety-three ceases to manufacture goods in respect of which the licence has been issued, or if his licence is not renewed or is cancelled, he shall, within one month of that date, render to the proper officer a true and complete return of his transactions since his last monthly return, and shall then and there pay the duty or surtax on the balance of his stock, on hand or disposed of, on which the duty or surtax has not previously been paid. Failing the rendering of such return or payment of duty, the proper officer shall seize such stock and sell by public auction so much thereof as will be sufficient to cover the duty or surtax payable on the whole quantity and the expenses in connection with the seizure and sale, and shall return the remainder of the stock, if any, to the manufacturer or to his representative: Procedure on the cessation of manufacture of goods liable to excise duty or surtax

Provided that if a licence has been cancelled or has not been renewed as a result of the non-compliance by the licensee with the provisions of this Act, the whole of the stock on hand at the time of the cancellation of the licence shall be liable to forfeiture.

(2) Nothing in this section contained shall be deemed to deprive the Government or the Authority of any right it may have against the property or the estate of the manufacturer or those of its sureties in respect of any duty which may remain unpaid after such sale or forfeiture as is provided for in subsection (1), nor shall such sale or forfeiture relieve the manufacturer of liability to prosecution under this Act.

(As amended by Act No. 16 of 1996)

139. An action shall not lie against the Government, the Authority or any person in their employment in respect of the loss of or damage to spirits or other goods liable to excise duty or surtax while stored in a receiver, spirits store, refinery tank, or warehouse, or in respect of any incorrect or improper delivery therefrom or thereto.

(As amended by Acts No. 24 of 1973 and No. 16 of 1996) Loss of goods liable to excise duty or surtax in warehouses

PART XII OFFENCES, PENAL PROVISIONS, AND PROCEDURE PART XII

OFFENCES, PENAL PROVISIONS, AND PROCEDURE

140. Any person who, on or after arriving in Zambia, is questioned by an officer as to whether he has upon his person or in his possession any goods, whether dutiable or otherwise, or goods the importation of which is prohibited or restricted, and who denies that he has any such goods upon his person or in his possession, or fails to mention any dutiable, prohibited, or restricted goods which he has upon his person or in his possession, shall be guilty of an offence if such goods are discovered to be or, at the time of the denial or of the statement, to have been upon his person or in his possession.

(As amended by G.N. No. 407 of 1963) False statements by persons arriving in Zambia

141. (1) Any person who-False invoices, false representation and forgery

(a) produces any false invoice or an invoice framed so as to deceive, or makes any false representation in regard to the nature, the quantity or the value of any goods or the country in which such goods were grown, produced, or manufactured;

(b) forges any document required under this Act or any law relating to customs or excise;

(c) under false pretences or with intent to defraud or to evade the provisions of this Act or any law relating to customs or excise or by making any false statement, affidavit, or declaration procures or attempts to procure any such document as is mentioned in paragraph (b);

(d) being required to make or render any report, statement, document, bill of entry, declaration, or return, or to supply any information demanded or asked for, or to answer any question, neglects or refuses to do so, or makes or renders any untrue or false report, statement, document, bill of entry, representation, declaration, return or answer, or conceals or makes away with any goods required to be accounted for by this Act or any law relating to customs or excise;

(e) imports or attempts to import, or assists in, or is accessory to, or connives at the importation or attempted importation of any goods illegally or without payment of the duty thereon; or

(f) deals with or assists in dealing with any goods contrary to the provisions of this Act or any law relating to customs or excise;

shall be guilty of an offence, so, however, that nothing in the provisions of this Act shall be taken to require any person who has acted as legal practitioner for any person to disclose any privileged communications made to him in that capacity.

(2) Any person who-

(a) uses or attempts to use any document which has been forged with intent to defeat the provisions of this Act or any law relating to customs or excise;

(b) otherwise than in accordance with the provisions of this Act, buys or receives or has in his possession any goods required to be accounted for by this Act or any law relating to customs or excise before they have been so accounted for; or

(c) otherwise than in accordance with the provisions of this Act, has in his possession any goods liable to forfeiture under this Act or any law relating to customs or excise;

shall be guilty of an offence, unless he produces evidence to show that he did not know-

(i) that the document was forged;

(ii) that duty on the goods had not been paid or secured or that the goods had not been accounted for in terms of this Act or any law relating to customs

or excise; or

(iii) that the goods were liable to forfeiture;

as the case may be.

(3) For the purposes of this section, the forgery of a document is the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine whether within Zambia or not, and making a false document includes making any material alteration in a genuine document, whether by addition, insertion, obliteration, erasure, removal, or otherwise.

(As amended by No. 16 of 1956 and G.N. No. 407 of 1963)

142. Any person who, without lawful excuse, the proof of which shall lie upon him, brings into Zambia or has in his possession any blank or incomplete invoice or other similar document capable of being filled up and used as an invoice for goods from outside Zambia shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963) Possession of blank invoice

143. Any person who assaults, resists, hinders, or abuses any officer or any person aiding or assisting such officer in the carrying out of his duties shall be guilty of an offence. Obstruction of officers

144. Any person who wilfully removes any customs seal from any ship, aircraft, pipeline, vehicle, or package without the authority of an officer or in accordance with regulations, or who wilfully alters, defaces, obliterates, or imitates any mark placed by an officer on any package shall be guilty of an offence.

(As amended by Act No. 24 of 1973) Removing, altering, or defacing marks or seals

145. (1) Whenever any lock, mark, or seal has been placed by an officer upon any goods on board any ship, aircraft, or vehicle, or any goods in a pipeline or when the hatchways of a ship have been fastened down by an officer, the master of the ship, the pilot of the aircraft, or the person in charge of the vehicle or the operator of a pipeline as the case may be, shall ensure that—Certain responsibilities of master, pilot or person in charge of vehicle

(a) the lock, mark, or seal is not opened, altered, or broken;

(b) such goods are not secretly removed; and

(c) such hatchways are not opened without the consent of an officer;

and if he fails so to ensure, the master of the ship, the pilot of the aircraft, or the person in charge of the vehicle, as the case may be, shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent any such act.

(2) Whenever any lock, mark, or seal has been placed by an officer upon any valve, meter, or other appliance or apparatus used to control or record the flow of goods through or from a pipeline, the operator of the pipeline shall ensure that the lock, mark, or seal is not opened, altered, or broken without the prior authority of an officer and, if he fails so to ensure, the operator of the

pipeline shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent any such act.

(As amended by Act No. 48 of 1968 and No. 24 of 1973)

146. Any person who removes or breaks any lock placed on a warehouse by an officer in terms of section sixty-five shall be guilty of an offence, and any person who removes any goods from a warehouse, without the permission of the officer, shall be guilty of an offence. Removing or breaking locks placed on warehouse

147. If, when required by an officer to make a declaration of sealable goods in terms of this Act-

(a) the master of a ship, the pilot of an aircraft, or the person in charge of a vehicle fails to make a full disclosure of any sealable goods which are the unconsumed stores of the said ship, aircraft, or vehicle; or

(b) the master of a ship, the pilot of an aircraft, the person in charge of a vehicle, or any member of the crew of such ship, aircraft, or vehicle, fails to make a full disclosure of any sealable goods which are the property of or in the possession of such master, pilot, person, or member of the crew, as the case may be;

such master, pilot, person, or member of the crew aforesaid shall be guilty of an offence. Failure to make full declaration of sealable goods

148. (1) If any officer makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any ship, aircraft, vehicle, goods, or other things liable to forfeiture under this Act or any other law relating to customs or excise, or takes or receives any bribe, fee, recompense, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly, from any person for the neglect or non-performance of his duty in any of these respects or, except from any person lawfully authorised in that behalf, on account of anything done or to be done by him in any way relating to his office, he shall be guilty of an offence. Bribery, collusive seizure or agreement not to seize

(2) Any person, not being a person lawfully authorised in that behalf, who gives or promises to give or offers or procures to be given, any bribe, fee, recompense, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, or makes any collusive agreement with any such officer to induce him in any way to neglect his duty in any of these respects or to do anything in conflict with his duty, or to do, or conceal, or connive at anything whereby the provisions of this Act may be evaded, shall be guilty of an offence.

149. Any person who-

(a) smuggles or attempts to smuggle any goods; or

(b) aids, assists, or connives at the smuggling or attempted smuggling of any goods;

shall be guilty of an offence. Smuggling

150. If any goods are imported into Zambia in contravention of section forty or forty-one, the person importing them and any person who assists in or

connives at their importation shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963) Importation of prohibited or restricted goods to be an offence

151. Any person who-

(a) supplies the means or materials for, or assists in establishing or repairing, maintaining, or working any still, the keeping and using of which has not been authorised in terms of this Act, knowing at the time when he so supplies or assists that it was such a still;

(b) has upon his premises or in his custody or under his control, or purchases, sells, or otherwise disposes of any goods liable to excise duty or surtax, which have been manufactured in breach of the provisions of this Act, unless such person proves that he was unaware that such goods were so manufactured;

(c) is found without lawful excuse in any place where the illegal manufacture of goods liable to excise duty or surtax is being carried out;

(d) without lawful authority imports any goods liable to excise duty or surtax after they have been exported from Zambia;

(e) not being a person licensed to manufacture goods liable to excise duty or surtax, has, without lawful authority, in his possession, custody, or control any manufactured or partly manufactured goods liable to excise duty or surtax upon which such duty or surtax has not been paid;

(f) falsely holds himself out to be an officer;

(g) fraudulently claims a refund, rebate, remission, or drawback to which he is not entitled;

(h) makes improper use of any licence, permit, or document issued under the provisions of this Act or any other law relating to customs or excise;

(i) damages, destroys, or disposes of any goods in order to prevent the seizure thereof by an officer or any other person authorised to seize them;

(j) in order to prevent the securing of any goods seized under this Act rescues, damages, or destroys such goods;

(k) rescues any person apprehended for any offence against the provisions of this Act or prevents any such apprehension; or

(l) imports any goods in pursuance of a bill of entry in which a false declaration has been made;

shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963) Miscellaneous offences

152. If any goods entered for warehousing-

(a) are not carried into and deposited in the warehouse;

(b) after deposit in the warehouse, are taken out of the warehouse without entry and clearance; or

(c) having been entered and cleared for exportation, are not duly exported;

the owner of such goods, or the proprietor or occupier of the warehouse, or the person responsible for the handling of the goods, shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent the act which constituted the offence, and, in addition to any other penalty which may be imposed, such goods shall be liable to forfeiture. Warehousing irregularities

153. If any manufacturer of goods liable to excise duty or surtax-

(a) fails to keep such book as is required by section one hundred and eight or fails to produce such book when required by an officer to do so;

(b) fails to make in such book any entry required to be made therein or fraudulently makes any entry in such book;

(c) erases or obliterates any entry in such book;

(d) mutilates or tears therefrom any leaf or page;

(e) by himself or through the agency or with the assistance of any other person destroys, conceals, or makes away with such book;

(f) refuses to allow an officer at any time to inspect such book, or obstructs or hinders him in such inspection;

(g) neglects or refuses to furnish any return specified in section one hundred and eight within the time specified for the furnishing of such return;

(h) sends in a false return; or

(i) neglects or refuses to give such further information as to his operations in the manufacture of goods liable to excise duty or surtax, or the disposal thereof, as an officer may from time to time require;

he shall be guilty of an offence, and, in addition to any other penalty which may be imposed, all goods subject to excise duty or surtax and all spirits, mixtures, compounds, or preparations of such goods found in his possession or on his premises shall be liable to forfeiture, whether or not excise duty or surtax has been paid thereon. Penalties for failure to keep books, etc., in connection with the manufacture of goods liable to excise duty or surtax

154. If-

(a) any ship, aircraft, or vehicle is used in smuggling or in the unlawful importation, exportation, or conveyance of any prohibited or restricted goods;

(b) any ship approaches the shores or banks of Zambia and fails to bring to for boarding upon being lawfully required to do so;

(c) any ship loiters in the vicinity of the shores or banks of Zambia and does not depart within twenty-four hours after being required to depart by an officer; or

(d) any goods on any ship, aircraft, or vehicle are thrown overboard, staved, or destroyed to prevent seizure;

the master of the ship, the pilot of the aircraft, or the person in charge of the vehicle, as the case may be, shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent the act which constituted the offence.

(As amended by G.N. No. 407 of 1963) Offences relating to the use of ships, aircraft, or vehicles

155. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence, even if it is not specifically stated that the person responsible for such contravention or non-compliance is guilty of an offence. General penalties

(2) Any person who is guilty of an offence under this Act for which no special penalty is provided shall be liable in respect of each offence-

(a) to a fine not exceeding treble the duty-paid value of any goods which may be the subject-matter of the offence;

(b) if treble the duty-paid value of such goods is less than eight thousand penalty units, or if there are no goods involved in the offence, to a fine not exceeding eight thousand penalty units;

(c) to imprisonment for a period not exceeding five years;

(d) in default of payment of any fine provided in paragraph (a) or (b), to imprisonment for a period not exceeding five years; or

(e) to both such imprisonment and any such fine as is provided in paragraph (a) or (b).

(3) Without derogation from the powers contained in section one hundred and sixty-two, any goods which are the subject-matter of an offence under this Act shall be liable to forfeiture and, if such goods cannot be found or recovered, the court which convicts the offender may order the offender to pay to the Commissioner-General an amount equal to the duty-paid value of such goods. If such amount is not paid on demand, the Commissioner-General may recover it by civil action in a court of competent jurisdiction.

(4) Notwithstanding the fact that high maximum penalties are prescribed by this section, a court shall pay due regard to the circumstances of the offence and, in any case where the offender is not discharged with a caution or reprimand, shall impose only a moderate penalty, unless it is satisfied that the offence is of a serious nature. In judging the seriousness of an offence, the court may take into account, inter alia, the fact that the offence might have led to a serious loss of duty.

(As amended by No. 4 of 1962, No. 1 of 1980, No. 20 of 1992 and No. 13 of 1994)

156. Any package having concealed within it any goods not enumerated in the bill of entry or other document relating to that package or having its contents packed so as to deceive an officer shall be liable to forfeiture together with the full contents thereof. Concealed goods

157. (1) If any package is found to contain goods which-Forfeited packages, containers, or utensils

(a) are liable to forfeiture; or

(b) are being exported or have been imported or otherwise dealt with contrary to or not in accordance with-

(i) the provisions of any law, including this Act, relating to customs or excise; or

(ii) any law prohibiting, restricting or controlling the importation or exportation of such goods;

such package and the full contents thereof shall be liable to forfeiture.

(2) If any goods liable to excise duty or surtax, or the materials for making such goods, are forfeited, all casks, cases, containers, or utensils containing them shall also be forfeited.

(As amended by No. 36 of 1962)

158. Where any goods subject to duty become liable to seizure in terms of section one hundred and sixty-two, whether or not duty has been paid thereon, an officer may, instead of seizing those goods, seize from the stock of the person from whom those goods would have been seized-

(a) in the case of spirits or potable liquor, the equivalent quantity, strength or bulk of other spirits or potable liquor, as the case may be;

(b) in the case of goods, other than spirits or potable liquor, the equivalent quantity of other like goods liable to duty;

and the spirits, potable liquor or goods so seized shall be dealt with in terms of section one hundred and sixty-two.

(As amended by Act No. 16 of 1996)Substitution of other goods for goods actually liable to seizure

159. (1) Subject to the provisions of subsection (2), any ship, aircraft, vehicle or other thing used for the removal of goods which-Vehicles carrying goods liable to forfeiture

(a) are liable to forfeiture; or

(b) are being exported or have been imported or otherwise dealt with contrary to or not in accordance with-

(i) the provisions of any law, including this Act, relating to customs or excise; or

(ii) any law prohibiting, restricting or controlling the importation or exportation of such goods;

shall itself be liable to forfeiture.

(2) Any ship, aircraft, vehicle or other thing used for the removal of any goods referred to in subsection (1) shall not be liable to forfeiture, if the owner thereof shows that-

(a) it was used for the removal of those goods without his express or tacit consent, or that of his agent; or

(b) since its use in such removal it has been acquired for its true value by a person who was unaware at the time of his acquisition that it was liable to forfeiture in terms of this section.

(3) For the purposes of this section, "owner" includes the hirer under a hire-purchase agreement, or a trustee, or a person having legal custody and control.

(As amended by No. 36 of 1962 and Act No. 16 of 1996)

160. (1) Any ship, aircraft or vehicle with false bulkheads, false bows, double sides or bottoms, or any secret or disguised place adapted for the purpose of smuggling goods shall be liable to forfeiture. Ship, aircraft, vehicle and other containers adapted for smuggling liable to forfeiture

(2) Any suitcase, briefcase or other container with a false bottom or any secret or disguised place adapted for the purpose of smuggling goods shall be liable to forfeiture.

(3) Any person who uses any ship, aircraft, vehicle, suitcase, briefcase or other container referred to in subsections (1) and (2) shall be guilty of an offence.

(As amended by Act No. 16 of 1996)

161. If at any time an officer has reason to believe that the correct duties have not been paid on any goods which have passed out of customs control, or that there has been or may be in respect of those goods a contravention of any of the provisions of this Act or any other law relating to the importation of goods, he may, within a period of seven years from the date of importation, removal from bond, or delivery from factory in the case of excisable goods, seize or place an embargo on those goods, wheresoever or in possession of whomsoever found, and, until the embargo has been withdrawn, no person shall remove such goods from the place indicated by the officer, or in any way deal therewith, except with the permission of the officer.

(As amended by Act No. 16 of 1996) Embargo on goods which have passed out of customs control

162. (1) Subject to the provisions of subsection (3), an officer may seize any goods, ship, aircraft, or vehicle (hereinafter in this section referred to as articles) which he has reasonable grounds for believing are liable to seizure. Procedure as to seizure and forfeiture

(2) In this section-

"liable to seizure", in relation to articles, means articles which are-

(a) liable to forfeiture under any provision of this Act or under any provision of any other law relating to customs or excise; or

(b) the subject-matter of an offence under or a contravention of or a failure to comply with any provision-

(i) of any law, including this Act, relating to customs or excise; or

(ii) of any law prohibiting, restricting or controlling the importation or exportation thereof;

(ii) notwithstanding the fact that no person has been convicted of such offence, contravention or failure.

(3) Seizure shall not be made in terms of subsection (1) where more than seven years have elapsed since the articles first became liable to seizure or where such articles have been acquired for their true value by a person who was unaware at the time of his acquisition that they were liable to seizure:

Provided that goods imported in contravention of section forty or forty-one shall be liable to seizure at any time and from any person.

(4) All articles which have been seized in terms of subsection (1) shall be taken forthwith to and delivered into the custody of an officer at the custom house nearest to the place where they were seized or, in the event of their being of such a nature that they cannot be removed to a place of security, the officer seizing them may declare them as having been secured in the place where he found them.

(5) If an officer has seized articles in terms of subsection (1), or would have seized articles in terms of that subsection but for the fact that he could not find or recover them, he shall report the fact to the Commissioner-General, setting out his reasons why he considers such articles liable to seizure.

(6) Unless the question of the forfeiture of such articles or of an order for the payment to the Commissioner-General of the duty-paid value of articles which could not be found or recovered is the subject of proceedings before a court, the Commissioner-General may-

(a) order all or any of the articles to be released from seizure; or

(b) declare all or any of the articles to be forfeited; or

(c) if the articles could not be found or recovered, declare that the person from whom the articles would have been seized shall pay to the Commissioner-General an amount equal to the duty-paid value of such articles.

(7) Subject to the provisions of subsection (8), whenever articles are seized in terms of this section the officer so seizing shall give to the person from whom the articles have been seized or the owner of the articles a notice in writing specifying the articles which have been seized and informing such person of the provisions of subsection (9).

(8) Notice in terms of subsection (7) shall be deemed to have been duly given to 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

(c) where he is unknown or where he has no address within Zambia or his address is unknown, by publication of notice of seizure in the Gazette.

(9) Subject to the provisions of section one hundred and sixty-four, the person from whom the articles have been seized or the owner thereof may, unless the Commissioner-General on representation made by either of those persons acts in terms of paragraph (a) of subsection (6), institute proceedings for their recovery from the Commissioner-General within three months of the notice being given or published in terms of subsection (8).

(10) If proceedings are not instituted in terms of subsection (9), any articles declared to be forfeited shall vest in the Government and may by direction of the Commissioner-General be sold or destroyed or appropriated to the Government:

Provided that where the goods seized are of a perishable nature, the Commissioner-General may, notwithstanding the institution of proceedings in terms of subsection (9), cause to be sold, or destroyed or appropriated to the Government the perishable goods seized.

(11) If the articles are sold under paragraph (a), the Commissioner-General may make such payments out of the proceeds of the sale as he deems fit in respect of expenses incurred in the sale, including carriage charges due to any carrier or warehouse rent, storage charges, portage charges and any clearing, handling, storage and other charges due to any clearing agent.

(12) If the amount fixed in terms of paragraph (c) of subsection (6) is not paid on demand, the Commissioner-General may recover such amount by civil action in a court of competent jurisdiction.

(13) For the avoidance of doubt, it is hereby declared that any action taken in terms of this section shall not-

(a) prevent the institution of criminal proceedings against a person from whom articles have or would have been seized; or

(b) prevent the imposition of a fine in terms of section one hundred and sixty-eight; or

(c) affect the liability for the payment of duty in respect of articles seized and dealt with in terms of this section; or

(d) entitle any person to claim a refund of duty paid in respect of articles seized and dealt with in terms of this section.

(No. 36 of 1962 as amended by G.N. No. 407 of 1963, Acts No. 17 of 1993 and No. 16 of 1996)

163. Notwithstanding the provisions of section one hundred and sixty-two, if any ship, aircraft, vehicle, goods, or other things are seized in terms of subsection (1) of that section, the Commissioner-General may in his discretion order the delivery thereof on payment in cash or on security of a bond with sufficient sureties to be approved by him, of an amount sufficient to cover the value of the articles seized in case of forfeiture. If such ship, aircraft, vehicle, goods, or other things are eventually declared to be forfeited, the

Commissioner-General may, in place of such forfeiture, pay the value thereof into the general revenues of the Republic and cancel the bond.

(As amended by No. 36 of 1962 and G.N. No. 407 of 1963) Authority for delivery of seizure under bond

164. (1) A writ or summons shall not be issued against nor a copy of any process served upon any officer for anything done by him under this Act or any other law relating to customs or excise until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the person, or his legal practitioner, who intends to issue such writ, summons, or process. Notice of action to be given to officer

(2) In the notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring the action, and the name and address for service of his legal practitioner, if any.

(3) Evidence shall not be adduced at the trial of the action by the plaintiff except as to causes thereof stated in the notice, and judgment shall not be given for the plaintiff unless he proves that the notice was given. In default of proof of notice by the plaintiff, the defendant shall be entitled in such action to judgment in his favour and costs.

(4) Every such action shall be brought within three months after the cause thereof arose and if the plaintiff discontinues the action, or if judgment is given against him, the defendant shall receive as costs full indemnity for all expenses incurred by him in or in respect of the action and shall have such remedy for the same as any defendant has in other cases where costs are given by law.

165. Any officer may, within one month after notice has been given in terms of section one hundred and sixty-four, tender amends to the party complaining or to his legal practitioner or agent, and may plead such tender in bar to any proceedings, together with any other plea, and if the court finds the amends sufficient it shall give judgment for the defendant, except as to the amends tendered. In such event, or if the plaintiff discontinues his action, the defendant shall be entitled to costs, but if upon the trial of any such action the court finds that no amends were tendered, or that they were not sufficient, or finds against the defendant upon any such other plea, the court shall give judgment for the plaintiff with such damages as it may think proper, together with the costs of the action. Tender of amends and effect thereof

166. If any action is brought by any person against the Minister or any officer for or on account of any seizure, wherein judgment has been given for the plaintiff, and if the court before which the action was tried finds and adjudges that there was reasonable cause for seizure, the court may refuse to grant the plaintiff costs. Court may refuse costs

167. (1) If, after obtaining such expert advice as may be available, the Commissioner-General is of the opinion in respect of goods which have been imported—Pest infected or harmful goods

(a) that such goods are infected with any pest which may spread any human, plant, or animal disease; or

(b) that such goods are likely to be prejudicial to the health of any human being, plant, or animal;

he may direct that such goods and the containers in which they are packed shall be seized and destroyed or otherwise dealt with in any manner which he may consider suitable.

(2) A person shall not be entitled to claim compensation on account of any action taken under the provisions of subsection (1).

168. (1) If a person alleged to be an offender under this Act (hereinafter called the alleged offender) agrees to pay a specified fine proposed by the Commissioner-General, which does not exceed the maximum penalty provided by this Act for the offence in question, the Commissioner-General may impose such fine on the alleged offender: Imposition of fine by Commissioner-General

Provided that, if criminal proceedings have been instituted against the alleged offender for such offence, the power conferred by this subsection shall not be exercised without the written consent of the Director of Public Prosecutions.

(2) The Commissioner-General shall, at the request of an alleged offender, furnish to him a certificate setting out the nature of the offence, the date of its occurrence, and the fine imposed under subsection (1), and such certificate may be used by the alleged offender as prima facie proof of the facts stated therein.

(3) If any fine imposed in terms of subsection (1) is not paid on demand, the Commissioner-General may institute civil action for its recovery in any court of competent jurisdiction.

(4) The imposition of a fine under subsection (1) shall not be treated as a conviction of the alleged offender of a criminal offence and no prosecution for the offence in question shall thereafter be competent.

(5) Nothing in this section shall in any way affect liability for the payment of duty.

(6) Whenever an alleged offender agrees to pay a fine proposed in terms of subsection (1) and the Commissioner-General has made a declaration of forfeiture in terms of subsection (6) of section one hundred and sixty-two, such declaration shall be final and the goods shall be dealt with in terms of subsection (10) of section one hundred and sixty-two.

(As amended by Nos. 4 and 36 of 1962, G.N. No. 407 of 1963 and S.I. No. 173 of 1965)

169. (1) Upon conviction of an offender under this Act, the judge or magistrate presiding at the trial in addition to passing sentence may—Orders by court as to unpaid duty and forfeitures

(a) make an order for the payment by the offender of any unpaid duty; and

(b) declare any ship, aircraft, vehicle, or other goods liable to forfeiture as a result of the act of the offender to be forfeited to the Government and, upon such declaration, such ship, aircraft, vehicle, or goods, as the case may be, shall be dealt with in terms of subsection (10) of section one hundred and sixty-two; and

(c) if any ship, aircraft, vehicle, or other goods liable to forfeiture

cannot be found or recovered, make an order for the payment to the Commissioner-General by the offender of an amount equal to the duty-paid value of the ship, aircraft, vehicle, or other goods, as the case may be.

(2) Forfeiture shall not be ordered unless and until the owner of the ship, aircraft, vehicle, or goods has been given an opportunity of being heard.

(As amended by Nos. 4 and 36 of 1962)

170. (1) The correct amount of duty payable in respect of any goods shall, from the time when it should have been paid, constitute a debt due to the Government by the person concerned, and shall, at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Commissioner-General, and any goods in a bonded warehouse or in the custody of the Customs and Excise Department and belonging to that person, and any goods afterwards imported or entered for export by the person by whom the duty is due, shall, while still under the control of the Customs and Excise Department, be subject to a lien for such debt and may be detained by the Customs and Excise Department until such debt is paid, and the claims of the Government shall have priority over the claims of all persons upon the said goods of whatever nature and may be enforced by sale or other proceedings if the debt is not paid within three months after the date upon which it became due. Liens and preferences

(2) Where any person who, under the provisions of this Act, is indebted to the Government in respect of any sum due for duty becomes bankrupt, then in any proceedings concerning his bankruptcy the claim of the Commissioner-General for such sum shall rank for preference next after any mortgage, charge, lien, or equitable right of any person or any prior registered special mortgage bond or any pledge or right of retention upon such assets or any part thereof, and shall rank equally with any claim which may be made on behalf of the Government in respect of income tax.

171. (1) When any amount of duty, surtax or penalty remains unpaid after the day on which it became payable under the Act, it shall be subject to the payment of interest chargeable at the prevailing discount rate published by the Bank of Zambia plus two per centum per annum. Interest to be charged for late payments

(2) Subject to such conditions as he may consider necessary, including the payment of interest at the prevailing discount rate published by the Bank of Zambia plus two per centum per annum, the Commissioner-General may permit any fine imposed by him under this Act, or any duty found, after the goods have been released from customs control, to be payable under this Act or any law relating to customs and excise, to be paid by instalments of such amounts and at such time as he may fix.

(3) The Commissioner-General may remit the whole or part of any interest payable under subsection (1) or (2).

(As amended by Act No. 15 of 1994)

172. The Commissioner-General may impound or retain any document presented in connection with any entry or required to be produced under this Act, and the person otherwise entitled to such document shall on application be given in lieu thereof a copy of the document duly certified by the Commissioner-General, and the certified copy shall be admissible in evidence at any trial to the same extent and in the same manner as the original would be admissible. Impounding of

documents

173. (1) When any goods are stopped or seized under the provisions of this Act, and in any proceedings under the provisions of this Act other than a prosecution, if any question arises as to whether the duties have been paid on the goods, or whether the goods have been lawfully imported or lawfully laden or are being lawfully exported, the burden of proof of the affirmative of these facts shall be on the person owning or claiming such goods. Burden of proof

(2) When, for any purpose under the provisions of this Act, it is necessary to prove the country of origin of any goods, the onus of proof of such origin shall be upon the owner or the importer of such goods and not upon an officer.

(3) Any invoice or other document submitted or used by an importer or any other person for the purpose of any of the provisions of this Act may be produced as evidence by or on behalf of the Commissioner-General or prosecution in any civil or criminal proceedings without calling the person who prepared it or signed it.

(As amended by No. 36 of 1962)

174. (1) In any prosecution on account of the non-payment of duty on goods liable to excise duty or surtax, and in any proceedings for the recovery of duty on such goods, instituted against a manufacturer, any statement in any record kept by or on behalf of such manufacturer to the effect that such goods of a particular quantity or strength have been manufactured or held in stock by him at any time, shall be admissible as evidence of the fact that he had at that time manufactured or held in stock goods liable to excise duty or surtax of that quantity or strength. Evidence in certain circumstances

(2) If in any such prosecution or proceedings such person claims that he has disposed of or used any goods liable to excise duty or surtax in such manner as not to be subject to excise duty or surtax, the burden of proving that such goods have been so disposed of or used shall be upon him.

PART XIII GENERALPART XIII

GENERAL

175. Except for the purposes of this Act or with the express permission of the Commissioner-General or the compilation of statistics or when ordered to do so by a court, no officer shall disclose any information relating to any person, firm, or business acquired in the performance of his duties.

(As amended by Act No. 2 of 1975) Secrecy

176. The Commissioner-General or any officer designated by him shall have and is hereby vested with power and authority to administer an oath or to attest an affidavit in every case in which by this Act or by any law relating to customs and excise an oath or affidavit is permitted or required, and any person who makes a false statement upon any oath or in any affidavit sworn before the Commissioner-General or any such officer shall be guilty of an offence. Oaths and affidavits

177. Any bill of entry, writing, oath, or declaration required to be made by this Act or any law relating to customs or excise shall, if made outside Zambia to or before a Zambian customs officer, be binding and of full force and effect in Zambia.

(As amended by G.N. No. 407 of 1963) Entries, oaths, etc., made outside Zambia to be of full force and effect in Zambia

178. Where any document written in a language other than English is presented to any officer for any purpose connected with this Act, the Commissioner-General may require a translation into the English language to be made at the expense of the owner, by such person as the Commissioner-General may approve. Translation of foreign documents

179. (1) The conditions of any bond executed in terms of this Act and the enforcement thereof shall not be construed as exempting any person from any prosecution to which he may be liable under this Act or any other law in respect of matters provided in such conditions. Conditions and enforcement of bonds

(2) In any proceedings for the enforcement of a bond entered into in terms of this Act, the sum stated therein shall be deemed to be liquidated damages, calculated to reimburse the Government for loss occasioned by breach of any of the conditions thereof.

180. If at any time the Commissioner-General is not satisfied with the sufficiency or form of any security previously given, he may require a fresh security, and a fresh security shall be given accordingly. Fresh security

181. Unless otherwise provided therein, any bond executed in terms of this Act shall bind the subscribers thereto jointly and severally for the full amount stated therein. Joint and several liability of subscribers to bond

182. Every landing, shipping, and forwarding agent, and every agent appointed by the master of a ship, the pilot of an aircraft, or the operator of a pipeline in terms of section twenty-nine or fifty-two, transacting customs business, and every vehicle owner or other person carrying goods, which are required to be accounted for in terms of this Act shall, when required to do so by the Commissioner-General, give security to the satisfaction of the Commissioner-General for the due observance of all relevant provisions of the laws relating to customs or excise.

(As amended by Act No. 48 of 1968) Security to be given by agents and other persons for due observance of laws

182A. (1) The Minister may, by regulations, provide for the licensing of persons carrying on or desirous of carrying on, the business of customs clearing and forwarding agents, and prohibit the carrying on of such business without a licence issued under such regulations. Licensing of clearing and forwarding agents

(2) In such regulations, the Minister may also prescribe-

(a) the conditions subject to which a licence may be granted or renewed;

(b) the circumstances in which a licence may be revoked;

(c) the qualifications required to be possessed by an applicant for a licence;

(d) the fee payable for the grant or renewal of a licence.

(As amended by Act No. 1 of 1976 and Act No. 15 of 1994)

183. (1) An agent appointed by any master, pilot, importer, or exporter, or any person who represents himself to any officer as the agent of any master, pilot, importer, or exporter and is accepted as such by that officer, shall be liable for the fulfilment, in respect of the matter in question, of all obligations, including the payment of duty, imposed upon such master, pilot, importer, or exporter by this Act or any law relating to customs or excise. Liabilities of agent and principal

(2) Every master, pilot, importer, or exporter, or any owner of goods in a bonded warehouse shall be responsible for any act committed by any person acting in his place or on his behalf, whether the said act was done within Zambia or beyond its borders, and the person so acting shall, if within Zambia, likewise be liable to prosecution under this Act or any law relating to customs or excise.

(3) Any person who appoints an agent to carry out any requirements of this Act on his behalf shall be responsible for any action of his agent while acting on his behalf and shall be liable to prosecution for any contravention of the Act committed by his agent while acting on his behalf.

(As amended by G.N. No. 407 of 1963)

184. If any person makes an application to an officer to transact any business on behalf of another person, such officer may require the person so applying to produce a written authority in the form approved by the Commissioner-General from the person on whose behalf he purports to act and, in default of the production of such authority, may refuse to transact such business. Written authority to transact business on behalf of another

185. All handling of and dealing with goods for the purpose of any law relating to customs or excise shall be performed by or at the expense and risk of, the importer or exporter, as the case may be, and where goods are examined at a warehouse, at the expense and risk of the owner of the goods. Expense and risk of handling goods

186. An importer who has imported any goods and has paid duty thereon may, if he is the lawful owner of the goods and if they have not been removed from customs control, offer to abandon such goods to the Commissioner-General. If the offer is accepted by the Commissioner-General, the duty paid on the goods shall be refunded to the importer, and the goods shall become the property of the Government to be disposed of as the Commissioner-General may direct, so, however, that the importer shall be liable for any expenses in connection with the landing of the goods or their removal to the State warehouse or other place of security approved by the proper officer, or their destruction.

(As amended by S.I. No. 173 of 1965) Abandonment of goods

187. (1) Any person being in possession or control of imported goods or goods which are liable to duty under the provisions of this Act, and any person who offers for sale, exports, or attempts to export such goods or has such goods entered in his books or mentioned in any document referred to in section one hundred and eighty-eight shall, when requested by an officer so to do, produce proof as to the place where entry of the goods was made and any duty due thereon was paid and also the date of entry and the marks and numbers of the packages concerned, which marks and numbers shall correspond with the documents produced

in proof of entry or the payment of duty. If he himself did not pay the duty or make entry of the goods, such person shall produce such evidence as will enable the officer to discover the person who did make such entry and payment in respect of the goods. Sellers of goods to produce proof of payment

(2) Where any person who has made entry and payment in respect of goods referred to in subsection (1) cannot be located or found for any reason whatsoever, and there is no evidence of duty having been paid or there is no evidence of the correct amount of duty having been paid, the person being in possession of the goods which are liable to duty shall be liable to pay all unpaid duties.

(3) Any person failing or delaying without reasonable cause to produce the proofs or evidence required in this section shall be guilty of an offence.

(As amended by Act No. 16 of 1996)

188. (1) Every person carrying on in Zambia any business which involves handling or dealing in goods shall keep or cause to be kept within Zambia, in the English language, reasonable and proper books of account of all his transactions. Every such person shall, if required at any time within a period of five years after the date of the importation or purchase of any goods, produce the bills of lading, rail notes, invoices, and all other documents containing all particulars regarding those goods, and shall allow such books, accounts, and documents aforesaid at all times within such period to be open for inspection by the Commissioner-General or an officer so that the same may be attached by him, if necessary. Persons carrying on business to keep proper books

(2) Any person who fails to comply with any provision of this section shall be guilty of an offence.

(As amended by G.N. No. 407 of 1963, Acts No. 5 of 1981)

189. When any amount of duty has been underpaid or erroneously refunded, the person who should have paid such amount or to whom the refund has erroneously been made shall pay such amount or repay the amount erroneously refunded, on demand being made by the proper officer. Claims and refunds

190. (1) Subject to such conditions as the Minister may, by regulation, prescribe, the Commissioner-General shall remit by way of drawback to the seller any duty paid on any intoxicating liquor which is sold-Sale of liquor duty free at international aerodromes

(a) at any international aerodrome in the Republic on premises licensed for the sale of such liquor under the Liquor Licensing Act; and Cap. 167

(b) on a part of such licensed premises designated by the Minister; and

(c) in sealed containers; and

(d) in such quantities as the Minister may prescribe; and

(e) to any person who is a bona fide passenger in transit through or departing from the Republic on a scheduled international flight.

(2) For the purposes of this section-

(a) the term "international aerodrome" means any Government aerodrome which is available for public use for the landing and departure of passenger aircraft on scheduled international flights, and includes any aerodrome licensed for such use under the provisions of the Aviation Act;Cap. 444

(b) the term "intoxicating liquor" has the same meaning as is ascribed to it in section two of the Liquor Licensing Act.

(Act No. 7 of 1968)Cap. 167

191. Subject to the provisions of this Act-

(a) goods imported into Zambia shall be liable to the rates of customs duty and surtax, other than surtax on cigarettes, which are applicable to those goods at the time when they are imported or at the time when they are entered for consumption, whichever shall be the later, so, however, that in no case, except in the case of goods properly taken out of bond, shall the duty be less than that payable at the time of importation;Rates of duty in relation to time of importation or entry

(b) goods which have been manufactured in Zambia and are liable to excise duty or surtax, other than surtax on cigarettes, shall be liable to the rates of duty which are applicable to those goods at the time when they are delivered from the place of manufacture for consumption or are used or otherwise disposed of by the manufacturer; and

(c) cigarettes shall be liable to surtax at the rates which are applicable at the time when such cigarettes are sold or exposed for sale.

(As amended by G.N. No. 407 of 1963)

192. When a new duty is imposed or the rate of an existing duty is increased in terms of an order made under the Taxation (Provisional Charging) Act, the actual payment of the new duty or increased duty may, except in the case of surtax on cigarettes, be deferred if the person responsible for the payment of the duty and a surety approved by the proper officer enter into a bond providing for the payment of the new duty or increased duty as soon as the new duty or increased duty has been enacted by Parliament.

(No. 1 of 1957 as amended by G.N. No. 407 of 1963, G.N. No. 143 of 1964 and Act No. 16 of 1964)Circumstances in which payment of proposed duty or increased duty may be deferred.
Cap. 364

193. (1) Whenever any duty is imposed or increased on any goods and such goods, in pursuance of a contract made before the duty or increased duty became payable, are thereafter delivered to and accepted by the purchaser, the seller of the goods may in the absence of agreement to the contrary, recover from the purchaser as an addition to the contract price a sum equal to any amount paid by him by reason of the said duty or increase.Seller under contract may recover any increase and purchaser may deduct any decrease of duty

(2) Whenever any duty is withdrawn or decreased on any goods and such goods, in pursuance of a contract made before the withdrawal or decrease becomes effective, are delivered thereafter, the purchaser of the goods may, in the absence of agreement to the contrary, if the seller has in respect of those goods had the benefit of the withdrawal or decrease, deduct from the contract

price a sum equal to the said duty or decrease.

(3) The provisions of this section shall also apply to a contract for the hiring of any goods, and the words "seller" and "purchaser" shall correspondingly be construed as including the person from whom and the person to whom the goods are hired.

(As amended by G.N. No. 407 of 1963)

194. (1) Notwithstanding anything to the contrary contained in any law, one or more revenue stamps to the total value of eight fee units shall be affixed to every bond executed in terms of this Act, which stamps shall be effectively cancelled by the person delivering such bond. Customs fees

(2) For the correction of any bill of entry accepted in terms of this Act, the Commissioner-General may charge an accounting fee of fifteen fee units

(No. 20 of 1956 as amended by G.N. No. 407 of 1963, Acts No. 1 of 1971, No. 4 of 1982, No. 1 of 1979, No. 25 of 1988, No. 20 of 1992, No. 17 of 1993 and 13 of 1994)

195. (1) The Commissioner-General may appoint any premises in Zambia to be a State warehouse into which goods may be taken and lodged until the requirements of this Act have been satisfied. State warehouse

(2) Whenever any goods are taken to and secured in a State warehouse, the proper officer shall charge warehouse rent on such goods at such rates as may be prescribed for such period as the goods remain therein;

Provided that the Commissioner-General may, having regard to the circumstances of the detention of goods in a State warehouse-

- (a) instruct the proper officer to waive; or
- (b) himself remit or refund;

the whole or any part of the rent payable or, as the case may be, paid on the goods.

(3) Any officer who has the custody of any goods may refuse delivery thereof from a State warehouse or other place of security until he has received proof satisfactory to him that-

- (a) the person claiming the goods is lawfully entitled to such goods;
- (b) all the relative provisions of this Act have been satisfied;
- (c) the duties, removal charges, including portage charges incurred by the Government in connection with such removal, and rent due in respect of the goods have been paid; and
- (d) carriage, clearing, handling, storage and other charges due to any carrier or clearing agent have been paid.

(4) The Government shall in no case be liable in respect of any loss or diminution of or accident to any goods in any State warehouse The proper officer shall, however, give a receipt for the goods merely for the purpose of showing

that a certain number of packages has been received into the warehouse.

(5) If an order for the removal of any goods from a State warehouse has been given by the proper officer and the person to whom such order has been granted does not, within such period as the proper officer may allow, comply with it, such goods may, notwithstanding any other provisions of this Act, at the discretion of the Commissioner-General, be dealt with as if they were goods in respect of which entry had not been made in terms of section thirty-three.

(As amended by No. 18 of 1960, G.N. No. 407 of 1963,
Act No. 16 of 1964, S.I. No. 173 of 1965 and Act No. 17 of 1993)

196. All duties shall, unless otherwise specially provided, be charged, paid, and received on and according to the weights and measures established by law in Zambia, and in all cases where duties are imposed according to any specific quantity, the same shall be deemed to apply proportionately to any greater or less quantity.

(As amended by G.N. No. 407 of 1963)Weights and measures

197. All goods whatsoever which are conveyed in transit across Zambia shall be subject to such provisions as may be prescribed.

(As amended by G.N. No. 407 of 1963)Goods in transit

198. (1) The Minister may, by statutory instrument, make such regulations as he may deem expedient to prescribe anything to be prescribed under the provisions of this Act, to give force or effect to this Act or for its better administration.Regulations

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may, in the exercise of the powers conferred upon him by that subsection, provide for-

(a) the entry, before or after their arrival in Zambia, of goods despatched to Zambia by railway train, the removal of such goods from transit sheds or customs areas in which they are held and the taking of delivery of such goods and the charges to be paid by importers on failure to make entry of or to remove or take delivery of such goods within prescribed periods; and

(b) the regulation of the removal of wines and spirits from licensed premises or from one part of licensed premises to another part of licensed premises; and

(c) the regulation of-

(i) the storage on licensed premises of goods on which duty has been paid; and

(ii) the reprocessing on licensed premises of goods on which duty has been paid; and

(iii) the notices to be given by licensees in respect of-

A. goods acquired by them or received at their licensed premises; and

B. operations to be performed on their licensed premises; and

(d) the specifying or fixing of allowances such as are referred to in subsection (4) of section fifty-eight and the goods in respect of which those allowances may be made and any other matter for which provision is under this Act to be made by, in or in accordance with the provisions of regulations; and

(e) the manner in which complaints as to the dumping of goods shall be made and investigated; and

(f) the forms to be used for the purposes of this Act; and

(g) the keeping of records, books and other documents and the making of returns and the giving of information by manufacturers of goods liable to excise duty or surtax; and

(h) the prescribing of standards for the purposes of this Act by reference to the British Pharmacopoeia, the specifications of the British Standards Institution and the like; and

(i) prescribing the fees which shall be paid-

(i) in respect of each licence issued or renewed in terms of this Act;

(ii) on the clearance of goods on importation, warehousing or removal from warehouse or exportation.

(3) In the exercise of the powers conferred upon him by subsection (1), the Minister may make different provision in respect of different licensed premises and different classes of persons and goods.

(4) In regulations providing for matters referred to in paragraph (e) of subsection (2), the Minister may provide that-

(a) the board or person charged with the investigation of a complaint as to the dumping of goods shall have any or all of the powers, rights, privileges and duties conferred or imposed upon a commissioner by the Inquiries Act, with or without modifications; and Cap. 41

(b) any or all of the provisions of the Inquiries Act, with or without modifications, shall apply to an inquiry held for the purpose of investigating a complaint referred to in paragraph (a) and to persons summoned to give evidence or giving evidence at such an inquiry. Cap. 41

(5) If, in regulations providing for matters referred to in paragraph (a) of subsection (2), provision is made for the entry of goods before their arrival in Zambia, the provisions of sections thirty-four and thirty-five shall, mutatis mutandis, apply to the goods as if they had been imported into Zambia.

(6) If, in terms of regulations providing for matters referred to in paragraph (a) of subsection (2), charges become payable by an importer, the Commissioner-General may institute proceedings for the recovery of the charges in any competent court.

(As amended by No. 18 of 1960, No. 4 of 1962, G.N. No. 407 of 1963, G.N. No. 82 of 1964 and S.I. No. 173 of 1965)

199. (1) The Minister may, by statutory order-Orders

(a) fix the hours of attendance of officers at customs aerodromes, custom houses, customs posts, ports and warehousing ports appointed in terms of subsection (1) of section thirteen; and

(b) prescribe the fees which shall be paid for the attendance of officers at places referred to in paragraph (a) outside the hours of attendance referred to in that paragraph.

(2) The Minister may, by statutory order or otherwise-

(a) fix or provide for the fixing of the hours of attendance of officers at customs posts and ports appointed in terms of subsection (2) of section thirteen, licensed premises, bonded warehouses and other places at which the attendance of officers is required by or under or for the purposes of the administration of this Act; and

(b) prescribe the fees which shall be paid for the attendance of officers at places referred to in paragraph (a) outside the hours of attendance referred to in that paragraph.

(3) The Minister may, in the exercise of the powers conferred upon him by this section-

(a) make different provision with respect to different places and classes of places and different classes of officers; and

(b) require the giving of guarantees for the payment of any fees imposed in terms of this section by persons requesting the attendance of officers outside the prescribed hours of attendance.

(No. 18 of 1960 as amended by G.N. No. 407 of 1963)

200. The Commissioner-General may make rules not inconsistent with this Act or any other law in respect of any matter where this Act provides that such matter is to be dealt with in accordance with rules made by the Commissioner-General. Rules

201. The Commissioner-General may, with the approval of the Minister, delegate to any officer any duties, powers and functions by this Act conferred or imposed upon him, other than those conferred or imposed by this section and by section two hundred: Delegation of Commissioner-General's functions

Provided that the duties and functions conferred or imposed by sections one hundred and sixty-two and one hundred and sixty-eight shall not be delegated to any officer below the rank of Assistant Commissioner of Customs and Excise.

(As amended by Acts No. 3 of 1983, No. 16 of 1996 and No. 9 of 1997)

202. Any person charged with any act or omission which is an offence under this Act or any other law if the act is done or omitted to be done without a permit, exemption, permission or other authorisation, shall be presumed, unless and until the contrary is proved by the accused person, to have done or to have omitted to do such act without such permit, exemption, permission or other authorisation, as the case may be, when he performed or omitted to perform the act in question.

(Act No. 1 of 1971) Presumption as to absence of licence, etc.

PART XIV TARIFF APPEALS PART XIV

TARIFF APPEALS

203. (1) For the purpose of hearing and determining appeals in accordance with the provisions of section two hundred and four, there is hereby established a Court, hereinafter referred to as the Tariff Court, which shall consist of a president appointed by the Judicial Service Commission. Establishment of Tariff Court

(2) The President of the Tariff Court shall be a barrister or solicitor entitled to practice in Zambia or a person who holds or has held judicial office.

(3) The Tariff Court shall sit in such places as may be appointed by the Attorney-General after consultation with the President of the Tariff Court.

(4) The date of the hearing of any appeal shall be determined by the President of the Tariff Court and notice thereof shall be published by the President of the Tariff Court in the Gazette at least one month prior to that date, and any person who imports into Zambia or who manufactures within Zambia goods of the class or kind to which the appeal relates and who, not later than ten days before that date, enters an appearance in the manner specified in the notice may be heard on the appeal.

(5) There shall be paid to the President of the Tariff Court such remuneration and allowances as the Attorney-General may, with the approval of the Minister, determine.

(6) The Attorney-General shall appoint a Registrar and such other officers of the Tariff Court as he may deem necessary.

(No. 16 of 1956 as amended by No. 22 of 1959, No. 36 of 1962, G.N. No. 407 of 1963, G.N. No. 139 of 1964, S.I. No. 173 of 1965 and Act No. 1 of 1971)

204. (1) If an importer of any goods is of the opinion that the goods are incorrectly classified by the Commissioner-General under any item of the customs tariff, he may, if he pays the amount demanded as duty by the Commissioner-General or furnishes security to the satisfaction of the Commissioner-General for the payment of that amount, within three months after the payment or furnishing of security, appeal to the Tariff Court against such classification. Appeals from classifications of Commissioner-General

(2) Any person who-

(a) intends to import goods; or

(b) manufactures goods within Zambia;

and is of the opinion that goods of the class or kind he intends to import or, as the case may be, manufactures, are incorrectly classified by the Commissioner-General under any item of the customs tariff, may appeal to the Tariff Court against such classification. For the purposes of this subsection, a person who manufactures goods includes a person who produces a finished product by the assembly of the parts thereof.

(3) A notice of appeal shall be in writing, shall state clearly and specifically the grounds of appeal, and shall be lodged with the Registrar of the Tariff Court appointed in terms of subsection (6) of section two hundred and three.

(4) On the hearing and determination of any appeal the Commissioner-General, or any person authorised by him, may appear in support of his classification, and the appellant and any person who has entered an appearance in accordance with the provisions of subsection (4) of section two hundred and three may appear either in person, or by his legal practitioner.

(5) The Tariff Court may on any appeal confirm or set aside the classification made by the Commissioner-General and, if it sets aside the classification, shall refer the matter back to the Commissioner-General to make a further classification:

Provided that the Commissioner-General or any other person, if aggrieved by the decision of the Tariff Court, may refer the matter to the High Court for review.

(6) Where the Commissioner-General has determined the value of any goods intended for importation or manufacture in Zambia, any person aggrieved by such determination may appeal to the Tariff Court, and the provisions of subsections (1), (2), (3), (4) and (5) shall apply mutatis mutandis to appeals from valuation as they apply to appeals from classification of goods.

(7) If as a result of an appeal under this section the Commissioner-General re-classifies or revalues any goods, any duty overpaid in respect of such goods shall be repaid by the Commissioner-General.

(As amended by No. 16 of 1956, 22 of 1959, G.N. No. 407 of 1963, Act No. 7 of 1974 and No. 14 of 1984)

205. The procedure on any appeal shall, subject to any rules of court made under the provisions of section two hundred and six, be as determined by the President of the Tariff Court, who may permit evidence to be led by the Commissioner-General, the appellant and any person who has entered an appearance in accordance with the provisions of subsection (4) of section two hundred and three.

(No. 16 of 1956) Procedure

206. The Attorney-General may make rules of court-

(a) for regulating generally the practice and procedure of the Tariff Court; and

(b) as to the costs of and incidental to any proceedings of the Tariff Court and as to the fees to be charged in respect of proceedings therein.

(No. 16 of 1956 as amended by G.N. No. 407 of 1963, G.N. No. 139 of 1964 and Act No. 1 of 1971) Tariff Court rules

SCHEDULE

(Section 72)