

WORLD TRADE ORGANIZATION

G/VAL/N/1/ZMB/1
5 October 2000

(00-4081)

Committee on Customs Valuation

Original: English

**NOTIFICATION UNDER ARTICLE 22 OF THE
AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF
THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

ZAMBIA

The following communication, dated 3 August 2000, has been received from the Permanent Mission of the Republic of Zambia.

On behalf of the Government, the Permanent Mission of Zambia wishes to notify Zambia's implementation of the Customs Valuation Agreement effective 1 January 2000 in accordance with Article 22.2 of the Agreement.

Accompanying this letter is the new Customs and Excise Act and the Customs and Excise (General) Regulations¹, 1999, in line with the Agreement.

¹ In English only.

CHAPTER 322

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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 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]

PART I

PRELIMINARY

Short Title	<p>1. This Act may be cited as the Customs and Excise Act.</p> <p style="text-align: right;"><i>(As amended by G.N. No. 407 of 1963 and Act No. 4 of 1999)</i></p>
Interpretation	<p>2. In this Act, unless the context otherwise requires –</p> <p>“agreement” means any customs or trade agreement entered into by the President in terms of section <i>eighty-one</i>;</p> <p>“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.</p> <p>“aircraft” includes balloons, kites, gliders, airships, and flying machines;</p> <p>“alcoholic strength” in relation to spirits, means the strength of alcohol by volume ascertained by Gay Lussac’s hydrometer.</p> <p>“Assistant Commissioner” means an Assistant Commissioner of the Customs and Excise Division of the Zambia Revenue Authority;</p>
Cap. 321	<p>“Authority” means the Zambia Revenue Authority established by the Zambia Revenue Authority Act;</p> <p>“beer” includes –</p> <p>(a) ale, stout, porter, spruce beer, lager beer and black beer; and</p> <p>(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;</p>
Cap. 321	<p>“Board” means the Zambia Revenue Authority Board established by the Zambia Revenue Authority Act;</p> <p>“brandy” means –</p>

(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 or manufacturer of beer;

“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 the Customs and Excise Division of the Zambia Revenue Authority;

“Commissioner-General” means the Commissioner-General appointed under the Zambia Revenue Authority Act;

“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 vehicles;

“custom house” means a custom house appointed by the Minister in terms of section *thirteen*;

“customs aerodrome” means any aerodrome appointed by the Minister in terms of section *thirteen* as being a place at or through which goods may be imported or exported and persons may arrive or depart, by air;

“customs area” means a place appointed by the Commissioner-General in terms of section *seventeen*;

“customs carrier” means a person licensed by the Commissioner-General under section *forty-three* to carry uncustomed or in bond goods;

“Customs Division” means the Customs and Excise Division of the Zambia Revenue Authority;

“customs port” means a place appointed by the Minister under section *thirteen* as being a place through which goods may be imported or exported and at which persons may arrive or depart, by land or water;

“customs value” means the customs value of those goods determined in accordance with the Fifth Schedule to this Act;

“customs warehouse” means any building, premises or area in Zambia that is declared by the Commissioner-General to be a customs warehouse in terms of section *one hundred and ninety-five*;

“Deputy Commissioner” means a Deputy Commissioner of 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;

“distress” means to detain or seize in substitution for other goods such goods or chattels as are deemed to be of equivalent value to those other goods or the sum of duties and other charges deemed to be due to the Republic on those other goods and “notice of distress” and cognate expressions shall be construed accordingly;

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

“duty paid value” means the customs value of any goods as determined in accordance with the provisions of the Fifth Schedule plus the duty payable thereon;

“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 prescribed form, together with such bills of lading, invoices, certificates and other documents as are by or under this Act required to be furnished with that declaration, and “an entry” or “bill of entry” and “to enter” and cognate expressions shall be construed accordingly;

“examination station” means an area at a customs port designated by the Commissioner-General under section *sixteen* for the embarkation and disembarkation of persons and the loading and unloading of goods;

“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;

“fee units” means fee units as defined in the Fees and Fines Act;

“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;

“forfeited goods” means goods the property in which has passed to the Republic and “forfeiture” and “liable to forfeiture” and cognate expressions shall be construed accordingly;

“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 percentum of alcohol by volume;

“free on board” means the value of goods when shipped for export, and includes all costs and charges up to the time of delivery of the goods on board the exporting vessel, vehicle or aircraft and the term “free on board value” shall be construed accordingly;

“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;

“he” means “he” or “she” and cognate expressions shall be construed accordingly;

“honey beer” means any portable 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;

“in bond” in relation to the removal, transport or carriage of goods means the removal, transport or carriage of goods which are uncustomed, by a customs carrier or person authorised for that purpose and “in bond entry” and cognate expressions shall be construed accordingly;

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

“leaf tobacco” means the cured leaves of the tobacco plant;

“licensed premises” means any premises in respect of which a licence is issued in terms of section *ninety-seven*;

“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 account of such person and “licensed manufacturer” and cognate expressions shall be construed accordingly;

“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;

“methyrate” includes any prescribed method of denaturing 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 less than ninety percentum of alcohol by volume;

“officer” means a person appointed by the Commissioner-General for the purposes of this Act, or any other person who is declared by the Commissioner-General to be an officer for the purposes of this Act whether at the time of appointment or otherwise;

“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 vegetable 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;

“operator” in relation to a pipeline, includes any person responsible for the management thereof or for 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;

“penalty units” means penalty units as defined in the Fees and Fines Act;

“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;

“potable” means suitable for consumption as an alcoholic beverage;

“premises” means any building or place whatsoever;

“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) 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) ship or aircraft stores and any other goods being the personal property of, or in the possession of the pilot, master or any member of the crew, that are subject to duty and on which such duty has not been paid; and
- (b) goods including medical supplies, being prohibited or restricted imports into Zambia that are declared to the Customs Division by the pilot or master and which are held in a secure place under the personal supervision of the pilot or master;

“ship” includes any ship, vessel, boat, hovercraft or floating construction 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:

“still” means a still designed for or capable of being used for the production and refining of alcohol and includes part of any such still and all apparatus or part of apparatus capable of being used for the production and refining of alcohol;

“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 or bonded warehouse” means a building, installation or area licensed as a bonded warehouse by the Commissioner-General in accordance with the provisions of section *fifty-five*;

“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 materials, 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, No. 9 of 1997 and No. 4 of 1999)

Commissioner-
General and
Commissioner
of Customs
and Excise

3. (1) The Commissioner-General shall be responsible for the administration of this Act and any other law relating to customs and excise.

(2) The Commissioner-General shall, subject to the provisions of the Zambia Revenue Authority Act, have the management and control of the Customs and Excise Division and of all persons employed in that Division.

(3) The Board shall appoint a Commissioner of Customs and Excise Division who shall be responsible for the day to day operation and management of the Customs and Excise Division under the general supervision of the Commissioner General.

(4) In the absence of the Commissioner-General from Zambia or when otherwise directed by the Commissioner-General or the Board, the Commissioner of Customs and Excise Division, shall subject to the directions of the Board, perform the functions of the Commissioner-General under this Act.

(Act No. 4 of 1999)

4. The Commissioner-General may-

Powers of
Commissioner-
General

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

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(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; and

(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.

(Act No. 4 of 1999)

PART II

POWERS OF OFFICERS

Stationing
of officers
on ship
or train

5. The Commissioner-General may station an officer on any ship or train while such ship or train is within Zambia and the master of any such ship or the person in

charge or control of any such train shall provide free of charge such accommodation and board as the Commissioner-General may reasonably require.

(Act No. 4 of 1999)

Officers to travel free when on duty

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.

Powers of officers in relation to ships, aircraft, or vehicles

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 -

- (a) may freely stay on board for so long as the officer considers necessary for the proper performance of duties or until all goods laden therein have been delivered from such ship;
- (b) shall have free access and the right to search every part of the ship and to examine all goods on board;
- (c) shall have power to fasten down hatchways, doors and other openings;
- (d) shall have power to lock up, seal, mark, or otherwise secure any goods on board that ship; and
- (e) shall have the right to, lock up, seal, or otherwise secure the ship's wireless apparatus.

(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 that officer's duties, stop and detain within the borders of Zambia any ship, aircraft, or vehicle entering or about to depart from Zambia.

(As amended by G.N No. 407 of 1963, Act No. 16 of 1964, S.I No. 173 of 1965 and Act No. 4 of 1999)

Sealing of goods on ships, aircraft, or vehicles

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 and produce such goods when called upon by an officer to do so.

(2) An officer may 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.

- (3) Except by the authority of an officer, no seal placed by an officer upon any goods under this section shall be broken or disturbed while the ship, aircraft, or vehicle remains at any place in Zambia.
- (4) Nothing in this section contained shall in any way affect the provisions of sections *twenty, twenty-one, twenty-two* and *twenty-three*.
- (5) An 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 and Act No. 4 of 1999)

General
powers of
officers

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:

Provided that –

- (i) before being searched, such person may demand to be taken before an 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, the Commissioner-General or an officer authorised by the Commissioner-General 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 who may be a police officer or other person.

(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, Acts No. 16 of 1996 and No. 4 of 1999)

Taking of
Samples

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:

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

(As amended by Act No. 16 of 1996)

Opening of
packages

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, to open such package and may examine, weigh, mark, or seal such goods as are contained therein.

(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, Acts No. 16 of 1964 and No. 4 of 1999)

Action of
officer when
given
unsatisfactory
answers to
questions

12. (1) Where an officer-

- (a) is not satisfied that the answer to a question put to a person under any section of this Act is correct;
- (b) has not been given an answer to a question put to a person under any section of this Act; or
- (c) is not satisfied with the explanation given by a person in respect of goods that are or have been, or that the officer suspects are or have been, in that person's possession or under that person's control and the officer has reasonable cause to suspect that an offence has been, is being, or is about to be, committed against this Act by that person, the officer may-
 - (i) take such person to a police station and lay a charge against that person; or
 - (ii) if there is no police station in the vicinity take such person before a magistrate with a view to obtaining a warrant for that person's arrest.

(Act No. 4 of 1999)

PART III

IMPORTATION OF GOODS

Customs ports,
aerodromes
and houses

13. (1) The Minister may, subject to such terms and conditions as the Minister may specify-

- (a) appoint places to be customs ports for Zambia at or through which goods may be imported or exported and persons may arrive or depart, by land or water;
- (b) appoint places within Zambia to be customs aerodromes at or through which goods may be imported or exported and persons may arrive or depart, by air;

- (c) define the roads or routes over which imported goods that are uncustomed, or goods that are to be conveyed in bond or goods intended for export, shall be conveyed to or from a particular customs port or customs aerodrome;
- (d) appoint custom houses at customs ports or customs aerodromes or elsewhere within Zambia for the processing of entries, the collection of revenue and for the general administration of this Act; and
- (e) determine the hours of the day and night during which particular customs ports and custom houses shall be open for the processing of persons and goods either in general or in specific classes or categories.

(2) The Minister may, by statutory order, revoke or amend any appointment, determination, definition, direction or specification made under subsection (1).

(Act No. 4 of 1999)

Establishment
of customs
barriers

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

(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 and Act No. 16 of 1996)

Prohibition of
importation or
exportation
except through
appointed ports

15. (1) Subject to subsections (2) and (3) and section *twenty-one A*, all ships, aircraft and vehicles including trains and all persons whether or not engaged in importing or exporting goods shall enter or leave Zambia through ports or aerodromes appointed under section *thirteen*, and shall follow such routes as may have been appointed or defined under that section, and shall comply with all rules and regulations made under this Act or any other written law in force for the protection of the revenue and trade of Zambia or for any other purpose.

(2) The Commissioner-General may, at his discretion, permit, subject to such conditions as he may specify, ships, aircraft and vehicles and persons whether or not 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 or exported 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 Acts No. 48 of 1968, No. 16 of 1996 and No. 4 of 1999)

Appointment
of landing,
loading, and
examination
places

16. (1) The Commissioner-General may appoint at any customs port or customs aerodrome places to be known as examination stations for the embarking and disembarking of persons and for the loading, unloading, and examination of goods including baggage, and may from time to time make such rules and lay down such conditions in connection therewith as the Commissioner-General considers necessary.

(2) Where at any customs port or customs aerodrome, an examination station has been appointed under this section, any person who embarks or who disembarks or who loads or unloads goods otherwise than at such place, except with the written permission of the Commissioner-General, shall be guilty of an offence.

(As amended by Acts No. 16 of 1996 and No. 4 of 1999)

Appointment
of customs
areas

17. (1) The Commissioner-General may, subject to such terms and conditions as the Commissioner-General may require-

- (a) appoint any area, place or building in or at a customs port of entry or customs aerodrome as a customs area in which imported goods or goods for export may be held and stored before entry for consumption, warehousing, export or such other purpose as permitted or required by this Act.
- (b) appoint customs areas at inland places for the receipt and storage of uncustomed goods carried by licensed customs carriers, including trains, before entry in accordance with this Act.

(2) The owner or operator of a customs area shall provide and maintain without charge such accommodation and facilities as the Commissioner-General may determine are reasonably necessary and suitable for the purposes of carrying out the functions and responsibilities of the Customs Division at that place.

(3) No person or vehicle shall enter or leave a customs area and no goods whether dutiable or not shall be brought into or taken out of any customs area, otherwise than through an entrance or exit approved for that purpose by the Commissioner-General.

(4) No vehicle or goods shall be taken out of any customs area without the permission of the Customs Division.

(5) 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 an officer for the purposes of search or examination.

(6) The operation of any customs area shall be subject to such regulations and rules as may be made pursuant to the provisions of this Act.

(Act No. 4 of 1999)

Charges by
owner or
operator of
customs area

18. No charges shall be made by the owner or operator of a customs area for the reception and storage in that area of any imported goods during such period and under such circumstances as may be prescribed under this Act.

(Act No. 4 of 1999)

Vehicles
entering
or leaving
customs
areas

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 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.

(As amended by Act No. 4 of 1999)

Person in charge of train to supply documents to officer

20. (1) Upon first arrival in Zambia of any train, the driver or other person in charge of any train shall cause that train to proceed and stop within, a customs area and shall deliver to the Customs Division an inward report in the prescribed form together with such other documents as may be required by the terms and conditions of the customs carriers licence issued to the owner or operator of the train.

(2) The driver or other person in charge of the train shall answer any questions asked by any officer in regard to the train, its journey and all persons, or goods carried on it.

(3) No goods shall be unloaded from or loaded on to any train or any part of a train separated from any other part other than with the permission of the Customs Division.

(4) Any goods permitted by the Customs Division to be unloaded are to be unloaded within the customs area.

(5) No train shall leave the customs area to continue its journey within Zambia or for any other purpose other than with the written permission of the Customs Division.

(6) On having received permission from the Customs Division to leave the customs area, the driver or person otherwise in charge of the train shall comply with any terms or conditions of that permission and of the customs carriers licence issued to the owner or operator of the train.

(Act No. 4 of 1999)

Person in charge of vehicle to report goods

21. (1) The person in charge of any vehicle, other than a railway train, arriving in Zambia, shall-

(a) in the case of arrival by ship or aircraft, unless otherwise directed by an officer, proceed immediately with the vehicle from the examination station, or other approved point of unloading, to a customs area at that port or aerodrome; or

(b) in the case of arrival by road, unless otherwise directed by an officer, proceed immediately to a customs area at that port and before unloading or in any manner disposing of such vehicle or any goods thereon or contained therein, shall deliver to the custom house at that port, a report in the prescribed form together with such other documents as may be required by the terms and conditions of any customs carriers licence issued to the owner or operator of the vehicle.

(2) The driver or other person in charge of the vehicle shall answer any questions asked by any officer in regard to the vehicle, its journey and all persons or goods carried in or on it.

(Act No. 4 of 1999)

Duty of persons arriving in Zambia to report to custom house

21 A. (1) Any person arriving in Zambia shall-

- (a) in the case of persons arriving by train, report to the Customs Division at the customs area designated for trains at the customs port of arrival;
- (b) in the case of persons arriving by ship or aircraft, whether or not travelling by vehicle carried on that ship or aircraft, report to the Customs Division at the examination station of the customs port of arrival;
- (c) in the case of persons arriving by vehicle, unless otherwise directed by an officer, convey that vehicle immediately to a customs area appointed at the customs port of arrival and report to the custom house at that port;
- (d) in the case of persons crossing the border by foot or by means of transport other than as specified above, report to the custom house at the customs port nearest to the point at which that person crossed the border.

(Act No. 4 of 1999)

Report of
arrival of
aircraft

22. (1) The pilot in charge of any aircraft arriving in Zambia shall, immediately after the landing at a customs aerodrome or other place permitted under the provisions of section *fifteen*, cause the aircraft to proceed to the examination station at that place.

(2) The pilot in charge of the aircraft shall-

- (a) within one hour after landing the aircraft, deliver to the Customs Division an inward report in the prescribed form together with such other documents as may be required by or under this Act;
- (b) answer any questions asked by any officer in regard to the aircraft, its cargo, crew, passengers and journey.

(3) Except with the permission of the Customs Division, no person shall enter or leave any aircraft that has arrived in Zambia or unload any cargo therefrom until a report has been made in terms of this section and any other customs requirements in regard to inspection or examination of the aircraft and its passengers and or cargo have been completed.

(4) Except with the permission of the Customs Division and in accordance with a customs clearance, no aircraft shall leave the customs examination station.

(Act No. 4 of 1999)

Report of
arrival of
ships

23. (1) The master of any ship arriving in Zambia at a customs port or other place permitted in accordance with the provisions of section *fifteen* shall cause that ship to proceed immediately to an examination station.

(2) The master of any ship arriving in Zambia shall-

- (a) within twenty-four hours of such arrival, deliver to the Customs Division an inward report in the prescribed form together with such other documents as may be required by or under this Act;
- (b) answer any questions asked by any officer in regard to the ship, its cargo, crew, passengers and journey.

(3) Except with the permission of the Customs Division, no person shall enter or leave any ship that has arrived in Zambia or unload any cargo therefrom until a report

has been made in terms of this section and any other customs requirements in regard to inspection or examination of the ship and its passengers or cargo have been completed.

(4) Except with the permission of the Customs Division and in accordance with the customs clearance, no ship shall leave the examination station.

(Act No. 4 of 1999)

Non application
of section fifteen

24. (1) Section *fifteen* shall not apply to a ship or aircraft that is required or compelled to berth, land, anchor or otherwise arrive at a place other than a customs port or customs aerodrome if such arrival-

(a) is required by any statutory or other requirement relating to navigation;
or

(b) is compelled by accident, stress or weather or other necessity.

(2) The master, pilot or person in charge of any ship or aircraft to which this section applies-

(a) shall report forthwith to a customs officer;

(b) shall not, without the consent of a customs officer, permit any goods carried in the ship or aircraft to be unloaded from it or any of the crew or passengers to depart from its vicinity; and

(c) shall comply with any directions given by a customs officer in respect of any goods, crew or passengers carried in the ship or aircraft.

(Act No. 4 of 1999)

Report by
operator of
a pipeline

25. The nature and quantities of goods imported or exported through a pipeline shall be recorded and reported in such form as may be prescribed by the operator of the pipeline in such form as may be prescribed and 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 as amended by Acts No. 16 of 1996
and No. 4 of 1999)*

Report may
be amended

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, an officer may, if satisfied that there was no fraudulent intention, permit the report to be amended by the person who made it.

*(As amended by Acts No. 48 of 1968, No. 16 of 1996
and No. 4 of 1999)*

Cargo may
remain on
board ships
or aircraft

27. With the permission of and under conditions imposed by an officer authorised for that purpose by the Commissioner-General 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.

*(As amended by Act No. 16 of 1996
and No. 4 of 1999)*

Liability
for duty

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.

(2) In all cases where under the provisions of subsection (1) liability for duty does not rest upon the master of the 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 the 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 the 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 payment of duty under such conditions as he may impose.

*(As amended by G. N. No. 407 of 1963, No. 24 of 1973 and
Act No. 16 of 1996)*

Master, pilot or
pipeline
operator may
appoint agent

29. (1) Notwithstanding anything to the contrary contained in sections *twenty-two*, *twenty-three*, and *twenty-five*, the master of a ship, the pilot of an aircraft, or the operator of a pipeline, may appoint an agent to perform any act including the answering of questions under this Act, and any such act performed by the 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.

(2) Notwithstanding subsection(1), where the personal attendance of the master, pilot or operator is required by an officer, such person shall attend in person and answer any questions asked by an officer.

(Act No. 4 of 1999)

Goods
deemed to
have been
imported

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 and
Act No. 16 of 1996)*

Time of
importation

31. (1) The time of importation of any goods into Zambia shall be deemed to be –

- (a) in the case of ships and where goods are imported by ship, at the time when the ship first enters the territorial waters of Zambia whether or not in the course of a journey to Zambia;
- (b) in the case of aircraft, and where goods are imported by aircraft, at the time when the aircraft first enters the sovereign airspace of Zambia whether or not in the course of a journey to Zambia;
- (c) in the case of trains and where goods are imported by train, at the time when the train crosses the borders of 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) Deleted by *Act No. 4 of 1999*

*(As amended by G. N. No. 407 of 1963, Acts No. 48 of 1968,
No. 14 of 1984, No. 16 of 1996, and No. 4 of 1999)*

No importation
without entry

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.

(2) Subject to the provisions of section *thirty-four* and any regulations and or rules made pursuant to this Act, entry of imported goods shall in each case be made at the customs port of first arrival for one of the following purposes-

- (a) for consumption;
- (b) for warehousing in a bonded warehouse;
- (c) for in-bond carriage to-
 - (i) another customs port or customs aerodrome for export; or
 - (ii) a customs area at another customs port or inland place, for further entry.

(3) Goods entered for warehousing or otherwise for purposes involving in bond carriage shall be conveyed by licensed customs carrier to such warehouse, or customs area at another customs port or customs aerodrome or inland place as is specified in the entry or consignment documents or as otherwise directed by the Customs Division.

(4) Goods entered for in bond carriage to a customs area at another customs port or inland place for further entry shall be entered for consumption or warehousing within the period of thirty days as provided in section *thirty-three*.

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

(6) 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,
Acts No. 48 of 1968 and No. 4 of 1999)*

Entry of
ships, aircraft and
other vehicles

32A (1) Notwithstanding anything in this Act, entry pursuant to section *thirty-two* shall be made in respect of ships, aircraft, trains and other vehicles imported into Zambia otherwise than as cargo, as may be prescribed or as the Commissioner-General may determine in relation to any such ship, aircraft, train or other vehicle or class thereof, by rules made pursuant to section *two hundred*.

(2) For the purpose of making entry in respect of ships, aircraft, trains and other vehicles imported into Zambia otherwise than as cargo these vehicles shall be deemed to have been imported as cargo and unloaded as such on arrival.

(Act No. 4 of 1999)

Entry of
goods

33. (1) All goods not entered within *thirty days* after the time of their importation pursuant to section *thirty-one* shall be liable to seizure.

(2) Where such goods are not entered for customs purposes pursuant to the requirements of subsection (1) the goods shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three* to *two hundred and five*.

(3) Notwithstanding the provisions of sub section (2), where any goods not entered in accordance with subsection (1) are, in the opinion of the Commissioner-General unsuitable for storage or of a dangerous or perishable nature, the Commissioner-General may direct that they be forthwith sold or disposed of in accordance with the provisions of sections *two hundred and three* to *two hundred and five*.

(4) Any sale or disposal undertaken pursuant to subsection (2) or (3) shall be undertaken without compensation to any person or party who may, either before or after such sale or disposal, claim a financial or other interest in such goods.

(Act No. 4 of 1999)

Types of
entry of
imported
goods

34. (1) Subject to subsection (2), the person making entry of any imported goods shall-

- (a) deliver to the Customs Division such copies as may be required of a duly completed bill of entry;
- (b) produce all such documents as may be required by the Customs Division;
- (c) answer any questions relating to those documents or those goods; and

- (d) unless the goods are entered to be warehoused or removed in bond, pay all duties thereon within *five days* of the issue by the Customs Division of an assessment notice in the prescribed form.
- (2) Where–
- (a) visitors motor vehicles are imported temporarily;
 - (b) goods not being goods for commercial use are imported in the baggage of passengers and accompanying them on the same ship, aircraft, train or vehicle other than a train;
 - (c) goods are unaccompanied passengers baggage not being goods for commercial use; or
 - (d) goods valued at not more than three thousand fee units are imported;

the presentation of a bill of entry may be dispensed with and entry may be effected in such other manner as may be provided for under this Act.

(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) Deleted by *Act No. 4 of 1999*

(6) Deleted by *Act No. 4 of 1999*

(As amended by Acts No.20 of 1992 and No. 4 of 1999)

Section 35 - Repealed by Act No. 4 of 1999

Section 36 - Repealed by Act No. 4 of 1999

Details to
be shown
on entry

37.(1) Entry in terms of section *thirty-four* shall not be valid unless –

- (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) all documents required by the Customs Division have been produced and all questions asked by the Customs Division in relation to such documents or the imported goods, have been answered.

(2) Goods taken or delivered by virtue of an entry which is not valid, out of any ship, aircraft, vehicle, pipeline, customs area, 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 customs area 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, Acts No. 48 of 1968 and No. 4 of 1999)

38. Repealed by Act No. 4 of 1999

39. Repealed by Act No. 4 of 1999

Goods
prohibited
from
importation

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

- (a) false or counterfeit coin or banknotes and any coin or banknotes that are intended for circulation in Zambia that are not legal tender in Zambia;
- (b) any goods which in the opinion of the Minister are indecent, obscene or objectionable;
- (c) goods manufactured or produced wholly or in part by prison labour or within or in connection with any prison, jail or penitentiary excluding a *bona fide* gift made by a prisoner for the personal use of a private individual;
- (d) pirated and counterfeit goods and any goods bearing false or misleading marks or descriptions as to their origin, purpose and use.
- (e) qilika;
- (f) any goods the importation of which is prohibited by or under the authority of any other law; and
- (g) any other goods that may be declared to be prohibited goods by statutory order issued by the Minister.

(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
Acts No. 21 of 1966 and No. 4 of 1999)*

Restricted
importations

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 designed for or intended to be used for the production or refining of alcohols is prohibited.

(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 this Act or other law.

*(As amended by G.N. No. 407 of 1963 and Acts No.16 of 1996
and No.4 of 1999)*

Declaration
of currency
notes

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.

(2) Where an officer has reason to believe that a person required to make a declaration under subsection (1) has not made or refuses to make the declaration or where such person has made a declaration and the officer has reason to believe that the declaration is an incorrect or false declaration, the officer may search that person and any baggage or packages carried by or associated with that person.

(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.

(Act No. 15 of 1994 as amended by Acts No. 16 of 1996 and No. 4 of 1999)

Wreck

42. (1) For the purposes of this section, “wreck” includes –

- (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) Any person who has or who comes into, possession or control of any uncustomed wreck-

- (a) shall without delay give notice of the wreck to the nearest Custom house;

- (b) without the permission of the Customs Division, shall not remove or alter in any quantity or quality any such wreck;
 - (c) if required, shall deliver that wreck or permit it to be delivered to such person or place as directed by the Customs Division.
- (3) Uncustomed wreck found within Zambia shall be deemed to be imported goods that have not been entered pursuant to subsection (1) of section *thirty-three* and this Act shall apply to such goods.

(As amended by G.N. No. 407 of 1963 and Act No. 4 of 1999)

PART IV

CUSTOMS CARRIERS

Customs
carriers

43. (1) The Commissioner-General may licence, subject to such terms and conditions as the Commissioner-General may impose, persons to be known as customs carriers who shall be permitted to carry uncustomed and or in bond goods within or through Zambia.

(2) Except with the written permission of the Commissioner-General or where there are proceedings under a customs notice of redirection from the customs port of first entry to a customs area at another customs port, no persons other than the Customs Division and persons licensed as customs carriers under subsection (1), shall be permitted to carry uncustomed or in bond goods within or through Zambia beyond a customs area at the port or aerodrome of first arrival.

(3) Without limiting the authority conferred on the Commissioner-General by subsection (1), the Commissioner-General may make the issue, continuation or reissue of any customs carriers licence conditional on the provision of a bond or guarantee or similar undertaking as may, in the opinion of the Commissioner-General, ensure that the duty due on any goods that might from time to time be carried by the customs carrier shall be secured to the Republic.

(4) The Commissioner-General may permit, subject to such terms and conditions as the Commissioner-General may impose, customs carriers licensed as such by authorities external to Zambia to act as if they were customs carriers licensed pursuant to the provisions of this section.

(5) Nothing in this section or in this Act shall limit or otherwise prevent the Commissioner-General from extending, subject to such terms and conditions as the Commissioner-General may impose, any customs carriers licence issued under this section to cover purposes allowed or approved under any international agreement to which Zambia is a party.

(6) The Commissioner-General may at any time require that the form or amount of such security required under this section be altered as the Commissioner-General may determine.

(7) Any offence against this Act by a customs carrier or any breach or instance of non compliance with any term or condition of the licence issued under this section to that person shall be grounds for the revocation or suspension of that licence.

(Act No. 4 of 1999)

Payment
of duty by
customs
carrier

44. (1) Notwithstanding any other provision of this Act or any other written law, a person licensed, or permitted to operate within Zambia, as a licensed customs carrier shall be liable for the payment of duty on any goods, determined by the Commissioner-General to have been damaged, broken or pillaged during transit within or through Zambia.

(2) Any duty payable pursuant to a decision of the Commissioner-General made under subsection (1) shall be due and payable on the issue of a notice of claim by the Commissioner-General and notwithstanding any appeal against such decision, shall be paid within ten days of the date of issue of such notice.

(Act No. 4 of 1999)

Section 45 - Repealed by *Act No. 4 of 1999*.

Section 46 - Repealed by *Act No. 4 of 1999*.

PART V

EXPORTATION OF GOODS

Exporter to
deliver customs
documents and
produce goods

47. (1) Every person intending to export any goods from Zambia shall, before such an 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:

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;
- (iii) goods are exported by post;

the presentation of a bill of entry or other prescribed 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 prescribed 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.

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

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

(4) Deleted by *Act No. 4 of 1999*.

(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 and Acts No.16 of 1996 and No. 4 of 1999)

Exportation
of goods

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.

(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) Deleted by *Act No. 4 of 1999*

(As amended by G.N. No. 407 of 1963, Acts No. 48 of 1968 and No. 4 of 1999)

Exportation
of goods
over land

49. (1) The driver or person otherwise in charge of any train or other vehicle intending to leave Zambia by land shall report to the Customs Division at the intended customs port of exit and shall-

(a) make a report in such form as may be prescribed; and

(b) shall answer any questions asked by any officer in relation to that report, the intended journey of the train or other vehicle and the goods and persons carried on the train or other vehicle.

(2) The driver or person otherwise in charge of the train or other vehicle shall not remove the train or other vehicle beyond the borders of Zambia without the permission of the Customs Division.

(Act No.4 of 1999)

Outward
clearance
of ships

50. (1) The master of any ship intending to export goods from Zambia shall, before any goods, including ballast, are laden in the ship, make application to the Customs Division, in the form prescribed, for permission to load goods on such ship.

(2) No goods shall be loaded other than in accordance with the terms and conditions of a permit issued pursuant to subsection (1).

(3) The master shall before the ship departs, whether or not in ballast or laden-

(a) deliver to the Customs Division a duly completed application for clearance in the prescribed form; and

(b) answer all such questions concerning the ship, its cargo, or passengers, if any, crew and voyage as may be asked by an officer.

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

(5) The master of any ship departing from Zambia in accordance with a certificate of clearance issued by the Customs Division shall cause that ship to proceed immediately to its scheduled destination and shall not call at any other place within Zambia unless forced to do so by accident, stress or weather or other circumstances beyond the control of the master.

(6) 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 Customs Division 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 and Act No. 4 of 1999)

Outward
clearance
of aircraft

51. (1) The pilot of any aircraft intending to depart from Zambia shall, before such departure;

(a) deliver to the Customs Division a duly completed application for clearance in the prescribed form; and

(b) answer all such questions concerning the aircraft and its freight, if any, passengers, if any, crew and journey as may be asked by any officer.

(2) The pilot shall not cause or permit the aircraft to depart without first obtaining a certificate of clearance in the prescribed form from the Customs Division which shall not without reasonable cause withhold such certificate.

(3) The pilot of any aircraft departing from Zambia in accordance with a certificate of clearance issued by the Customs Division shall cause that aircraft to proceed immediately to its scheduled destination and shall not call at any other place in Zambia unless forced to do so by accident, stress or weather or other circumstances beyond the control of the pilot.

(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 Customs Division 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, G.N. No. 407 of 1963 and Act No. 4 of 1999)

Master, pilot
or pipeline
operator may
appoint agent

52. (1) The master of any ship, the pilot of any aircraft, or the operator of any pipeline may appoint an agent to perform any act including the answering of questions required by or under this Part, and any such act performed by the 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.

(2) Notwithstanding subsection(1) where the personal attendance of the master, pilot or operator is required by an officer, the master, pilot or operator shall attend in person to answer questions asked by the officer.

(Act No. 4 of 1999)

Time of
exportation
of goods

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.

(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 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 pipeline, whichever shall be the earlier.

(As amended by G.N. No. 407 of 1963 , Acts No. 48 of 1968 and No. 4 of 1999)

Restriction of
exportation

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.

(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-

- (a) 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;

- (b) the taking of goods aboard such a ship, aircraft, or vehicle by a person;
- (c) 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 or any member of the crew of the ship, aircraft or vehicle for the purpose of exportation;
- (d) the placing of any goods in a pipeline which has been prepared for the exportation of goods; or
- (e) 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, Acts No. 48 of 1968
and No. 4 of 1999)*

PART VI

WAREHOUSING OF GOODS

Licensing
of bonded
warehouse

55. (1) On receipt of an application in the prescribed form, the Commissioner-General may licence, subject to such terms and conditions as the Commissioner-General may specify, buildings, installations and areas as bonded warehouses for the storage of goods without payment of duty.

(2) Without limiting the authority conferred by subsection (1) the Commissioner-General may licence bonded warehouses for particular purposes including the storage of particular goods or the manufacture of goods in bond.

(3) A licence issued under this section shall expire on 31st December in each year and may be renewed by the Commissioner-General on receipt of an application for renewal, in the prescribed form and on payment of the prescribed fee.

(4) If the owner or operator of a bonded warehouse fails to comply with any condition of the licence or provision of this Act or regulations or rules made thereunder or with any instructions made or given by the Commissioner-General in connection with the administration of this Act, the Commissioner-General may revoke the licence or refuse to renew it.

(5) The Commissioner-General shall issue notice in the Gazette immediately following the issue or revocation of any such licence under this section.

(6) Where the licence of a bonded warehouse is revoked by the Commissioner-General or is offered for surrender by the owner or operator thereof, all duty on all bonded goods in such warehouse shall be deemed to be due and payable at the time when notification of the revocation or surrender is given or received by the Commissioner-General and the goods shall be entered and duty paid within ten days of that time unless the goods are sooner removed for export or re-warehousing in accordance with the provisions of this Act.

(7) Goods to which subsection (6) applies that are not entered or cleared in accordance with the provisions of that subsection shall be forfeited and may be sold

or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three* to *two hundred and five*.

(8) Any sale or disposal undertaken pursuant to subsection (7) shall be so undertaken without compensation to any person or party who may, either before or after such sale, claim a financial or other interest in such goods.

(Act No. 4 of 1999)

Issuing or
reissuing of
bonded
warehouse
licence

56. (1) Without limiting the authority conferred on the Commissioner-General by section *fifty-five* the Commissioner-General may make the issue, continuation or reissue of any bonded warehouse licence conditional on the provision of such security by bond or guarantee or similar undertaking as may in the opinion of the Commissioner-General ensure that the duty due on any goods that might from time to time be warehoused in the bonded warehouse shall be secured to the Republic.

(2) The Commissioner-General may at any time require that the form or amount of security required under subsection (1) be altered as the Commissioner-General may determine.

(Act No. 4 of 1999)

Storing of
goods in
warehouse
without
payment
of duty

57. (1) The importer of any dutiable goods may warehouse them in any warehouse duly licensed under section *fifty-five* without payment of duty on the first importation and all goods so warehoused shall be subject to the provisions of this Act and any regulations or rules made thereunder.

(2) Deleted by *Act No. 4 of 1999*

(3) The manufacturer or other person who becomes the owner of any goods liable to excise duty or surtax before that duty or surtax becomes due for payment 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*.

(As amended by Act No. 4 of 1999)

Removal of
goods from
warehouse

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.

(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 prior to their delivery 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-

- (a) if any deficiency has already been accounted for in terms of subsection (4), duty shall only be paid on the actual quantity of goods to be delivered for consumption in Zambia; and

- (b) the payment of excise duty and or surtax on hydrocarbon oils and oil products manufactured by a licensed manufacturer in Zambia and stored in a bonded warehouse licensed for that purpose, shall be as provided for in regulations or rules made under this Act.
- (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 released from a bonded warehouse in accordance with any entry for re-warehousing or for in-bond export as cargo or as ship, aircraft or vehicle stores, duly made and passed by the Customs Division in accordance with this Act and any regulations or rules made thereunder.
- (4) If at any time warehoused goods are found to be missing from a warehouse without having been cleared from such warehouse in accordance with this Act or any regulations or rules made thereunder or are found to be less in quantity than that which was declared and accepted at the time of their entry into the warehouse, duty shall be due and payable on any such missing goods or such deficiency:

Provided that–

- (a) in 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 may be prescribed;

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 made under this Act if 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 owner or operator 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 made under this Act, 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) The duty on missing or deficient goods pursuant to subsection (4) shall constitute a debt due to the Republic by the owner or operator of the warehouse and

the importer or owner of the goods who shall be jointly and severally liable and; notwithstanding any appeal thereto, such duty shall be paid within ten days of the issue by the Commissioner-General of a notice of claim thereof.

(6) 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, G.N. No. 407 of 1963 and Acts No. 16 of 1996 and No. 4 of 1999)

Bonded goods
as stores for
aircraft or ships

59. (1) Any person wishing to export goods as ship, aircraft or vehicle stores shall make application to the Customs Division in the form prescribed for that purpose and no such entry shall be valid authority for release of goods from a warehouse unless such application has been approved.

(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 and Act No. 4 of 1999)

60. Repealed by *Act No. 4 of 1999*

Liability of
goods to duty
at date of
entry for
consumption

61. All goods whatsoever which have been deposited in terms of this Act in any warehouse 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.

(As amended by Act No. 4 of 1999)

When
warehoused
goods shall
be cleared

62. (1) Except with the permission of the Commissioner-General, all goods entered into a bonded warehouse, whether or not re-warehoused at any time, shall be cleared from the warehouse and entered for export or consumption within two years of the date of first warehousing.

(2) If any goods are not entered within thirty days of the due date for entry pursuant to subsection (1) the goods shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with sections *two hundred and three to two hundred and five*.

(3) Any sale or disposal undertaken pursuant to subsection (2) shall be so undertaken without compensation to any person or party who may, either before or after such sale, claim a financial or other interest in such goods.

(Act No. 4 of 1999)

Sorting,
repacking
or destroying
goods under
customs
authority

63. (1) The Commissioner-General may permit –

- (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 or arrangements as may be necessary for the preservation of those goods, or for the sale, exportation, or other legal disposal of the goods, and, in the case of wines and spirits, to bottle from bulk stocks or to break down from greater to less strengths;

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

(2) When any goods referred to in subsection (1) are entered for consumption, duty shall be paid upon any material contained therein liable to duty or consumed in the processing or manufacture thereof 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.

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

(Act No. 4 of 1999)

Transfer of ownership of goods warehoused

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.

(As amended by Act No. 16 of 1996)

Warehouses may be locked by an officer

65. The Commissioner-General may cause any bonded warehouse to be locked with a customs lock for so long as the Commissioner-General considers 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 Commissioner-General.

(Act No. 4 of 1999)

Taking stock and duty on deficiencies

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*.

Sampling of warehoused goods

67. (1) An officer may permit –

- (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 and No. 16 of 1996)

Remittal of duty on certain warehoused goods which are destroyed, etc.

68. (1) If the Commissioner-General is satisfied that –

- (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 (6) of section *fifty-eight* or whilst in transit to a bonded warehouse or in transit for export in bond or

export in bond as ship, aircraft or vehicle stores 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 the consent of the Commissioner-General, are destroyed under customs supervision.

(As amended by Acts No.16 of 1996 and No.4 of 1999)

Failure to pay duty by importer or owner of warehoused goods

68A. (1) Where the importer or owner of goods warehoused in a bonded warehouse is unable to pay the duty on the goods, such person may apply to the Commissioner-General to take over the goods.

(2) The Commissioner-General may, on application under subsection (1) agree to take over the goods and any such goods so taken over shall be deemed to be forfeited and may be sold or disposed of in accordance with sections *two hundred and three* to *two hundred and five*.

(3) Any sale or disposal undertaken pursuant to this section shall be without compensation to any person or party who may either before or after such sale, claim a financial or other interest in such goods.

(Act No. 4 of 1999)

Removal of goods in bond to any other port or any other country

69. Where any goods are to be removed from a warehouse for the purpose of re-warehousing or for export in-bond or for export in-bond as ship, aircraft or vehicle stores, or for any other purpose, such goods shall, unless otherwise permitted by the Commissioner-General, be so removed by a customs carrier licensed in accordance with this Act.

(Act No. 4 of 1999)

Responsibility for goods placed in a bonded warehouse

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 through wrong delivery of such goods.

(As amended by Act No. 16 of 1996)

PART VII

ORDINARY DUTIES AND DUMPING DUTIES

Definition of production of goods

71. For the purposes of this Act, “goods produced” means goods which have not been submitted to any process of manufacture.

(As amended by Act No. 4 of 1999)

Customs duties

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 1966)

Determination of origin of manufactured goods

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)

Interpretation

74. For the purposes of sections *seventy-five*, *seventy-five A*, *seventy-five B*, *seventy-five C*, *seventy-five D* and *seventy-five E*, unless the context otherwise requires,-

“dumping”, in relation to goods, means the situation where the export price of goods imported into Zambia or intended to be imported into Zambia is less than the normal value of the goods as determined in accordance with the provisions of regulations made under this Act, and “dumped” shall be construed accordingly;

“industry”, in relation to any goods, means-

- (a) the Zambian producers of like goods;
- (b) Zambian producers of like goods whose collective output constitutes a major proportion of the Zambian production of like goods, but does not include importers of those goods;

“like goods”, in relation to any goods means-

- (a) other goods that are like those goods in all respects; or
- (b) in the absence of such goods, other goods which have characteristics closely resembling those other goods.

“subsidised goods” means-

- (a) goods in respect of which the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import is subsidised directly or indirectly, by the Government of a country other than Zambia as determined in accordance with the provisions of regulations made under this Act; and
- (b) goods in respect of which the transportation has been or may be paid, granted, authorised, or otherwise provided, directly or indirectly, by any reduction or remission of freight.

(Act No. 4 of 1999)

Complaint against goods

75. (1) Where a complaint has been made and an investigation has been carried out, in accordance with regulations made under this Act and the Minister is satisfied in relation to the importation into Zambia of goods that-

- (a) the goods have been or are being dumped or subsidised; and

- (b) material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially threatened or the establishment of an industry has been or is being materially retarded as a result of the dumping or subsidy;

the Minister may by statutory order determine that-

- (i) there shall be charged, collected and paid on demand by the Customs Division on those goods which are dumped, a dumping duty; and
- (ii) there shall be charged, collected and paid on demand by the Customs Division on those goods which are subsidised a countervailing duty.

(2) Subject to section *seventy-five C*, the duty under this section-

- (a) shall apply to any goods entered for consumption on or after the date of notice under subsection (1); and
- (b) may be imposed retrospectively.

(3) The dumping duty or countervailing duty levied pursuant to subsection (1) as determined by the Minister shall be at a rate -

- (a) in the case of dumped goods, not exceeding the difference between the export price of the goods and their normal value; and
- (b) in the case of subsidised goods, not exceeding the amount of subsidy on the goods.

(4) In determining the rate of duty under subsection (3), the Minister shall have regard to the desirability of ensuring that the amount of dumping or countervailing duty in respect of such goods is not greater than is necessary to prevent the material injury or a re-occurrence of the material injury to an industry or the material threat or retardation to the establishment of an industry, as the case may require.

(5) The Minister may, by statutory order revoke, in whole or in part, any such dumping or countervailing duty imposed under this section.

(Act No.4 of 1999)

Extent of
injury

75A. (1) In determining, for the purposes of section *seventy-five*, whether or not any material injury to an industry has been or is being caused or threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or the subsidising of goods exported or intended to be exported to Zambia from another country, the Minister shall examine-

- (a) the volume of the dumped or subsidised imports;
- (b) the effect of the dumped or subsidised imports on prices in the Zambian market for like goods; and

- (c) the consequent impact of the dumped or subsidised imports on the relevant Zambian industry.
- (2) Without limiting the generality of subsection (1) the Minister shall have regard to the following matters-
- (a) the extent to which there has been or is likely to be a significant increase in the volume of dumped or subsidised imports of the goods either in absolute terms or in relation to production or consumption in Zambia;
 - (b) the extent to which the effect of the dumped or subsidised imports is or is likely significantly to depress prices for the goods in Zambia or significantly prevent price increases for the goods which otherwise would have occurred; and
 - (c) the economic impact of the dumped or subsidised imports on the industry including:
 - (i) actual and potential decline in output, sales market share, profits, productivity, return on investments, and utilisation of production capacity;
 - (ii) factors affecting domestic prices; and
 - (iii) actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

(Act No. 4 of 1999)

Provisional
dumping or
countervailing
duty

75B. (1) Where a complaint has been made in accordance with regulations made under this Act and the Minister is satisfied that a dumping or countervailing investigation shall be undertaken, the Minister may, by statutory order, impose a provisional dumping or countervailing duty that shall, subject to the provisions of section *seventy-five C*, have effect on any such goods entered for consumption on or after the date of such notice.

(2) In the determining any provisional dumping or countervailing duty, the Minister shall have regard to the provisions of sections *seventy-five* and *seventy-five A* and to the likely final outcome of the investigation.

(3) Where provisional dumping or countervailing duty is imposed under section *seventy-five*, there shall be a full dumping and countervailing investigation carried out in accordance with regulations made under this Act.

(4) Provisional dumping and countervailing duty shall apply to any such specified goods imported within a period of one hundred days from the date of notification unless such duty is sooner revoked by the Minister or such period is extended by statutory order.

(5) The period of application of any provisional dumping or countervailing duty shall not be extended beyond thirty days following the date on which it was due to cease.

(6) Where provisional dumping duty is found on the completion of the investigation to have been incorrectly levied or levied at a higher rate than that subsequently found to be appropriate, such duty or part thereof shall be refunded to the importer.

(Act No. 4 of 1999)

Application of
dumping and
countervailing
duty

75C. (1) Dumping and countervailing, or provisional dumping or countervailing duties levied pursuant to sections *seventy-five* or *seventy-five B*, as the case may be, shall only be applied to goods that are entered for consumption on or after the imposition of the duties by statutory order except as may be provided in this section.

(2) Where the Minister determines pursuant to section *seventy-five* that material injury has been or is being caused and that dumping or countervailing duty shall apply at a higher rate than any provisional duty that has been levied, the higher rate shall be applied retrospectively on and from the date on which the provisional duty was levied and such additional duty shall be charged, collected and paid on demand of the Customs Division.

(3) Where the Minister determines-

(a) in respect of dumped goods:

- (i) that there is a history of dumping causing material injury or that the importer was or is aware that the goods were dumped and that such dumping would cause injury; or
- (ii) that the material injury is caused by substantial dumped imports of a product in a relatively short period to such an extent that in order to prevent it recurring the Minister is of the opinion that it is necessary to levy a dumping duty retrospectively;

(b) in the case of subsidised goods, where the Minister determines that material injury is caused by substantial imports, in a relatively short period, of goods benefiting from export subsidies paid or bestowed inconsistently with the provisions of the General Agreement on Tariffs and Trade 1994 and the Agreements thereto relating to anti-dumping and countervailing measures, and for the purpose of precluding the recurrence of such material injury, the Minister imposes a countervailing duty retrospectively;-

the Minister may levy dumping or countervailing duty, as the case may be, on goods which were entered for consumption not more than ninety days prior to the date of the notification of any provisional duty.

(Act No. 4 of 1999)

Provisional
duty on
imported
goods

75D. Where the Minister is satisfied, in relation to the importation of goods into Zambia which have been produced or manufactured in another country, that-

- (a) the goods are or have been dumped or subsidised; and

- (b) material injury to a domestic industry of a third country has been or is being caused or threatened or the establishment of a domestic industry of a third country has been or is being materially retarded by the dumping or subsidy;-

the Minister may, if requested by the Government of the third country so to do, by statutory order, declare that the provisions of this Act, shall, with necessary modification, apply with respect to the effect of those goods on a Zambian industry, and the Minister may, by statutory order, impose dumping or countervailing duty.

(Act No. 4 of 1999)

Powers on an inquiry on subsidised or dumped goods	<p>75E. (1) The Commissioner-General or other person undertaking an inquiry relating to subsidised or dumped goods shall have the powers, rights, privileges and duties conferred or imposed on a Commissioner by the Inquiries Act.</p> <p>(2) The provisions of the Inquiries Act shall apply to an inquiry held for the purpose of investigating a complaint against subsidised or dumped goods and to a person summoned to give evidence, or giving evidence at such inquiry.</p> <p style="text-align: right;"><i>(Act No. 4 of 1999)</i></p>
Cap.41	
Excise duties	<p>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.</p> <p style="text-align: right;"><i>(As amended by G.N. No. 407 of 1963, G.N. No. 143 of 1964 and Act No. 16 of 1964)</i></p>
Payment of excise duty on imported goods	<p>76A In respect of any imported goods that are of a kind or class subject to excise duties in terms of section <i>seventy-six</i> there shall, in addition to such other duties imposed by this Act or any other written law, be charged, levied collected and paid excise duties at the rates specified in the excise tariff.</p> <p style="text-align: right;"><i>(Act No. 4 of 1999)</i></p>
Surtax	<p>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.</p> <p style="text-align: right;"><i>(As amended by G.N. No.407 of 1963, G.N. No.143 of 1964 and Act No.16 of 1964)</i></p>
	<p>78. Repealed by <i>Act No. 4 of 1999</i></p>
Duties payable subject to certain provisions	<p>79. (1) Subject to the provisions of subsection (2), the duties imposed under this Act shall be subject to all of the provisions of this Act, relative to agreements, suspensions, rebates, refunds, drawbacks, or remission of duty, or to the warehousing of goods.</p> <p>(2) The provisions of this Act relative to agreements, suspensions, rebates, refunds, drawbacks or remissions of duty shall not apply to any dumping or countervailing duties imposed by the Minister pursuant to sections <i>seventy-five</i> or</p>

seventy-five B unless such application is, in each case, specifically approved by the Minister by statutory instrument.

(Act No. 4 of 1999)

80. Repealed by *Act No. 4 of 1999*

PART VIII

AGREEMENTS

President
may enter
into customs
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.

(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)

Minister may
make regulations
to give effect to
agreements

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)

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

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.

84. Repealed by *Act No. 4 of 1999*

PART IX

VALUE FOR DUTY PURPOSES

Importer to
specify
customs
value on
entry

85. (1) Every person who makes entry of goods imported or to be imported shall, on making entry, assess the customs value of the goods determined in accordance with the Fifth Schedule of this Act.

(2) Every importer or agent of an importer who makes an assessment pursuant to subsection (1) shall-

(a) keep the documents, records and information in respect of that entry in such manner and for such period as is required by or under this Act; and

(b) when required by the Customs Division, produce documents, records and information kept under paragraph (a) for the purpose of establishing the accuracy of the assessment.

(Act No. 4 of 1999)

Amendment
of valuation
assessment

86. (1) If the Commissioner-General is satisfied, that an assessment made under section *eighty-five* is-

- (a) inconsistent with the Fifth Schedule to this Act; or
- (b) for any other reason, incorrect-

the Commissioner-General may amend that assessment, and that amended assessment shall be the customs value for the purpose of this Act.

(2) The Commissioner-General shall give notice in writing to the importer of-

(a) an amended assessment made pursuant to subsection (1); and

(b) the basis for the amended assessment, and where applicable, the provisions of the Fifth Schedule to this Act that are relevant to the amended assessment.

(3) Subsection (1) of this section applies whether or not any duty assessed has been paid.

(4) An importer who is dissatisfied with a decision of the Commissioner-General under this section may, within twenty days after the date on which notice of the decision is given, appeal to the Revenue Appeals Tribunal against that decision.

(Act No. 4 of 1999)

Foreign
currency
to be
converted
into Zambian
currency

87. (1) Where an amount that is required under this Act to be taken into account for the purpose of assessing duty or for any other purpose is not in Zambian currency, the amount to be so taken into account shall be the equivalent amount in Zambian currency in accordance with a rate of exchange determined by the Commissioner-General.

(2) Where an amount is required to be converted into Zambian currency pursuant to subsection (1), the amount shall be converted-

- (a) in the case of goods in respect of which an entry shall be made, at the rate applying as at the date of importation or the date of the making of the first entry for those goods, whichever is the later date;
- (b) in the case of other goods, at the rate applying as at the date of the first assessment of duty on those goods.

(Act No. 4 of 1999)

Assessment
of excise
duty due on
importation

88. The value for the purposes of assessing the amount of excise duty due on goods imported into Zambia shall be the customs value determined in accordance with the Fifth Schedule to this Act and any customs duty payable on those goods.

(Act No. 4 of 1999)

Assessment of
excise duty and
surtax on
goods
manufactured
in Zambia

88A. The value for the purposes of assessing the amount of excise duty or surtax payable on goods manufactured in Zambia shall be determined in accordance with the Sixth Schedule to this Act.

(Act No.4 of 1999)

Valuation of
exports

88B. The value for customs purposes of goods exported from Zambia shall be the Free on Board value at the place of despatch or customs port of shipment.

(Act No. 4 of 1999)

PART X

REBATES, REFUNDS, AND REMISSIONS OF DUTY

Suspension
and rebate of
certain duties

89. (1) The Minister may, by regulation –

- (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 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) The Commissioner-General may make such rules as the Commissioner-General considers necessary for the effective administration of any regulations made pursuant to this section.

(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, No. 21 and 54 of 1966, No. 16 of 1996 and No. 4 of 1999)

Claims for
exemption;
burden
of proof on
claimant

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.

Goods for
President to
be exempt
from duty

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)

Refunds
generally

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

(2) Application for refund of duty overpaid shall be made to the Customs Division in the prescribed form.

(3) If the Commissioner-General is satisfied that the applicant has paid duty exceeding the amount due, he shall 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 the Customs Division within a period of two years from the date when such duty was paid.

(As amended by No 18 of 1960, Acts No. 2 of 1975, 7 of 1974, 1 of 1980, 16 of 1996 and 4 of 1999)

PART XI

EXCISE AND SURTAX MANAGEMENT

Licence to manufacture goods liable to excise duty or surtax

93. (1) Subject to the provisions of sections *ninety-four, ninety-five* and *ninety-six*, no person shall manufacture on any premises any goods subject to excise duty or surtax 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 license issued in accordance with this Act.

(2) A license 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 licenses shall be required in respect of each commodity.

(3) Any person who contravenes any provision 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 possession of that person or on premises not licensed in accordance with the provisions of this section, shall be liable to forfeiture.

(Act No. 4 of 1999)

Goods which may be manufactured without licence and without payment of duty

94. (1) Notwithstanding anything to the contrary contained in this Act, and subject to the provisions of this section, any person may manufacture or produce without a licence and without payment of duty for the personal or domestic use of that person, but not for sale or disposal for profit to any other person, the following goods-

- (a) fermented liquor, other than opaque beer, containing not more than two per centum of alcohol by volume; 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) Any person who sells or disposes of for profit goods manufactured in terms of subsection (1) shall be guilty of an offence.

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

(Act No. 4 of 1999)

Authority to
manufacture
goods
without
licence and
without
Payment
of duty

95. (1) Notwithstanding anything to the contrary contained in this Act, the Commissioner-General may, subject to the provisions of this section and any rules made thereunder, authorise a person to manufacture for experimental purposes but not for sale or disposal for profit, the following goods without a licence and without the payment of duty-

- (a) cigarettes;
- (b) pipe tobacco;
- (c) cigarette tobacco;
- (d) cigars.

(2) 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 any rules made thereto, the Commissioner-General may cancel forthwith the authority to so manufacture.

(3) Where an authority is cancelled pursuant to the provisions of subsection (2) of this section any goods so manufactured shall be deemed to be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three* to *two hundred and five* of this Act.

(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.

(Act No. 4 of 1999)

Power of
Commissioner-
General to
authorise
manufacture of
certain goods

96. (1) Notwithstanding anything to the contrary contained in this Act, any person other than a person licensed under this Act to manufacture beer of any kind may, in premises other than in any premises licensed under this Act, manufacture for that person's personal or domestic use but not for sale or disposal to any other person, an amount of opaque beer being not more than twenty-three decalitres in volume in any period of four consecutive days.

(2) The licencing requirements of section *ninety-three* shall not apply in respect of opaque beer manufactured in accordance with subsection (1) and the 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 referred to in subsection (1).

(4) Any person otherwise exempt from licensing and the payment of surtax pursuant to the provisions of this section who manufactures more than the amount permitted in the specified time or who manufactures such opaque beer in premises licensed under this Act or who sells or disposes of such opaque beer contrary to the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand penalty units.

(Act No. 4 of 1999)

Licensing of
manufacturers

97. (1) On receipt of an application in the prescribed form the Commissioner-General may licence, subject to such terms and conditions as the Commissioner-General may impose, persons to be licensed manufacturers of goods subject to excise duty or surtax, at specified premises.

(2) An applicant for a licence shall furnish information as to-

- (a) the nature of the goods which that person proposes to manufacture;
- (b) the process of manufacture that are intended;
- (c) the premises at which and the machinery and equipment with which the goods are to be manufactured;
- (d) the business, its shareholding, assets, related businesses and accounting practices; and
- (e) such other matters as the Commissioner-General may require.

(3) Without limiting the authority on the Commissioner-General by subsection (1), the Commissioner-General may make the issue, continuation or reissue of any manufacturer's licence conditional on the provision of such security by bond or guarantee or similar undertakings as will in the Commissioner-General's opinion ensure that such duty as might from time to time be due and unpaid on any goods manufactured by the licensed manufacturer shall be secured to the Republic.

(4) The Commissioner-General may at any time require that the form or amount of security required under subsection (1) be altered as the Commissioner-General may determine.

(5) Manufacturers licences shall be subject to an annual licence fee as may be prescribed under this Act.

(6) A licence issued under this section shall expire on the 31st December in respect of the year in which the licence was issued and may be renewed by the Commissioner-General.

(Act No. 4 of 1999)

Refusal or
suspension
of licence

98. (1) If a licensed manufacturer fails to comply with any terms or conditions of the licence or provision of this Act or regulations or rules made thereunder or with any

instruction made or given by the Commissioner-General in connection with the administration of this Act, the Commissioner-General may suspend or revoke the licence or refuse to renew it.

(2) For the purposes of this section any action taken, or as the case may be not taken, by a manager, employee or other representative of the licensed manufacturer, shall be deemed to have been taken or not taken by the licensed manufacturer.

(3) Where a manufacturer's licence is revoked by the Commissioner-General or is not renewed, all duty on all goods manufactured, sold or otherwise disposed of, not having already been paid to the customs shall be deemed to be due and payable at the time when notification of the revocation or non renewal is issued by the Commissioner-General and such goods shall be entered and duty paid within ten days of that time unless the goods are sooner removed for export or warehousing in accordance with this Act.

(4) Goods to which subsection (3) applies that are not entered or cleared in accordance with the provisions of that section shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three to two hundred and five*.

(5) Any sale or disposal undertaken pursuant to subsection (4) shall be so undertaken without compensation to any person or party who may either before or after such sale, claim a financial or other interest in such goods.

(6) Nothing contained in this section shall be deemed to deprive the Republic of any right it may have against the property or estate of the manufacturer or those of its sureties in respect of any duty which may remain unpaid after such sale or disposal, and the sale or disposal shall not relieve the manufacturer of liability to prosecution under this Act.

(Act No. 4 of 1999)

Appeals **99.** An applicant for a manufacturer's licence or for renewal of a manufacturer's licence who has been refused such licence, or renewal of licence, shall have the right of appeal against such refusal to the Minister.

(Act No. 4 of 1999)

Surrender of licence **100.** Where the business of a licensed manufacturer is sold or a licensed manufacturer wishes to relocate operations to new premises the licence shall be deemed to have been surrendered as at the date of sale or relocation unless the prior approval of the Commissioner-General has been obtained and all terms and conditions required by the Commissioner-General have been met to the satisfaction of the Commissioner-General.

(Act No. 4 of 1999)

Authorised premises **101.** No manufacturer shall without the written permission of the Commissioner-General, conduct or allow to be conducted any business on premises licensed in terms of section *ninety-seven* other than the business for which the licence was issued.

(Act No. 4 of 1999)

102. Repealed by *Act No. 4 of 1999*

103. Repealed by *Act No. 4 of 1999*

Duties of
licensed
manufacturer

104. Repealed by *Act No. 4 of 1999*

105. Repealed by *Act No. 4 of 1999*

106. Repealed by *Act No. 4 of 1999*

107. Repealed by *Act No. 4 of 1999*

108. (1) Every manufacturer licensed under this Act shall-

(a) maintain in such form and manner as may be required under the terms and condition of the licence and otherwise by any regulations or rules made under this Act, a record of;

(i) all goods received into the licensed premises;

(ii) all goods manufactured or produced on the licensed premises;

(iii) all goods removed from the licensed premises;

(iv) all goods consumed, lost, or otherwise disposed of during any process of manufacture or production;

(v) all stock on hand including input stock and products whether or not fully or partially manufactured or produced;

(vi) all excise duty or surtax paid or payable.

(b) Submit in such form and manner as may be required or permitted under the terms and conditions of the licence and otherwise by any regulations or rules made under this Act, a return of all manufacturing and business activity undertaken in the preceding month and a duly completed entry in the prescribed form accounting for all goods, not already accounted for in bond or other entry, that have been removed from the licensed premises or otherwise disposed of during that month.

(2) Where in any return made pursuant to this section, it is claimed that goods, on which excise duty or surtax has been paid, have been used as inputs in the manufacture of goods that are themselves subject to excise duty or surtax and the Commissioner-General is satisfied that the claim is correctly made and supported by auditable management processes and records, the Commissioner-General may allow the duty or surtax so paid to be deducted from the duty or surtax due in that return.

(3) The return and entry required under this section shall be submitted on or before the twentieth day of the month following that month to which the return relates and shall be accompanied by a bank certified cheque for the amount of duty and or surtax payable.

(4) Except as provided under this Act or in regulations or rules made thereunder, excise duty or surtax shall not be payable on goods manufactured or partially manufactured in licensed premises that are before sale or disposal used on those premises as inputs in the manufacture of products that are themselves subject to excise duty or surtax.

(5) A manufacturer licensed under this Act who fails to lodge a return within the time allowed by or under this Act shall pay additional duty consisting of:

- (a) one thousand penalty units, and
- (b) an additional one hundred penalty units for each day the return is not lodged.

(6) Where a return has not been lodged within the time allowed by or under this Act the Commissioner-General may assess the amount of duty that is due and may by written notice require payment of that assessment.

(7) Where the Commissioner-General has reason to believe that any excise duty or surtax due or to be due under this Act may not be paid within the time allowed by or under this Act the Commissioner-General may assess the amount of duty involved and may by notice in writing to the licensed manufacturer require payment forthwith of that assessment.

(8) Any assessment made by the Commissioner-General under subsection (6) or (7) shall be deemed to be a correct assessment for the purposes of section *one hundred and seventy*.

(9) Duty assessed by the Commissioner-General pursuant to subsection (6) or (7) shall be due and payable on or within five days following the issue of the notice thereof.

(10) Where a manufacturer licensed under this Act fails to make payment as required under subsection (9) the manufacturer shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(Act No. 4 of 1999)

Records to be kept on licensed premises

109. (1) The records maintained pursuant to section *one hundred and eight* shall be kept on the licensed premises, whether or not in electronic or written form and shall be made available to any officer at any time on request by an officer.

(Act No. 4 of 1999)

Stocktaking

110. Any officer may, at any time, enter any part of any licensed premises and take stock of all goods and materials on hand.

(Act No. 4 of 1999)

Duty to be paid on surplus stock

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 in respect of deficiency in stock, etc.

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.

(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 (6) 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 taken 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 as amended by Act No. 4 of 1999)

Entry and search of premises

113. (1) An officer may at all times enter and search any premises licensed in terms of section *ninety-seven* 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.

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

(As amended by Act No. 4 of 1999)

Where processes in licensed premises are to be carried out and goods kept

114. (1) The Commissioner-General may give instructions in writing to any manufacturer specifying in what part of licensed premises and under what conditions –

- (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.

(As amended by Act No. 4 of 1999)

Supervision of operations

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

(2) All 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 this Act and any regulations or rules made thereunder.

(No. 18 of 1960 as amended by Act No. 4 of 1999)

Tables for calculating quantities of goods liable to excise duty or surtax

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.

Obligations of manufactures of goods liable to excise duty or surtax

117. The manufacturer licensed under this Act shall, at any premises that are specified in the manufacturer's license, provide and maintain, without charge, such accommodation and facilities as the Commissioner-General may determine to be reasonably necessary and suitable for the purposes of carrying out the functions and responsibilities of the Customs Division at that place.

(Act No. 4 of 1999)

Licensee to provide storerooms, plugs, taps, etc.

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 Customs Division, 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.

(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.

(As amended by Act No. 4 of 1999)

Damages to locks, pipes, safes, etc

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 Customs Division and if such repair or renewal is not undertaken forthwith an officer may effect such repair or renewal or cause such repair or renewal to be effected by a third party at the expense of the licensee.

(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.

(4) No action undertaken pursuant to subsection (1) whether by an officer or at the direction of an officer shall render that officer or the Customs Division, liable for any loss or damage resulting therefrom.

(As amended by Act No. 4 of 1999)

Erection of safes, receivers, and requisites in connection therewith

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:

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)

Vats and butts

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 any regulations or rules made under this Act.

(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.

(As amended by Act No. 4 of 1999)

Ascertaining capacity of distillery, refinery tanks, etc.

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)

Strength to be as denoted by Gay Lussacs' Hydrometer

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 ascertained by an officer.

(As amended by Act No. 20 of 1992)

Spirits store

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.

- (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.
- Receipt into spirits store
- 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.
- (2) No spirits which have been removed from the licensed premises of a distiller shall be brought back into a spirits store.
- Storing of manufactured wines
- 126.** (1) Every manufacturer of wines shall provide at his licensed premises a suitable and secure wine store approved by the Commissioner-General.
- (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 into any wine store.
- Removal of and securing of duty on spirits or wines
- 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.
- Opening of store in the absence of an officer
- 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.
- 129.** Repealed by *Act No. 4 of 1999*
- 130.** Repealed by *Act No. 4 of 1999*
- Prohibitions in respect of brewing
- 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 worts, wash, low-wines etc.
- 132.** A distiller shall not in distillery –

- (a) use or add to any worts, wash, low-wines, feints, or spirits any substance which interferes with the ascertaining by means of a saccharometer or hydrometer of their specific gravity or true strength;
- (b) without the written permission of the Customs Division 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.

(As amended by Act No. 4 of 1999)

Spirits, worts, etc., illicitly kept

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.

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

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.

Using or supplying unauthorised or previously used stamp labels 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.

Restriction of weight of cigarettes which may be manufactured

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)

Removal of goods liable to excise duty or surtax

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.

Procedure on cessation of manufacture of goods liable to excise duty or surtax

138. (1) If a manufacturer licensed under this Act intends to cease the manufacture of goods in respect of which the licence has been issued, the licensee shall give to the Commissioner-General not less than one month's prior written notice of that intention and shall –

- (a) within twenty days from the cessation of manufacturing activity render to the Customs Division a true and complete return of all manufacturing and business activity since the last monthly return and;

(b) submit to the Customs Division an entry in the prescribed form accounting for all stock on hand and all stock sold or otherwise disposed on which excise duty or surtax has not been paid together with a bank certified cheque for the amount of excise duty and or surtax payable.

(2) If the return referred to in subsection (1) is not made or excise duty or surtax is not remitted pursuant to subsection (1) the goods shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of section *two hundred and three* to *two hundred and five*.

(3) Any sale or disposal undertaken pursuant to sub section (4) shall be so undertaken without compensation to any person or party who may either before or after such sale, claim a financial or other interest in such goods.

(4) Nothing in this section contained shall be deemed to deprive the Republic of any right it may have against the property or estate of the manufacturer or those of its sureties in respect of any duty which may remain unpaid after such sale or disposal, and the sale or disposal shall not relieve the manufacturer of liability to prosecution under this Act.

(Act No. 4 of 1999)

Loss of goods
liable to excise
duty or surtax in
warehouses

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 No. 24 of 1973 and No. 16 of 1996)

PART XII

OFFENCES, PENAL PROVISIONS, AND PROCEDURE

False
statements
by persons
arriving in
Zambia

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 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 invoices,
false
representation
and forgery

141. (1) Any person who –

- (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 purpose 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)

- Possession of blank invoice
- 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)*
- Obstruction of officers
- 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.
- Removing, altering or defacing marks or seals
- 144.** Any person who wilfully removes any customs seal from any ship, aircraft, pipeline, vehicle, or package without the authority of an officer or otherwise than in accordance with this Act or any regulations or rules made thereunder, 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 and Act No. 4 of 1999)*
- Certain responsibilities of master, pilot or person in charge of vehicle
- 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 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 –
- (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, or upon any inspection plate, hatch or access to such 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, No. 24 of 1973 and No. 4 of 1999)*
- Removing or breaking locks placed on warehouse
- 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.
- Failure to make full declaration of sealable goods
- 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.

Bribery,
collusive
seizure or
agreement
not to seize

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 the officer's duty in any of these respects the officer shall be guilty of an offence.

(2) Any person 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 that officer in any way to neglect the duty of the officer in any of these respects or to do anything in conflict with the 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.

(Act No. 4 of 1999)

Smuggling

149. Any person who –

- (a) smuggles or attempts to smuggle any goods; or
- (b) aids, assist, or connives at the smuggling or attempted smuggling of any goods;

shall be guilty of an offence.

Importation
of prohibited
or restricted
goods to be
an offence

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)

Miscellaneous
offences

151. Any person who –

- (a) supplies the means or materials for, or assists in establishing or repairing, maintaining, or working any still or distilling apparatus used or to be used in the production or refining of alcohol other than within premises licensed in accordance with section *ninety-seven* of this Act;
- (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 or she 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) 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 and Act No. 4 of 1999)

Warehousing
irregularities

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.

Offences
by licensed
manufacturer

153. If any manufacturer of goods liable to excise duty or surtax –

- (a) fails to keep records required or permitted pursuant to the provisions of section *one hundred and eight* or fails to produce the records when required by an officer to do so;

- (b) fails to make in any such record any entry required to be made or fraudulently, or with fraudulent intent, makes any entry in such records;
- (c) erases, obliterates or otherwise deletes any entry made in such records;
- (d) mutilates or tears therefrom any leaf or page of any book or other documentary record;
- (e) as the manufacturer or through the agency or with the assistance of any other person destroys, conceals, or makes away with any such records or part thereof;
- (f) refuses to allow an officer at any time to inspect such records or obstructs or hinders any officer 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 to his operations in the manufacturer 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.

(As amended by Act No. 4 of 1999)

Offences relating to the use of ships, aircraft or vehicles

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)

General penalties

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.

(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) Repealed by *Act No. 4 of 1999*
- (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, Acts No. 1 of 1980, No. 20 of 1992, No. 13 of 1994 and No. 4 of 1999)

Concealed
goods

156. Any package having concealed within it any goods not enumerated in the bill of entry or declaration or other document of clearance or having its contents packed so as to deceive an officer shall be liable to forfeiture together with the full contents thereof.

(As amended by Act No. 4 of 1999)

Forfeited
packages,
containers,
or utensils

157. (1) If any package is found to contain goods which –

- (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 are forfeited, all casks, cases, containers, or utensils containing them shall also be forfeited.

(As amended by No.36 of 1962 and Act No. 4 of 1999)

Substitution
of other goods
for goods
actually liable
to seizure

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)

Vehicles
carrying
goods liable
to forfeiture

159. (1) Subject to the provisions of subsection (2), any ship, aircraft, vehicle or other thing used for the removal or carriage of goods which –

- (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 or carriage 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 or carriage of those goods without his express or tacit consent, or that of his agent; or
- (b) since its use in such removal or carriage 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 purpose 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, Acts No. 16 of 1996 and Act No. 4 of 1999)

Ships, aircraft,
or vehicles
adapted for
smuggling
liable to
forfeiture

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.

(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 subsection (1) and (2) shall be guilty of an offence.

(As amended by Act No. 16 of 1996)

Embargo
on goods
which have
passed out
of customs
control

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 a bonded warehouse or delivery from licensed premises 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 Acts No.16 of 1996 and No. 4 of 1999)

Power of
officer to
seize
goods

162. (1) Subject to the provisions of subsection (3) an officer may seize any goods, including any ship, aircraft or vehicle, which the officer has reasonable grounds to believe are liable to seizure.

(2) In this section “liable to seizure”, in relation to goods, means goods that are-

- (a) forfeited or 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;

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 five years have elapsed since the goods first became liable to seizure:

Provided that goods imported in contravention of sections *forty* or *forty-one* shall be liable to seizure at any time.

(4) All goods 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 nature that

they cannot be removed to a place of security, the officer seizing them may declare them as having been seized in the place where the officer found them.

(5) If an officer has seized goods in terms of subsection (1), or has seized goods pursuant to the provisions of section *one hundred and fifty-eight*, the officer shall report the circumstances and grounds for seizure to the Commissioner-General.

(6) The Commissioner-General may-

- (a) order all or any of the goods to be released from seizure; or
- (b) if the articles could not be found or recovered, declare that the person from whom the goods would have been seized shall pay to the Customs Division an amount equal to the duty-paid value of such goods:

Provided that notice of any declaration made by the Commissioner-General in accordance with paragraph (b) shall be made in writing and shall be given in accordance with the provisions of subsection (8).

(7) Subject to the provisions of subsection (8), when goods are seized under this section the officer who seizes the goods shall, within ten days of such seizure, give to the person from whom the goods have been seized or the owner of the goods a notice in writing specifying the goods 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 that person personally;
- (b) if addressed to that person and left at, or forwarded by post to that person's usual or last known place of abode or business; or
- (c) where the person is unknown or has no address within Zambia or has no known address, by publication of notice of seizure in the Gazette.

(9) The person from whom the goods have been seized or the owner of the goods or the person required to pay such amount as determined by the Commissioner-General pursuant to subsection (6) may, within three months of the notice being given or published under subsection (8), institute proceedings-

- (a) against the seizure on the grounds that it was unlawfully made; or
- (b) against the declaration made by the Commissioner-General pursuant to subsection (6) on the grounds that such declaration was unlawfully made.

(10) If proceedings are not instituted under subsection (9) in respect of any goods seized under this section, the goods shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three* to *two hundred and five*.

(11) Any sale or disposal undertaken pursuant to subsection (10) shall be undertaken without compensation to any person or party who may, either before or after such sale or disposal, claim a financial or other interest in such goods.

(12) If proceedings are not instituted in terms of subsection (9) in respect of any sum determined by the Commissioner-General pursuant to subsection (6), the amount so determined shall be deemed to be due and payable at that date and all provisions of this Act relevant to the recovery of unpaid duty shall apply to that sum as if it were unpaid duty.

(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 goods have or would have been seized;
- (b) prevent the imposition of a fine in terms of section *one hundred and sixty-eight*;
- (c) affect the liability for the payment of duty in respect of goods seized and dealt with in terms of this section; or
- (d) entitle any person to claim a refund of duty paid in respect of goods seized and dealt with in terms of this section.

(Act No. 4 of 1999)

Power of
Commissioner-
General to
release goods
seized

163. (1) Where, pursuant to the provisions of section *one hundred and sixty-two*, any goods have been seized, the Commissioner-General may at any time before such goods are forfeited, deliver the goods to the owner or other person from whom they were seized, on the deposit with the Customs Division of a sum equal-

- (a) in the case of imported goods, to the customs value of the goods; or
- (b) in the case of goods manufactured in licensed premises to the value as determined in accordance with the Sixth Schedule;

together with any duty to which the goods may be liable as determined by the Commissioner-General.

(2) The money deposited shall be deemed to be substituted for the goods seized and all the provisions of this Act in so far as they are applicable shall extend and apply to the money accordingly.

(Act No. 4 of 1999)

Notice of
action to be
given to
officer

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.

(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 judgement 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 judgement 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 judgement 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.

Tender of
amends and
effect thereof

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 judgement 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 judgement for the plaintiff with such damages as it may think proper, together with the costs of the action.

Court may
refuse
costs

166. If any action is brought by any persons against the Minister or any officer for or on account of any seizure, wherein judgement 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.

Pest infected
or harmful
goods

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—

- (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).

Imposition
of fine by
Commissioner-
General

168.(1) If a person alleged to be an offender under this Act admits in writing to the offence and agrees to pay the fine which the Commissioner-General may impose, not exceeding the maximum fine provided for the offence in question, as the Commissioner-General considers just in the circumstances of the case, in full satisfaction of any fine or other penalty to which the person would otherwise be liable under this Act:

Provided that, if criminal proceedings have been instigated against the alleged offender for such offence the power conferred by this section shall not be exercised without the written consent of the Director of Public Prosecutions.

(2) The Commissioner-General may determine by written notice a due date for the payment of the sum referred to in subsection (1) in whole or by instalment.

(3) Any fine imposed pursuant to this section is a debt due to the Republic and shall, if not paid in accordance with the provisions of sub section (2) be recoverable at the suit of the Commissioner-General, or any officer authorised by that person, in any court of competent jurisdiction.

(4) If the Commissioner-General accepts any sum pursuant to this section such acceptance shall not be treated as a conviction for a criminal offence and the offender shall not be liable to be prosecuted for the offence in respect of which the payment was made.

(5) Nothing in this section shall in any way affect the provisions of this Act in relation to liability for the payment of duty or the seizure and forfeiture of any goods.

(6) Where the Commissioner-General does not exercise the power under subsection (1), the admission in writing made by the offender shall not be admissible as evidence in any prosecution for that offence.

(Act No. 4 of 1999)

Orders by
court as to
unpaid duty
and forfeiture

169. (1) Upon conviction of an offender under this Act, the judge or magistrate presiding at the trial in addition to passing sentence may –

- (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) No forfeiture shall 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)

Liens and
preferences

170. (1) The correct amount of duty payable in respect of any goods shall, from the time when it is due, 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-

- (a) any goods in a bonded warehouse or in licensed premises or imported but not yet entered or cleared through the Customs Division and belonging to that person, and
- (b) any goods afterwards imported, manufactured or entered for export by the person from whom the duty is due;

shall, while under the control of the Customs Division, be subject to a lien for such debt and may be detained by the Customs Division 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.

(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.

(3) Deleted by *Act No. 4 of 1999*

(4) Deleted by *Act No. 4 of 1999*

(5) Deleted by *Act No. 4 of 1999*

(As amended by Acts No.1 of 1998 and No. 4 of 1999)

Recovery
by distress

170A. (1) Where any duty, fine or interest on any duty or fine due from a manufacturer or importer remains unpaid, an officer may, under warrant by the Commissioner-General, levy distress upon the goods and chattels of the manufacturer or importer.

(2) An authorised officer executing a warrant with a police officer or such other assistants as the officer may consider necessary, may, at anytime between sunrise and sunset, break open any premises of the manufacturer or importer.

(3) Goods or chattels on which distress has been levied under this section shall be kept for ten days either at the premises at which distress was levied or at such other place as the officer executing the warrant may consider appropriate, at the cost of the manufacturer or importer.

(4) If a manufacturer or importer does not pay the amount of duty or interest due under this Act together with any costs incurred under subsection (3), within the period of ten days as specified in that subsection, the goods or chattels shall be forfeited and may be sold by the Commissioner-General in accordance with the provisions of section *two hundred and three*.

(5) Any sale or disposal undertaken pursuant to subsection (4) shall be so undertaken without compensation to any person or party who may, either before or after such sale, claim a financial or other interest in such goods.

(6) Where distress has been levied on any goods or chattels and such goods or chattels, or any one or part of them, are removed or taken away by the owner or any other person in an attempt to avoid or prevent the distraining of such goods, the owner or other such person shall be guilty of an offence and shall be liable on conviction, to a fine not exceeding ten thousand penalty units or three times the value of the goods and chattels so removed or taken away whichever is the greater or to imprisonment for a term not exceeding twelve months or, to both.

(7) Any person who assists in the taking away of the chattels or goods under subsection (6) shall be guilty of an offence and shall be liable to the same penalty as specified under subsection (6).

(As amended by Acts. No. 1 of 1998 and No. 4 of 1999)

Interest to be
paid for late
payment

171. (1) Where any amount of duty or fine remains unpaid after the day on which it became due for payment under this Act, the person liable to pay that duty or fine shall pay an amount in additional duty or fine consisting of-

- (a) five thousand penalty units, and
- (b) five hundred penalty units, or interest on the unpaid sum calculated daily at the per-annum rate advised by the Bank of Zambia for each day that the duty or fine thereafter remains unpaid whichever is the greater.

(2) Notwithstanding any other provision of this Act, the Commissioner-General may, where duty is found to be owing to the Republic after clearance of goods from customs control, whether or not as a result of customs investigation or voluntary disclosure, determine by notice in writing, issued to the importer or owner of those goods, a due date for payment of that duty or due dates for the payment by instalment of that duty provided that where any amount of such duty remains unpaid after the day on which it becomes due for payment under the provisions of this subsection, the person liable to pay that duty shall pay an amount of additional duty consisting of-

- (a) five thousand penalty units, and
- (b) five hundred penalty units or interest on the unpaid sum calculated daily at the per-annum rate advised by the Bank of Zambia for each day that the duty thereafter remains unpaid, whichever is the greater.

(3) Any additional duty, or fine or interest due under this section shall be a debt due to the Republic and shall, if not paid forthwith be recoverable at the suit of the Commissioner-General, or any officer in any court of competent jurisdiction.

(4) The Commissioner-General may remit the whole or part of any additional duty payable under subsections (1) and (2).

(Act No. 4 of 1999)

Attachment
of debts

171A. (1) Where any duty or fine, or interest on any duty or fine, due from any importer or manufacturer remains unpaid, the Commissioner-General may, by notice in writing, require any other person-

- (a) from whom any money is due, or is accruing or may become due, to that importer or manufacturer;
- (b) who holds, or may subsequently hold, money on account of some other person for or on account of, or for payment to, that importer or manufacturer; or
- (c) having authority from any person to pay money to that importer or manufacturer;

to pay that money, or so much as is sufficient to discharge the sum of any duty, fine and interest due from that importer or manufacturer, in the manner directed by the Commissioner-General as and when, but for the notice, be or become payable to that importer or manufacturer.

(2) Upon the issuance of a notice under this section, the money referred to in subsection (1), to the extent necessary to discharge the sum of duty, fine and interest due from the importer or manufacturer, shall be a debt due to the Republic and shall if not paid in accordance with subsection (1) be recoverable at the suit of the Commissioner-General, or any officer in any court of competent jurisdiction.

(3) A person to whom a notice under subsection (1) has been issued who fails to comply with such notice shall be guilty of an offence and shall be liable on conviction, to a fine not exceeding five thousand penalty units or ten per centum of the amount demanded by the notice, whichever is the greater.

(Act No. 4 of 1999)

Impounding
of
documents

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.

Burden
of proof

173. (1) When any goods are detained or seized under the provisions of this Act, and 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.

(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 in any civil or criminal proceedings without calling the person who prepared it or signed it.

(As amended by No. 36 of 1962 and Act No. 4 of 1999)

Evidence
in certain
circumstances

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.

(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

GENERAL

- Secrecy **175.** Except for the purposes of this Act or with 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)
- Oaths and affidavits **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.
- Entries, oaths etc., made outside Zambia to be of full force and effect in Zambia **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)
- Translation of foreign documents **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.
- Conditions and enforcement of bonds **179.** (1) The conditions of any bond, guarantee or similar undertaking 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.

(2) In any proceedings for the enforcement of a bond, guarantee or similar undertaking 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.
(As amended by Act No. 4 of 1999)
- Fresh Security **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.
(As amended by Acts No. 1 of 1998 and No. 4 of 1999)
- Joint and several liability of subscribers to bond **181.** Unless otherwise provided therein, any bond, guarantee or similar undertaking executed in terms of this Act shall bind the subscribers thereto jointly and severally for the full amount stated therein.
(As amended by Act No. 4 of 1999)

Security to be given by agents and other persons for due observance of laws

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)

Licensing of clearing and forwarding agents

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.

(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; and
- (d) the fee payable for the grant or renewal of a licence.

(Act No. 1 of 1976 as amended by Act No.15 of 1994)

Liabilities of agent and principal

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.

(2) Every master, pilot, importer, or exporter, licensed manufacturer, owner or operator of a bonded warehouse 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 and Act No. 4 of 1999)

Written authority to transact business on behalf of another

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.

Expense and risk of handling goods

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.

186. Repealed by *Act No. 4 of 1999*

Sellers of
goods
to produce
proof of
payment

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 persons 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.

(2) Where any person who has made entry and payment in respect of goods referred to 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 such duties as if they were unpaid.

(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.

(4) Notwithstanding the provisions of subsection (2) the Commissioner-General may subject to such terms and conditions as the Commissioner-General may impose, remit all or part of such duties.

(As amended by Act No. 16 of 1996 and No. 4 of 1999)

Persons
carrying
on business to
keep proper
books

188. (1) Every person carrying on any business in Zambia which involves handling or dealing in goods which are imported or exported or which are subject to excise duty or surtax shall keep or cause to be kept in Zambia, in the English language, reasonable and complete records of all of that person's transactions. Every such person shall, if required at any time within a period of five years after the date of the importation, exportation, manufacture or purchase of any goods, produce the bills of lading, rail notes, invoices, and all other documents including electronic documents containing all particulars regarding those goods, and shall allow such books, accounts, and documents including any electronic documents and or electronic record systems at all times within such period to be open for inspection by any officer.

(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 and
No. 4 of 1999)*

Claims
and
refunds

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 Customs Division.

(As amended by Act No. 4 of 1999)

190. Repealed by *Act No. 4 of 1999*

Rates of duty
in relation to
time of
importation
or entry

191. Subject to the provisions of this Act—

- (a) goods imported into Zambia shall be liable to the rates of customs duty and surtax 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;
- (b) goods which have been manufactured in Zambia and are liable to excise duty or surtax 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 or in the case of such goods that are immediately after manufacture entered into a bonded warehouse, at the time that they are entered for consumption.
- (c) Deleted by *Act No. 4 of 1999*

(As amended by G. N. No. 407 of 1963 and Act No. 4 of 1999)

Circumstances
in which
payment of
proposed duty
may be
deferred
Cap. 364

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 be deferred if the person responsible for the payment of the duty and a surety approved by the Customs Division enter into a bond, guarantee or similar undertaking 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.

(Act No. 4 of 1999)

193. Repealed by *Act No. 4 of 1999*

Policies and
instructions by
Commissioner-
General

194. The Commissioner-General may issue, for the guidance and direction of officers, policies, procedures and instructions not inconsistent with this Act or any other written law, and any such policies, procedures and instructions shall be binding on officers.

(Act No. 4 of 1999)

Customs
warehouses

195. (1) The Commissioner-General may, by notice in the Gazette, declare any building, premises or area in Zambia, to be a customs warehouse for the purposes of this Act and may in a like manner declare that any customs warehouse shall cease to be a customs warehouse.

(2) Customs warehouses shall be available for such purposes and subject to such terms and conditions as may, in each particular case, be determined by the Commissioner-General and the provisions of this Act relating to bonded warehouses shall, in so far as they are applicable to, and compatible with, such purposes, terms and conditions, apply to customs warehouses.

(Act No. 4 of 1999)

Weights and
measures

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)

Goods in
transit

197. All goods whatsoever which are conveyed in transit across Zambia shall be subject to the provisions of this Act and any regulations and rules made thereunder.

(As amended by G. N. No. 407 of 1963 and Act No. 4 of 1999)

Regulations

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.

(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 customs areas in which they are held and the taking 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 in respect of subsidised imports or the dumping of goods shall be made and investigated;
- (f) Deleted by Act No. 4 of 1999
- (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; and

- (i) prescribing the fees which shall be paid –
 - (i) in respect of each licence issued or renewed in terms of this Act;
 - (ii) in respect of any correction to a bill of entry that is required to be made subsequent to the lodgement of such entry with the Customs Division;
 - (iii) in respect of any dumping or countervailing complaint made in terms of section *seventy-five B* of this Act;
 - (iv) on the entry of goods for consumption, warehousing, re-warehousing or removal from warehouse or exportation.
 - (v) in respect of each certificate of origin issued by the Customs Division following an application therefor.
- (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) Deleted by *Act No. 4 of 1999*
- (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 section *thirty-four* 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, S.I No. 173 of 1965 and Act No. 4 of 1999)

Orders

- 199.** (1) The Minister may by regulation or statutory order determine-
- (a) the working hours of the Customs Division either generally or at any particular place or places and the fees which shall be payable by any person in respect of whom or in respect of whose business the attendance of any customs officer is, in the opinion of the Commissioner-General, necessary at any time outside of those hours, and
 - (b) the fees which shall be payable by any person in respect of whom or in respect of whose business the attendance of any customs officer is, in the opinion of the Commissioner-General, required at any time at a remote location.
- (2) For the purposes of this section a “remote location” shall be any location that is not within ten kilometres of a port or customs aerodrome or custom house.

(Act No. 4 of 1999)

Rules

- 200.** (1) 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.

(2) Where any rule is made the Commissioner-General shall arrange for the publication in the Gazette of a notice advising that the rule has been made and the place or places where copies of such a rule are available for inspection free of charge or for purchase at a fee to be determined by the Commissioner-General.

(3) Every rule made shall come into effect on the fifth day following notification pursuant to subsection (2) or on such later date as advised in that notification.

(4) Every rule made pursuant to this section shall have the force and effect of a regulation made under this Act.

Delegation of
Commissioner-
General's
functions

201. The Commissioner-General may 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*:

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.

(As amended by Acts No. 3 of 1983, No.16 of 1996,
No. 9 of 1997 and No. 4 of 1999)

Presumption
as to absence
of licence,
etc.

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)

PART XIV

MISCELLANEOUS

Disposal of
goods by
Commissioner-
General

203. (1) Subject to the provisions of sections *two hundred and four* and *two hundred and five*, where the Commissioner-General is empowered under the Act to sell or dispose of any goods, the Commissioner-General shall endeavour to sell such goods-

- (a) by tender; or
- (b) by auction.

(2) No bid or tender shall necessarily be accepted, and the goods may be re-offered until sold at a price satisfactory to the Commissioner-General.

(3) The Commissioner-General, or any officer may act as an auctioneer in the sale of the goods without being licensed or otherwise authorised in that behalf.

(4) Notwithstanding subsection (1), the Commissioner-General may, in the case of perishable or dangerous goods or goods unsuitable for storage, accept such offer for purchase as may be made if the Commissioner-General is satisfied with the amount offered.

(Act No. 4 of 1999)

Goods to be
donated by
Commissioner-
General

204. Notwithstanding the provisions of section *two hundred and three*, where the sale of such goods in the opinion of the Commissioner-General may be inappropriate because of the sale price obtainable or the effect of such sale on local manufacture or for any other reason the Commissioner-General may donate the goods to a charitable institution within Zambia for the purpose of use not involving sale or may order the goods destroyed under supervision.

(Act No. 4 of 1999)

Proceeds
of sale

205 (1) The proceeds of any sale made pursuant to section *two hundred and three* are to be dispersed in the following manner and order of priority-

- (a) in payment of any costs and expenses incurred by the Customs Division in the storage or sale of the goods;
- (b) in payment of any duty that may be owing in respect of the goods;
- (c) in payment of any unpaid fines or interest on duty or fines if unpaid;
- (d) in payment of customs area or bonded warehouse charges; and
- (e) in payment of any freight costs due in respect of the goods if written notice claiming such freight costs has been given to the Commissioner-General.

(2) the residue of any proceeds shall be paid to the person, appearing to the commissioner-general, to be entitled thereto.

(3) where no entry has been made in respect of the goods to which this section applies, the commissioner-general may, when assessing the duty that may be owing for the purposes of paragraph (b) of subsection (1), value the goods at the price for which they are sold and shall not be required to assess the goods for duty in accordance with the fifth schedule.

(Act No. 4 of 1999)

Savings and
transitional
provisions

206. (1) In this section, "Schedules commencement date" means 1st January, 2000.

(2) Any reference in this Act to customs value before the Schedules commencement date shall be construed to mean value for duty purposes as provided in Part IX.

FIFTH SCHEDULE
(Sections 85 and 88)

VALUATION OF GOODS FOR THE PURPOSES OF THE TARIFF

Interpretation

1.(1) In this Schedule-

"computed value" means the value determined in accordance with clause 7;

"country of export" means the country from which the goods are deemed to be shipped pursuant to this Act and the country from which any goods are exported;

"deductive value" means the value determined in accordance with clause 6;

"goods of the same class or kind" means imported goods that-

- (a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and
- (b) for the purposes of-
 - (i) Clause 6, were exported from any country; and
 - (ii) Clause 7, were produced in and exported from the country in and from which the goods being valued were produced and exported:

"identical goods" means imported goods that-

- (a) are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
- (b) are produced in the country in which the goods being valued were produced; and
- (c) are produced by or on behalf of the person who produced the goods being valued but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in Zambia were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"price paid or payable", in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods;

"to produce" includes to grow, to manufacture, and to mine;

"similar goods" means imported goods that-

- (a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued;

- (b) are produced in the country in which the goods being valued were produced; and
- (c) are produced by or on behalf of the person who produced the goods being valued but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in Zambia were supplied, directly or indirectly by the buyer of those goods imported free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"sufficient information" in respect of the determination of any amount, difference, or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference, or adjustment; and

"transaction value" means the value determined in accordance with clauses 2 and 3.

- (2) For the purposes of this Schedule, persons shall be deemed to be related only if-
 - (a) they are officers or directors of one another's business;
 - (b) they are legally recognised partners in business;
 - (c) they are employer and employee;
 - (d) any person directly or indirectly owns, controls, or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
 - (e) one of them directly or indirectly controls the other;
 - (f) both of them are directly or indirectly controlled by a third person;
 - (g) they together directly or indirectly control a third person. or
 - (h) they are members of the same family.
- (3) For the purposes of this Schedule persons shall be deemed to be members of the same family if-
 - (a) they are connected by blood relationship within the fourth degree of relationship;
 - (b) they are married to one another or if one is married to a person who is connected within the fourth degree of relationship to the other; or
 - (c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.
- (4) For the purposes of this Schedule, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be.

- (5) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value where-
- (a) the charges are distinguished from the price actually paid or payable for the goods;
 - (b) such goods are actually sold at the price declared as the price actually paid or payable;
 - (c) the buyer, if required, can demonstrate that-
 - (i) the financing arrangement was made in writing; and
 - (ii) the claimed rate of interest does not exceed the level of such transaction prevailing in the country where, and at the time when, the finance was provided.

Transaction
value as
primary
basis
of valuation

2. (1) The customs value of imported goods shall be their transaction value, that is, the price paid or payable for the goods when sold for export to Zambia, adjusted in accordance with clause 3-

- (a) if there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that--
 - (i) are imposed by law;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
- (b) if the sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined;
- (c) where any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with clause 3; or
- (d) if the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time,--
 - (i) their relationship did not influence the price paid or payable for the goods; or
 - (ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in subclause (2) of this clause.

(2) In a sale between related persons, for the purpose of showing that the relationship did not influence the transaction value, the importer shall produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as may be prescribed, closely approximates the customs value of other goods exported at the time or substantially at the same time as the goods being valued, is-

- (a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to Zambia between a seller and buyer who are not related at the time of the sale; or
 - (b) the deductive value of identical or similar goods determined in accordance with clause 6; or
 - (c) the computed value of identical or similar goods determined in accordance with clause 7.
- (3) Where the Commissioner-General is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, the Commissioner-General shall inform the importer, in writing if so requested, of the grounds on which the Commissioner-General formed that opinion, and shall give the importer a reasonable opportunity to satisfy the Commissioner-General that the relationship did not influence the price.
- (4) Where subclause (2) applies, the importer shall, without limiting the generality of that subclause, provide the following information:
- (a) the nature of the goods being valued;
 - (b) the nature of the industry that produces the goods being valued;
 - (c) the season in which the goods being valued are imported;
 - (d) whether a difference in values is commercially significant;
 - (e) the trade levels at which the sales take place;
 - (f) the quantity levels of the sales;
 - (g) any of the amounts referred to in clause 3; and
 - (h) the costs, charges, or expenses incurred by a seller when the seller sells to a buyer to whom the seller is not related that are not incurred when the seller sells to a buyer to whom the seller is related.
- (5) Where-
- (a) in the opinion of the Commissioner-General, the customs value cannot be determined under this clause, or
 - (b) the Commissioner-General has reason to doubt the truth or accuracy of the declared customs value and, after having sought further explanations or other evidence that the declared customs value represents the total amount actually paid or payable for the imported goods, the Commissioner-General is still not satisfied that the customs value can be determined under this clause- the Commissioner-General may determine the customs value of the goods by proceeding sequentially through clauses 4 to 8 under which the customs value can, in the opinion of the Commissioner-General, be determined.
- (6) Notwithstanding subclause (5), on the written request of the importer to the Commissioner-General, the order of consideration of the valuation basis provided for in clauses 6 and 7 shall be reversed.

Adjustment
of price paid
or payable

3. (1) In determining the transaction value of goods under clause 2, the price paid or payable for the goods shall be adjusted-

- (a) by adding thereto amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to-
 - (i) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to the buyer's agent for the service of representing the buyer overseas in respect of the purchase of the goods;
 - (ii) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are shipped to Zambia; and
 - (iii) the value of any of the following goods and services:
 - (A) materials, component parts, and other goods incorporated in the imported goods:
 - (B) tools, dyes moulds, and other goods utilised in the production of the imported goods:
 - (C) materials consumed in the production of the imported goods:
 - (D) engineering, development work, artwork, design work, plans, and sketches undertaken elsewhere than in Zambia and necessary for the production of the imported goods;determined in accordance with subclause (2) are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost of use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;
 - (iv) royalties and license fees, including payments for patents, trademarks, and copyrights in respect of the imported goods that the buyer shall pay, directly or indirectly, as a condition of the sale of the goods for export to Zambia, exclusive of charges for the right to reproduce the imported goods in Zambia;
 - (v) the value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller;
 - (vi) the value of any materials, component parts, and other goods incorporated in the imported goods for the purpose of repair to, or refurbishment of, those goods prior to

export of the goods to Zambia, and the price paid for the service of repair or refurbishment, as the case may be;

- (vii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods until the goods have left the country of export; and
 - (viii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods from the time the goods have left the country of export;
- (b) by deducting therefrom amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to any of the following costs, charges, or expenses-
- (i) any reasonable cost, charge, or expense that is incurred for the construction, erection, assembly, or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported;
 - (ii) any reasonable cost, charge, or expense that is incurred in respect of the transportation or insurance of the goods within Zambia and any reasonable cost charge, or expenses associated therewith;
 - (iii) any customs duties or other taxes payable in Zambia by reason of the importation or sale of goods-
- if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods;
- (c) in respect of carrier media bearing data or instructions, by deducting the value of the data or instructions from the price paid or payable for the goods if:
- (i) the value of the data or instructions is distinguished from the cost or value of the carrier media; and
 - (ii) the data or instructions are not incorporated in data processing equipment.

(2) The value of the goods and services described in subparagraph (iii) of paragraph (a) of subclause (1) shall be determined-

- (a) in the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued-
 - (i) by ascertaining-
 - (A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time of their acquisition;

- (B) their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to the buyer at the time of their acquisition but who did not produce them; or
 - (C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
 - (ii) by adding thereto-
 - (A) the cost of their transportation to the place of production of the goods being valued; and
 - (B) the value added to them by any repairs or modifications made to them after they were so acquired or produced;
- (b) in the case of tools, dyes, moulds, and other goods, utilised in the production of the goods being valued-
 - (i) by ascertaining-
 - (A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time they were so acquisition;
 - (B) their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to the buyer at the time they were so acquired but who did not produce them; or
 - (C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production;
 - (ii) by adding thereto-
 - (A) the cost of their transportation to the place of production of the goods being valued; and
 - (B) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and
 - (iii) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced.
- (c) in the case of engineering, development work, art work, design work, plans and sketches, undertaken elsewhere than in Zambia and necessary for the production of the goods being valued by ascertaining-
 - (i) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to the buyer at the time they were so

acquired or leased and are not generally available to the public;

- (ii) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to the buyer at the time they were so acquired or leased, but who did not produce them and are not generally available to the public;
- (iii) the cost to the public of obtaining them where they are available generally to the public; or
- (iv) the cost of production thereof where they were produced by the buyer or a person related to the buyer at the time of their production.

(3) For the purposes of paragraph (c) of subclause (1)-

- (a) the expression "carrier media" does not include integrated circuits, semi-conductors and similar devices, or articles incorporating such circuits or devices; and
- (b) the expression "data or instruction" does not include sound, cinematic, or video recordings.

(4) Where any adjustment in terms of subclause (3) cannot, in the opinion of the Commissioner-General, be made because of the lack of sufficient information, the transaction value of the goods being valued cannot be determined under clause 2.

Transaction
value of
identical
goods as
customs
value

4. (1) Subject to subclauses (2) to (4), where the customs value of imported goods cannot, in the opinion of the Commissioner-General, be determined under clause 2 the customs value of the goods shall be the transaction value of identical goods in respect of a sale of those goods for export to Zambia if that transaction value is the customs value of the identical goods and the identical goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions:

- (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
- (b) in the same or substantially the same quantities as the goods being valued.

(2) Where the customs value of imported goods cannot be determined under subclause (1) because identical goods were not sold under the conditions described in paragraphs (a) and (b) of subclause (1), there shall be substituted therefor identical goods sold under any of the following conditions:

- (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued but in quantities different from the quantities in which those goods were sold;
- (b) to a buyer at a trade level different from that of the buyer of the goods being valued but in the same or substantially the same quantities as the quantities in which those goods were sold; or

- (c) to a buyer at a trade level different from that of the buyer of the goods being valued and in quantities different from the quantities in which those goods were sold.

(3) For the purposes of determining the customs value of imported goods under subclause (1), the transaction value of identical goods shall be adjusted by adding thereto or deducting therefrom, as the case may be, amounts to account for-

- (a) commercially significant differences between the costs, charges, and expenses referred to in clause 3 (1) (a) (vii) in respect of the identical goods and those costs, charges, and expenses in respect of the goods being valued that are attributable to differences in distances and modes of transport;
- (b) where the transaction value is in respect of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subclause (2), differences in the trade levels to the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be;

if each amount can, in the opinion of the Commissioner-General, be determined on the basis of sufficient information; where any such amount cannot be so determined, the customs value of the goods being valued shall not be determined on the basis of the transaction value of those identical goods under this clause.

(4) Where, in relation to imported goods being valued, there are two or more transaction values of identical goods that meet all the requirements set out in subclauses (1) and (3) or where there is no such transaction value but there are two or more transaction values of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subclause (2) that meet all the requirements set out in this clause that are applicable by virtue of subclause (2), the customs value of the goods being valued shall be determined on the basis of the lowest such transaction value.

Transaction
value of
similar goods
as customs
value

5. (1) Subject to subclause (2) and subclauses (2) to (4) of clause 4, where the customs value of imported goods cannot, in the opinion of the Commissioner-General, be determined under clause 4, the customs value of the goods shall be the transaction value of similar goods in respect of a sale of those goods for export to Zambia if that transaction value is the customs value of the similar goods and the similar goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions:

- (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
- (b) in the same or substantially the same quantities as the goods being valued.

(2) Subclauses (2) to (4) of clause 4 shall apply to this clause in respect of similar goods as if every reference in those subclauses to "identical goods" were a reference to "similar goods".

Deductive
value as
customs
value

6. (1) Subject to subclauses (5) and (6) of clause 2 where the customs value cannot, in the opinion of the Commissioner-General, be determined under clause 5 the customs value of the goods shall be the deductive value in respect of the goods.

(2) Where the goods being valued or identical goods or similar goods are sold in Zambia in the condition in which they were imported at the same or substantially the same time as the time of importation of goods being valued, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subclause (5) determined in accordance with that subclause and adjusted in accordance with subclause (6) at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold.

(3) Where the goods being sold or identical goods or similar goods are sold in Zambia in the condition in which they were imported before the expiration of ninety days after the importation of the goods being valued but are not so sold at the same or substantially the same time of that importation, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subclause (5) determined in accordance with that subclause and adjusted in accordance with subclause (6) at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold at the earliest date after the importation of the goods being valued.

(4) Where the goods being valued or identical goods or similar goods are not sold in Zambia in the circumstances described in subclause (2) or subclause (3) but the goods being valued, after being assembled, packed, or further processed in Zambia, are sold in Zambia before the expiration of ninety days after the importation thereof and the importer of the goods being valued requests that this subclause be applied in the determination of the customs value of the goods, the deductive value of the goods being valued shall be the price per unit, in respect of sales described in subclause (5) determined in accordance with that subclause and adjusted in accordance with subclause (6) at which the greatest number of units of the goods being valued are so sold.

(5) For the purposes of subclauses (2) to (4), the price per unit in respect of any goods being valued or identical goods or similar goods, shall be determined by ascertaining the unit price in respect of sale of the goods at the first trade level after their importation to persons who-

- (a) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and
- (b) have not supplied, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any of the goods or services referred to in clause 3 (1) (a) (iii) of this Schedule,-

at which the greatest number of units of the goods is sold where, in the opinion of the Commissioner-General, a sufficient number of such sales have been made to permit a determination of the price per unit of the goods.

(6) For the purpose of subclauses (2) to (4), the price per unit in respect of any goods being valued or identical goods or similar goods, shall be adjusted by deducting therefrom an amount equal to the aggregate of-

- (a) an amount, determined in accordance with subclause (7), equal to-
 - (i) the amount of commission generally earned on a unit basis; or
 - (ii) the amount for profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is

generally reflected on a unit basis in connection with sales in Zambia of goods of the same class or kind as those goods:

- (b) reasonable costs, charges and expenses that are incurred in respect of the transportation and insurance of the goods within Zambia and reasonable costs, charges, and expenses associated therewith to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a);
- (c) the costs, charges, and expenses referred to in clause 3 (1) (b) (I) incurred in respect of the goods, to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a);
- (d) any customs duties or other taxes payable in Zambia by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a); and
- (e) where subclause (4) applies, the amount of the value added to the goods that is attributable to the assembly, packaging, or further processing in Zambia of the goods, if that amount is determined, in the opinion of the Commissioner-General, on the basis of sufficient information.

(7) The amount considered to be equal to the amount of commission or the amount for profit and general expenses referred to in paragraph (a) of subclause (6) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted accounting principles that is supplied-

- (a) by or on behalf of the importer of the goods being valued; or
- (b) where the information supplied by or on behalf of the importer of the goods being valued is not sufficient information, but an examination of sales in Zambia of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can, in the opinion of the Commissioner-General, be obtained.

(8) Where an amount referred to in paragraph (e) of subclause (6) in respect of any goods being valued cannot, in the opinion of the Commissioner-General, be determined on the basis of sufficient information, the customs value of the goods cannot be determined on the basis of the deductive value under subclause (4).

Computed
value as
customs
value

7. (1) Subject to subclauses (3) and (5) of clause 2, where the customs value of imported goods cannot, in the opinion of the Commissioner-General be determined under clause 6, the customs value of the goods shall be the computed value in respect of those goods.

(2) The computed value of the goods being valued is the aggregate of amounts equal to-

- (a) the costs, charges, and expenses incurred in respect of, or the value of-
 - (i) materials employed in producing the goods being valued; and

- (ii) the production or other processing of the goods being value determined on the basis of-
 - (A) the commercial accounts of the producer of the goods being valued; or
 - (B) any other sufficient information relating to the production of the goods being value that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued;
- (iii) the costs, charges, and expenses referred to in clause 3 (1) (a) (ii);
- (iv) the value of any of the goods and services referred to in clause 3 (1) (a) and (iv), determined and apportioned to the goods being valued as referred to in that clause, whether or not goods and services have been supplied free of charge or at a reduced cost:
- (v) the costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, design work, plans, or sketches undertaken in Zambia that were supplied, directly or indirectly, by the buyer of the goods being valued for use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods, apportioned to the goods being valued as referred to in clause 3(1) (a) (iii);

(b) the amount, determined in accordance with subclause (4), for profit and general expenses, considered together as a whole, generally reflected in sales for export to Zambia of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers in Zambia who are not related to the producers from whom they buy the goods at the time the goods are sold to them.

(3) For the purpose of this clause, the expression "general expenses" means the direct and indirect costs, charges and expenses of producing and selling goods for export, other than the costs, charges, and expenses referred to in paragraph (a) of subclause (2).

(4) The amount of profit and general expenses referred to in paragraph (b) of subclause (2) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally acceptable accounting principles of the country of production of the goods being valued and that is supplied-

- (a) by or on behalf of the producer of the goods being valued; or
- (b) where the information supplied by or on behalf of the producer of the goods being valued is not sufficient information, by an examination of sales for export to Zambia of the narrowest group or range of goods of the same class or kind from which sufficient information can, in the opinion of the Commissioner-General, be obtained.

8. (1) Where the customs value of imported goods cannot, in the opinion of the Commissioner-General, be determined under clause 7 it shall be determined on information available in Zambia on the basis of a value derived from the methods of valuation set out in clauses 2 to 7 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a customs value of the goods.

- (2) A customs value shall not be determined on the basis of-
- (a) the selling price in Zambia of goods produced in Zambia;
 - (b) a basis which provides for the acceptance of the higher of two alternative values;
 - (c) the price of goods on the domestic market of the country of exportation;
 - (d) the cost of production, other than computed values that have been determined for identical or similar goods in accordance with clause 7;
 - (e) the price of goods for export to a country other than Zambia, unless the goods are imported into Zambia;
 - (f) minimum customs values; or
 - (g) arbitrary or fictitious values.

SIXTH SCHEDULE
(Sections 88A and 163)

VALUATION OF GOODS FOR THE PURPOSES OF ASSESSING EXCISE DUTY OR SURTAX PAYABLE ON GOODS MANUFACTURED IN ZAMBIA.

- | | |
|---|--|
| Value of goods for excise duty and surtax | <p>1. The value of any goods for the purposes of section 88A of this Act shall be the price at which the goods are sold exclusive of excise duty and surtax and value added tax by a person licensed under section 97 of this Act if such sale is a sale on the open market as defined in clause 4 (1) (c).</p> |
| Value of goods manufactured by a contractor | <p>2. Goods upon which any work has been done by a contractor shall be deemed to have been manufactured by a contractor and the value of any goods manufactured by a contractor shall be their fair market value as determined under clause 4.</p> |
| Value of goods not sold in the open market | <p>3. Where the value of the goods cannot be determined under clause 1 the value shall be the fair market value of those goods as determined under clause 4.</p> |
| Determination of fair market value | <p>4. (1) In determining a fair market value, the Commissioner-General shall-</p> <ul style="list-style-type: none">(a) use only those prices which represent a sale between buyers and sellers independent of each other; and(b) exclude from the price any excise duty and surtax and value added tax. <p>(2) For the purposes of this Schedule, the fair market value of any goods shall be determined by proceeding sequentially through subclauses (3) to (8) to the first such subclause under which fair market value can be determined.</p> |

- (3) The fair market value of any goods at any date shall be the lowest price for which identical goods in the same or substantially the same quantities are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.
- (4) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (3) , it shall be deemed to be the lowest price for which identical goods in quantities different from those being sold are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.
- (5) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (4) , it shall be deemed to be the lowest price for which similar goods in the same or substantially the same quantities are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.
- (6) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (5), it shall be deemed to be the lowest price for which similar goods in quantities different from those being sold are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.
- (7) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (6), the Commissioner-General shall ascertain the price which the goods would generally fetch at the retail level and deduct from that price such amount as would reasonably represent the profit margin and other costs beyond the manufacturing level on those goods.
- (8) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (7), the Commissioner-General shall compute the value of the goods by taking the costs of the production of the goods and adding such amount as reasonably represents the profit margin and other costs to the manufacturing level of those goods.
- (9) For the purposes of this clause-

“identical goods” means goods that are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences (if any) in appearance that do not affect the value of the goods;

“similar goods” means goods that closely resemble the goods being valued in respect of component materials and parts and characteristics and functionality and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods being valued;

“a sale in the open market” means-

- (i) that the price is the sole consideration;
 - (ii) that the price is not influenced by any commercial, financial, or other ties, whether by contract or otherwise, between the seller, or any person associated in business with the seller, and the buyer, or any person associated in business with the buyer (other than the relationship created by the sale of the goods in question); and
 - (iii) that no part of the proceeds of any subsequent resale, use, or disposal of the goods will accrue, either directly or indirectly, to the seller, or to any person associated in business with the seller.
- (10) Two persons shall be deemed to be associated in business with each other 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.

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. XX OF 1999

THE CUSTOMS AND EXCISE ACT (CAP. 322)

THE CUSTOMS AND EXCISE (GENERAL) REGULATIONS, 1999

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IN EXERCISE of the powers contained in section one hundred and ninety-eight of the Customs and Excise Act, the following Regulations are hereby made.

**PART 1
PRELIMINARY**

- Title
1. (1) These Regulations may be cited as the Customs and Excise (General) Regulations, 1999.
- Interpretation
2. In these Regulations unless the context otherwise requires-
- cap. 322
- “Act” means the Customs and Excise Act;
- “carrier” includes the operator of a pipeline, the master of a ship and a person in charge of a vehicle;
- “open stock” means any goods within Zambia which have been released from customs control in accordance with the Act;
- “passenger” means traveller and both expressions shall apply as necessary to persons entering or leaving Zambia;
- “railway vehicle” means a train or a road vehicle used by a railway company or administration for the transport of goods or passengers;
- “rewarehousing” means the removal of goods from one warehouse to another;
- “rules” means rules made by the Commissioner-General pursuant to section two-hundred of the Act;
- “ tax payer identification number” means the National Registration Card Number or any other number as may be designated by the Commissioner-General;
- “train” means a railway train or part thereof; and
- “ ullage” means that part of the original content of any container or package that remains intact and in good order following the breakage or loss of any part of such content.

**PART II
FORMS**

Prescribed
Forms

3. Any person transacting business with the Customs and Excise Division shall provide at that person’s own expense such forms as may be necessary to accomplish that business as set out in the Eight Schedule to these Regulations and any reference in these Regulations to any form or to the numbering and lettering thereof shall, unless otherwise stated, be construed as a reference to the said form set out in the Eight Schedule.

Provided that the Commissioner-General may, approve the acceptance of forms that are similar but not identical to those specified in the Eight Schedule to these Regulations.

Forms to be completed in legible manner

4. All forms required to be completed under these Regulations shall be completed in a legible manner and an officer may reject any form or copy thereof if that officer considers that any part of it is illegible or that it has not been correctly completed.

Operation of pipeline

PART III IMPORTATION OF GOODS

5. No goods imported by pipeline shall be discharged from that pipeline other than in premises specified in a licence issued pursuant to section *ninety-seven* of the Act unless those goods have been entered for consumption prior to such discharge.

Application for appointment of a customs area

6. Any person, being the owner or operator of a suitable area, place or building in or at a customs port of entry, customs aerodrome or inland place may apply in writing to the Commissioner-General to request that such a place or building be appointed as a customs area pursuant to section *seventeen* of the Act.

Storage charges for goods in customs area

7. No charge shall be made by the owner or operator of a customs area for the reception of imported goods in such an area during the period of forty-eight hours, exclusive of any public holiday, from the time the goods are received into that area.

Inward report of ships, aircraft, trains and vehicles other than railway trains

8. The inward report of ships, aircraft, trains and vehicles other than railway trains as required by sections *twenty*, *twenty-one*, *twenty-two*, *twenty-three* and *twenty-four* of the Act shall be made in Form CE 1 as set out in the Eight Schedule.

Sealing of unconsumed stores and other sealable goods

9. All sealable goods in a ship, aircraft, train or vehicle other than a railway train which are not or cannot be entered for consumption shall be placed under seal by an officer and the master of the ship, pilot of the aircraft or the person in charge of the train or other vehicle shall afford every facility for the sealing.

Discharge of cargo from aircraft

10.(1) No goods shall be discharged from any aircraft which has arrived in Zambia from beyond the borders of Zambia until an inward report in terms of Regulation 8 has been made and the Commissioner-General has granted permission for discharging the goods.

(2) The discharge of goods shall be carried out at an examination station appointed under section *sixteen* of the Act and all uncustomed goods discharged from an aircraft shall immediately be conveyed to a customs area and the pilot or owner of the aircraft shall be responsible for such conveyance or delivery.

(3) The pilot of the aircraft from which goods have been discharged shall as soon as the discharging operation has been completed, deliver to the Customs Division a statement specifying the packages, if any, as have been reported in terms of Regulation 8 but have not been discharged and the packages, if any, which have been discharged but were not reported.

- Discharge of cargo from ships
- 11.** (1) No goods shall be discharged from any ship which has arrived in Zambia from beyond the borders of Zambia until an inward report in terms of Regulation 8 has been made and permission for the discharging of goods has been granted by the Commissioner-General who may appoint an officer to supervise the discharging operation.
- (2) Except with the permission of the Customs Division, goods shall be discharged from a ship only between sunrise and sunset.
- (3) The discharging of goods from ships shall be carried out at an examination station appointed pursuant to the Act and shall be undertaken in accordance with any instructions given by the Customs Division and all uncustomed goods shall be conveyed to a customs area immediately after they have been discharged.
- (4) The master of a ship from which goods have been discharged shall as soon as the discharging operation has been completed, deliver to the Customs Division a statement specifying the packages, if any, as have been reported in terms of Regulation 8 but have not been discharged and the packages, if any, which have been discharged but were not reported.
- Report of goods imported or exported through pipeline
- 12.** The report of goods imported or exported through a pipeline as required by section *twenty-five* of the Act shall be made in Form CE 2 set out in the Eighth Schedule.
- Retention on board of goods consigned to particular port or aerodrome
- 13.** Any permission given pursuant to section *twenty-seven* of the Act shall be in writing and shall carry the impression of an official Customs Division stamp over the signature of an identifiable officer.
- Entry of goods imported into Zambia
- 14.** (1) Entry of goods imported into Zambia as required by subsection (2) of section *thirty-two* of the Act shall be made in Form CE 20 as set out in the Eighth Schedule.
- (2) Subject to Regulation 19 the entry of goods for consumption on importation shall be effected by the payment of duty due on the goods within five days, exclusive of any public holiday, of the issue of an assessment notice.
- (3) Except in such circumstances as the Commissioner-General may permit, a separate bill of entry shall be delivered in respect of each consignment of goods imported which, in the opinion of the Commissioner-General, constitutes a separate consignment.
- (4) If an importer is unable when effecting entry of goods to present an invoice or other documents required to be produced in terms of subsection (1) of section *thirty-four* of the Act, an officer may, pending the production of such invoice or other documents, accept a monetary deposit sufficient to safeguard the revenue and shall thereafter allow entry of the goods to be made.

(5) If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such conditions as the Commissioner-General may impose, accept a request made in Form CE 120, set out in the Eighth Schedule to amend the entry.

Authority to deliver goods from customs area

15. Subject to the other provisions of these regulations, no goods may be taken or delivered from a customs area other than in accordance with delivery instructions contained in a duly completed release order in Form CE 4 set out in the Eighth Schedule.

Entry of ships, aircraft, trains and vehicles other than railway trains imported into Zambia otherwise than as cargo

16. (1) A ship, aircraft, train or vehicle other than railway train, engaged in the carriage of freight, cargo or persons to Zambia and thereafter within Zambia shall be deemed to be entered on the lodgement with, and acceptance by, the Customs Division of a duly completed report in Form CE 1 set out in the Eighth Schedule.

(2) Except with the written permission of the Commissioner-General, any foreign ship, aircraft, train or vehicle carrying goods or persons to Zambia shall be required to make exit within ten days from the date of entry.

(3) There shall be charged, levied, collected and paid in respect of any foreign ship, aircraft, train or vehicle that remain in Zambia in contravention of sub-regulation (2) a fee at the rate set out in the First Schedule:

Provided that any ship, aircraft, train or other vehicle that engage in the carriage of goods or persons within Zambia beyond that sanctioned by the terms of any Customs carrier's licence or otherwise than with the written permission of the Commissioner-General and which remain in Zambia beyond a period of thirty days from the date of first arrival, shall be required at the direction of the Commissioner-General, to be entered for consumption in accordance with the provisions of sub-section (2) of section thirty-two of the Act.

Entry of military ships, aircraft and vehicles

17. A military ship, aircraft or vehicle visiting Zambia at the invitation of the Republic shall be deemed to be entered on the lodgement of a duly completed inward report in Form CE 1 set out in the Eighth Schedule.

Entry of ships, aircraft and vehicles engaged in disaster relief

18. A ship, aircraft, or vehicle visiting Zambia in or during the course of emergency or disaster relief activities shall be deemed to be entered on the lodgement of a duly completed inward report in Form CE 1 set out in the Eighth Schedule.

Assessment Notice

19. (1) Subject to the other provisions of this regulation, the notice of assessment to be issued by the Customs Division pursuant to paragraph (d) of subsection (1) of section *thirty-four* of the Act shall be in Form CE 3 set out in the Eighth Schedule.

(2) Where duty is not paid within a period of five days (exclusive of any public holidays, Saturdays & Sundays) from the date of issue of such assessment notice, the person liable to pay that duty shall pay an amount in additional duty consisting of:

- (a) five thousand penalty units; and
- (b) five hundred penalty units, or interest on the unpaid sum calculated daily at the annual rate advised by the Bank of Zambia for each day that the duty or fine remains unpaid whichever is the greater:

Provided that, where the assessment notice remain outstanding for a period of thirty days from the date of issue, the goods in respect of which such assessment notice was issued shall be liable to seizure.

Entry of visitor's motor vehicle when imported temporarily

20. Entry of visitor's motor vehicle when imported temporarily in accordance with paragraph (a) of subsection (2) of section *thirty-four* of the Act shall be made in Form CE 5 set out in the Eighth Schedule.

Control of passenger's baggage

21. A passenger entering Zambia shall not remove any baggage or any other goods accompanying that passenger from customs control, or cause such to be removed until release has been authorised by an officer, and the baggage or goods shall not be delivered by any person responsible for their carriage or safe keeping until the release has been authorised by an officer.

Declaration by persons entering Zambia and entry of goods accompanying such persons

22. (1) Subject to the other provisions of this regulation, entry of goods, not being goods for commercial use, imported by passengers in baggage accompanying them on the same ship, aircraft, train or vehicle other than a train, in accordance with paragraph (b) of subsection (2) of section *thirty-four* of the Act shall be made by declaration in Form CE 6 set out in the Eighth Schedule.

(2) Any person entering Zambia shall make a declaration to an officer, verbally or in Form CE 6 set out in the Eighth Schedule of all goods or articles in that person's custody and shall produce and deliver up any goods in that person's possession, the importation of which is prohibited or restricted:

Provided that a person shall be allowed to retain any goods the importation of which is restricted if that person has obtained permission to import the goods in terms of the law providing for the restriction.

(3) Notwithstanding sub-regulation (2), where a customs port of entry or customs aerodrome provides a person with a choice to pass through the Customs Division entry point using either a red or green route, the entry by a person into a green route shall be deemed to be a declaration by that person that such person does not have in possession-

- (a) dutiable goods, other than travellers effects on which a remission of duty has been granted;
- (b) goods or articles for commercial use; or
- (c) goods or articles the importation of which is prohibited or restricted.

Entry of passengers baggage and certain small value importations

23. Entry of unaccompanied passengers' baggage pursuant to paragraph (c) of subsection (2) of section *thirty-four* and goods other than goods imported by post in respect of which the total value in any one consignment or shipment does not exceed three thousand fee units, pursuant to paragraph (d) of subsection (2) of section *thirty-four* of the Act, shall be made in Form CE 7 set out in the Eighth Schedule.

Customs control on goods imported by post

24. (1) Subject to the terms and conditions imposed by the Commissioner-General, goods imported by post may be removed in sealed bags from the place of importation and conveyed, under Customs Division control, to postal premises approved for that purpose by the Commissioner-General.

(2) Sealed bags removed under sub-regulation (1) shall not be opened other than in the presence of an officer who shall separate the contents into-

- (a) items for immediate release and discharge into the postal system;
- (b) items in respect of which the postal services shall advise the designated addressee that formal Customs Division clearance is required and which are to be held in safe custody by the postal service until the formal clearance is obtained;
- (c) items that will be assessed for duty and then released for postal delivery subject to the collection by the postal service of the duty so assessed.

(3) Duty collected by the postal service in terms of paragraph (c) of sub-regulation (2) shall be remitted to the Customs Division by such process as is agreed between the Commissioner-General and the Chief Executive officer of any such postal services.

Entry of small value importations by post or air freight

25. For the purpose of entry and collection of duty on goods imported by post or air freight in respect of which the total value in any one consignment or shipment does not exceed three thousand fee units, the form or label affixed to the parcel, package container or letter packet, or any other declaration made 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 these Regulations, take the place of the bill of entry and the declaration to be made by the importer.

Accounting for small value importations by post

26. Goods imported by post and entered pursuant to Regulation 25 shall be accounted for in Form CE 8 set out in the Eighth Schedule.

Return of duty free consignment for which Bill of Entry is not required

27. Return of a duty free consignment for which a bill of entry is not required shall be made in Form CE 9 set out in the Eighth Schedule.

Declaration by persons importing or exporting currency

28. Persons importing or exporting currency exceeding the equivalent in value of five thousand United States dollars shall be required, pursuant to section *forty-one A*, to make a declaration in Form CE 10 set out in the Eighth Schedule.

PART IV CUSTOMS CARRIERS

Application
for issue of
a customs
carrier's
licence

29. An application for the issue of a customs carrier's licence pursuant to section *forty-three* shall be made in Form CE 11 set out in the Eighth Schedule.

Customs
carrier's
licence

30. A customs carriers licences shall be issued in Form CE 12 set out in the Eighth Schedule subject to the payment of the prescribed fee set out in the First Schedule.

PART V EXPORTATION OF GOODS

Entry of goods
for exportation

31. (1) The entry of goods for export shall, in accordance with section *forty-seven* of the Act, be made-

- (a) in the case of goods other than-
 - (i) goods to be exported by post or air freight and being of a value not more than three thousand fee units in any one consignment or shipment;
 - (ii) travellers vehicles to be exported temporarily;
 - (iii) visitors vehicles being exported;
 - (iv) travellers samples being exported temporarily; and
 - (v) passengers baggage and effects, other than vehicles, not being goods for commercial use;by the lodgement of a duly completed entry in Form CE 20 set out in the Eighth Schedule.
- (b) in the case of goods to be exported by post or air freight and being of a value not more than three thousand fee units in any one consignment or shipment, by the lodgement of a duly completed declaration in Form CE 13 set out in the Eighth Schedule;
- (c) in the case of travellers' vehicles to be exported temporarily, by the lodgement of a duly completed entry in Form CE 14 set out in the Eighth Schedule;
- (d) in the case of-
 - (i) visitors vehicles being exported;
 - (ii) travellers samples;

(iii) passengers baggage and effects, other than vehicles, not being goods for commercial use- in such manner as the Commissioner-General may direct.

Permission to load goods for export

32. Except for goods to be exported by pipeline, the impression of an official Customs Division stamp over the signature of an identifiable officer on an entry for the export of the goods and on the associated consignment note, waybill or bill of lading shall be sufficient permission for the loading of goods pursuant to section *forty-eight*.

Permission to load goods into a pipeline for export

33. An operator of a pipeline intending to export goods through the pipeline shall provide to the Customs Division prior advice in Form CE 2 set out in the Eighth Schedule of the nature and quantity of goods to be exported and the intended date and time of that process and shall not commence any such process or pumping operation without the written permission of an officer.

Sealing of non duty paid stores on ships, aircraft, trains and vehicles other than railway trains

34. Where warehoused goods are to be exported in bond as stores for ships, aircraft, trains or vehicles other than trains, they shall be placed under seal in the ship, aircraft or train or vehicle as the case may be and the seal shall not be broken while the ship, aircraft train or other vehicle remains in Zambia.

Application for clearance of train or other vehicle

35. The report and application for clearance required to be made in respect of a train or other vehicle pursuant to section *forty-nine* of the Act shall be made in Form CE 15 set out in the Eighth Schedule.

Application for clearance of ship

36. An application for clearance of a ship to leave Zambia pursuant to section *fifty* of the Act shall be made in Form CE 15 set out in the Eighth Schedule.

Application for clearance of aircraft

37. An application for clearance of an aircraft to leave Zambia pursuant to section *fifty-one* of the Act shall be made in Form CE 15 set out in the Eighth Schedule.

Failure of ship or aircraft to leave in accordance with clearance

38. If a ship or aircraft cleared to leave Zambia delays its departure beyond a period of twenty four hours after clearance is given, or call at another port or aerodrome within Zambia before leaving the Republic, the certificate of clearance shall be deemed to have lapsed and a new application shall be made in Form CE 15 set out in the Eighth Schedule.

Form of Customs and Excise General Registration Certificate

39. Unless otherwise stated in these regulations, any requirement for a declaration to be made or lodged shall be taken to refer to a declaration in Form CE 16 set out in the Eighth Schedule.

**PART VI
WAREHOUSING OF GOODS**

Application
for bonded
warehouse
licence

40. An application for the licensing of a bonded warehouse pursuant to section *fifty-five* of the Act shall be made in Form CE 17 set out in the Eighth Schedule.

Bonded
warehouse
licence

41. A bonded warehouse licences shall be issued in Form CE 18 set out in the Eighth Schedule subject to the payment of the prescribed fee as set out in the First Schedule.

Application
for renewal
of bonded
warehouse
licence

42. An application for renewal of a bonded warehouse licence pursuant to subsection (3) section *fifty-five* of the Act shall be made in Form CE 17 set out in the Eighth Schedule.

Management of
bonded
warehouse

43.(1) The owner or operator of a bonded warehouse shall keep a record in such form or manner as the Commissioner-General may require, of all goods received into or delivered from that bonded warehouse together with the authorities for such receipts and deliveries and shall make the record available for inspection by the Customs Division at any time.

(2) Except with the written permission of the Customs Division, the owner or operator of a warehouse shall not accept into a warehouse any goods other than goods entered for warehousing at that warehouse in Form CE 20 set out in the Eighth Schedule and delivered thereto by a customs carrier licensed under subsection (1) of section *forty-three* of the Act.

(3) Any goods received under this regulation into the warehouse shall be acknowledged by receipt in Form CE 19 set out in the Eighth Schedule to be issued forthwith by the owner or operator of the warehouse.

(4) Warehoused goods shall, immediately following their receipt in a warehouse, be marked by the owner or operator of the warehouse, on each outside package or container, with details of the date of warehousing, the importer or owner of the goods and such other details as are necessary to identify the content therein.

(5) Warehoused goods shall be stacked, or placed, in the warehouse in such manner as will facilitate their inspection by the Customs Division and their safe and secure storage.

(6) Except as may be provided by the Act or these regulations-

(a) no person other than an officer shall open any package in a warehouse or examine any warehoused goods and, in any case where any such unauthorised action is observed or is suspected to have occurred, the owner or operator of the warehouse shall immediately notify the Customs Division.

(b) no goods may be taken or delivered from a warehouse other than in accordance with delivery instructions contained on or within a duly completed release order in Form CE 4 set out in the Eighth Schedule.

Provided that any such instructions shall be signed by an identifiable officer and such signature shall be superimposed by the impression of an official Customs Division stamp.

Procedure for warehousing of excisable goods

44. (1) Entry for the warehousing of goods liable to excise duty or surtax shall be effected in Form CE 20 set out in the Eighth Schedule.

(2) Cigarettes shall be warehoused in terms of this regulation in unbroken packages each containing not less than two hundred cigarettes.

(3) If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such conditions as the Commissioner-General may impose, accept an application in Form CE 120, set out in the Eighth Schedule to amend the entry.

Procedure for re-warehousing of goods or for removal in bond to another port

45. (1) Entry of goods for removal from a warehouse for re-warehousing at the same port or for in bond carriage to another port, to be entered there for warehousing or consumption, shall be made in Form CE 20 set out in the Eighth Schedule.

(2) In the case of goods removed in bond to another port, the goods shall be conveyed by a licensed customs carrier and shall be delivered to a customs area pending their entry at that port for consumption or re-warehousing.

(3) Goods which have been removed in bond from one port to another in terms of this regulation shall, within three days after their arrival at the latter port, be entered for re-warehousing and be duly re-warehoused or shall be entered for consumption, failing which they shall be deemed to be forfeited and may be sold or disposed of by the Commissioner-General in terms of sections *two hundred and three* to *two hundred and five* of the Act.

(4) Entry for *consumption or re-warehousing at the port of destination shall be made in Form CE 20 set out in the Eighth Schedule.*

(5) *If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such conditions as the Commissioner-General may impose, accept an application in Form CE 120 set out in the Eighth Schedule to amend the entry.*

Procedure for the exportation in bond of warehoused goods

46. (1) Entry of goods for removal from a warehouse for exportation in bond shall be made in Form CE 20 set out in the Eighth Schedule.

(2) If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such conditions as the Commissioner-General may impose, accept an application in Form CE 120 set out in the Eighth Schedule to amend the entry.

(3) For the purposes of this regulation, the premises of a manufacturer licensed in terms of section *ninety-seven* of the Act shall be deemed to be a warehouse.

Responsibility for duty on goods removed or exported in bond

47. (1) No goods shall be removed in bond other than by a customs carrier licensed in accordance with subsection (1) of section *forty-three* of the Act.

(2) Where goods are removed in bond or exported in bond, the customs carrier shall be responsible for the duty on the goods until evidence of safe removal or export is produced to the satisfaction of the Customs Division.

Marking of goods to be removed or exported in bond

48. A container of all goods to be removed or exported in bond shall, before removal or exportation, be marked conspicuously with the words “In Bond” subject to the nature of the container and as the circumstances permit.

Procedure for the removal of goods from warehouse for consumption

49. (1) Entry of goods for removal from a warehouse for consumption shall be made by the importer or owner of the goods in Form CE 20 set out in the Eighth Schedule.

(2) When satisfied that the entry is correctly completed, the Customs Division shall issue an assessment notice in Form CE 3 set out in the Eighth Schedule which shall advise the details of duty payment required to effect the delivery of the goods.

(3) The assessment notice shall remain valid for a period of five days from the date of issue and, where the duty is paid in that time, the entry will be passed and a release order issued in Form CE 4 set out in the Eighth Schedule.

(4) Lodgement of the release notice with the owner or operator of the warehouse shall authorise such person to release the goods from the warehouse.

(5) If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such conditions as the Commissioner-General may impose, accept an application made in Form CE 120, set out in the Eighth Schedule to amend the entry.

Procedure for clearance of goods from warehouse for use as ship, aircraft, train or vehicle stores

50. (1) The entry of warehoused goods for removal as stores for ships, aircraft, trains or vehicles other than trains, shall be made in Form CE 20 set out in the Eighth Schedule.

(2) The Commissioner-General may determine the quantities of goods of each kind which are to be entered as stores for ships, aircraft, trains or vehicles other than trains taking into account the number of the crew, the passengers and the period during which the ship, aircraft, train or vehicle other than a train is likely to be on its proposed voyage or journey.

(3) Any goods removed under sub-regulation (1) shall be carried by a customs carrier licensed in accordance with the Act who shall be responsible for the duty on the goods until such time as safe delivery of the goods has been effected to the satisfaction of the Customs Division.

(4) Any goods removed and delivered under this regulation shall be placed under seal in the exporting ship, aircraft, train or other vehicle, by an officer in the manner required by Regulation 48.

(5) If any entry made in terms of this regulation is incorrect, the Customs Division may, subject to such condition as the Commissioner-General may impose, accept

an application made in Form CE 120 set out in the Eighth Schedule to amend the entry.

Procedure for the operation of duty free shop

51. (1) Without limiting the generality of Regulations 40, 49 and 50, a duty free shop approved by the Commissioner-General shall be deemed to be a warehouse.

Provided that-

- (a) the owner or person having control of any goods in the shop shall comply with the terms and conditions of operating such a warehouse;
- (b) the entry of warehoused goods for removal as duty free stocks shall be effected in Form CE 20 set out in the Eighth Schedule;
- (c) goods stored in a duty free shop shall be purchased only by identifiable persons cleared to depart on an international flight;
- (d) any goods sold or disposed of shall be by retail invoice specifying such details as invoice number, flight number and passport number of the purchaser; and
- (e) duty free goods shall be consumed only in the international departure lounge or may be taken aboard departing international flights.

(2) Any owner or operator of a duty free shop shall maintain records, in a correct, orderly and itemised manner, of all transactions undertaken and shall submit in such form and manner as may be required by the Commissioner-General, a monthly return of such business activities.

Payment of duty on locally manufactured oil products stored in a bonded warehouse

52. (1) Pursuant to the provisions of paragraph (b) of subsection (2) of section *fifty-eight* of the Act, excise duty and or surtax shall be paid as provided for in subregulation (2) on locally manufactured hydrocarbon oils and oil products removed from a bonded warehouse licensed for the storage of such goods.

(2) Entry shall be made of all goods removed under subregulation (1) in each accounting period of ten days, as approved by the Commissioner-General, and all duties due on the goods shall be paid by bank certified cheque or deposited in an account at a Bank approved by the Commissioner-General on or prior to the tenth day following the end of each such accounting period.

Removal of wet goods from warehouse for processing

53. Wet goods may be removed from a warehouse for the purposes described in subparagraph (i), paragraph (a) of subsection (3) of section *fifty-eight* of the Act without entry or payment of duty on the goods provided that the owner or person having control of such goods shall make an application for permission in Form CE 21 set out in the Eighth Schedule and shall comply with the terms and conditions of any permission so given.

Allowable deficiencies in quantity of warehoused goods

54. (1) Pursuant to paragraph (a) of subsection (4) of section *fifty-eight* of the Act, an officer may make the following allowances in respect of deficiencies in the quantity of warehoused goods-

- (a) in the case of motor spirit stored in bulk tanks in a bonded warehouse, actual loss calculated to the nearest litre but not exceeding 0.5 per centum

of the motor spirit delivered from the bonded warehouse during each period of one month;

- (b) in the case of diesel oil stored in bulk tanks in a bonded warehouse, actual loss calculated to the nearest litre but not exceeding 0.3 per centum of the diesel oil delivered from the bonded warehouse during each period of one month;
- (c) in the case of liquefied petroleum gas stored in bulk tanks in a bonded warehouse, actual loss calculated to the nearest litre or kilogram, as the case may be, but not exceeding 1.0 per centum of the liquified petroleum gas delivered from the bonded warehouse during each period of one month;
- (d) in the case of all other hydrocarbon oils stored in bulk tanks in a bonded warehouse, actual loss calculated to the nearest litre or kilogram, as the case may be, but not exceeding 0.5 per centum of the product actually delivered from the bonded warehouse during each period of one month.

(2) The allowances for warehoused wet goods lost in the following operations shall not exceed the limits indicated hereunder-

<u>Operation</u>	<u>Maximum % loss allowance</u>
(i) racking	1%
(ii) bottling	2%
(iii) blending	1%
(iv) mixing	1%
(v) fining	1%
(vi) blending and bottling	2%
(vii) mixing and bottling	2%
(viii) racking and bottling	2%

(3) The losses referred to in sub-regulation (2) shall be calculated as follows-

- (i) in the case of ale, beer, stout, cider and wines, in terms of litres and to the nearest one-tenth of a litre; or
- (ii) in case of spirits, in terms of alcohol by volume and to the nearest one-tenth of alcohol by volume.

Application for permission to export goods as ship, aircraft or vehicle stores

55. An application for permission to export goods as ship, aircraft or vehicle stores in pursuant to section *fifty-nine* of the Act shall be made in Form CE 22 set out in the Eighth Schedule.

Processing or manipulation of goods within a warehouse

56. Warehoused goods may be processed or manipulated within such warehouse for the purposes described in section *sixty-three* of the Act provided that the owner or

person having control of such goods shall first make application for permission in Form CE 21, set out in the Eighth Schedule and thereafter comply with the terms and conditions of any permission so given.

Samples of
warehoused
goods

57. (1) Application for permission to take a sample of warehoused goods pursuant to section *sixty-seven* of the Act shall be made in Form CE 23 set out in the Eighth Schedule.

(2) A sample of warehoused goods shall be taken from or returned to the warehouse only in the presence of an officer.

(3) Where a sample taken from warehoused goods is not returned to the warehouse, duty shall be paid on the goods at the time when the goods from which the sample was taken are cleared from the warehouse-

Provided that the Commissioner-General may in any particular case remit the duty on such sample.

Abandonment
of warehoused
goods

58. If the owner of any warehoused goods wishes to abandon them in terms of section *sixty-eight A* of the Act, the owner shall make written application to that effect to the Commissioner-General.

Missing goods
or deficiencies
in warehoused
stock

59. If at any time warehoused goods are found to be missing or deficient beyond the deficiency allowable under the Act or these regulations, duty shall be due and payable on the goods in terms of section *fifty-eight* of the Act on the issue by the Customs Division, of a notice of claim in Form CE 20 set out in the Eighth Schedule.

Goods
unaccounted
for in a
warehouse

60. Any goods found in a warehouse which cannot be properly accounted for by the owner or occupier of the warehouse shall be deemed to be uncustomed goods and shall be-

(a) entered for warehousing and duly warehoused; or

(b) entered for consumption and removed from the warehouse:

Provided that where the importation of goods is prohibited or restricted, the goods shall be forfeited and dealt with as directed by the Commissioner-General.

PART V11 ORDINARY DUTIES, DUMPING AND COUNTERVAILING DUTIES

Interpretation

61. In this Part “like goods” means goods which are identical, that is, alike in all respects to those that are under consideration or, in the absence of such goods, others which are not alike in all respects but have all essential characteristics closely resembling those of the goods under consideration.

Determination
of normal
value

62. (1) For the purposes of section *seventy-five*, *seventy-five A*, *seventy-five B*, *seventy-five C*, *seventy-five D* and *seventy-five E* of the Act, the normal value of any goods exported or to be exported to Zambia shall be the price paid for like goods when sold in the ordinary course of trade for consumption in the country of export in

sales that are arms length transactions by the exporter or if like goods are not sold by the exporter, by other sellers of like goods.

(2) Where the Minister is satisfied that the normal value of goods cannot be determined under sub-regulation (1) for reason that-

- (a) like goods are not sold in the ordinary course of trade for consumption in the country of export in sales that are arms length transactions by the exporter and it is not practicable to obtain within a reasonable time information in relation to sales by other sellers of like goods that would be relevant for the purposes of determining a price under sub-regulation (1); or
- (b) the situation in the market is such that sales in that market that would otherwise be relevant for the purposes of determining a price under sub-regulation (1) are not suitable for determining such a price, the normal value shall be the sum of-
 - (i) such amount as determined by the Minister to be the cost of production or manufacture of the goods in the country of export;
 - (ii) such amounts as the Minister determines would be reasonable amounts for administrative and selling costs, delivery charges and other charges incurred in the sale; or
 - (iii) an amount calculated in accordance with such rate as the Minister determines would be the rate of profit on that sale having regard to the rate of profit normally realised on sales of goods of the same general category in the domestic market of the country of export of the goods.

Determination
of subsidy

63. For the purposes of section *seventy-five*, *seventy-five A*, *seventy-five B*, *seventy-five C*, *seventy-five D* and *seventy-five E* of the Act, the amount of any subsidy on any imported goods shall be determined in such manner as the Minister may direct but shall not be more than the difference between the export price and the normal value as determined in accordance with regulation 62.

Complaint
against
dumped or
subsidised
imports

64. Pursuant to the provisions of section *seventy-five B* of the Act any person, being a resident in Zambia, acting by or on behalf of the domestic industry, who considers that imported goods are being dumped or subsidised and by reason thereof material injury to an industry has been or is being caused or is threatened or that the establishment of an industry has been or is being materially retarded may make a complaint against such practice by the lodging with the Commissioner-General a duly completed form of complaint in Form CE 24 set out in the Eight Schedule together with the prescribed fee therefor as set out in the First Schedule.

Initial investigation
of alleged dumped
or subsidised
goods

65. The Commissioner-General shall, within a period of sixty days from the receipt of a duly completed complaint lodged in accordance with Regulation 64, undertake an initial investigation of the circumstances and report to the Minister recommending whether or not a provisional dumping or countervailing duty should be imposed in accordance with the provisions of section *seventy-five B* of the Act.

PART V111
AGREEMENTS UNDER COMESA

Interpretation
of terms under
COMESA
Agreements

66. In this Part unless the context otherwise requires-

"Common Market" means the Common Market for Eastern and Southern Africa established by Article 1 of the Treaty;

"commodity" means goods described in the Harmonised Commodity Description and Coding System published by the World Customs Organisation;

"Member State" means a member of the Common Market for Eastern and Southern Africa;

"originated in a Member State" when used with reference to commodities, means commodities which are accepted as originating in the Member State in accordance with the Protocol on the Rules of Origin set out in Article 15 of Annex 111 of the Treaty;

"producer" has the meaning assigned to it in Rule 1 of Annex 111 of the Treaty;

"produced" includes the application of any operation or process as set out in Rule 5 of Annex 111 to the Treaty; and

"Treaty" means the Treaty for the establishment of the Common Market for Eastern and Southern Africa.

Suspension
and reduction
of duties under
COMESA
agreement

67. (1) Any goods originating in a Member State of the Common Market shall be liable to customs duty at the rate appearing in the Customs Tariff set out in the First Schedule of the Act but which shall be suspended by sixty per centum to an effective rate of forty per centum of the substantive tariff rate.

(2) The suspension of duty referred to in sub-regulation (1) shall apply to goods supplied from a Member State and qualifying as originating from a Member State in terms of the Protocol on the Rules of Origin set out in Article 15 of Annex 111 to the Treaty.

Determination
of origin of goods
under COMESA

68. The origin of any goods shall be determined in accordance with the Protocol on the Rules of Origin set out in Article 15 of Annex 111 of the Treaty and an importer of qualifying goods who wishes to claim such suspended duty rate shall lodge with the entry, a certificate of origin.

Certificates
of Origin and
fees thereto

69. (1) On application made by an exporter of goods from Zambia, the Customs Division may, where in accordance with the terms and conditions of any relevant international agreement that Zambia is signatory to, issue a Certificate of Origin on the origin of such goods.

(2) There shall be charged, levied, collected and paid in respect of every Certificate of Origin issued by the Customs Division under sub-regulation (1) a fee at the rate set out in the First Schedule.

PART IX VALUE FOR DUTY PURPOSES

Goods under
hire or lease
contract and
record of
customs
valuation
assessments

70. (1) For the purpose of section *eighty-five* of the Act, the value of any goods imported under a hire or leasing contract shall be the total rental or lease charges paid or payable as the case may be, adjusted in accordance with the Fifth Schedule.

(2) All documents, records and information necessary to establish the accuracy of any assessment made pursuant to the provisions of section *eighty-five* of the Act shall be kept and maintained for a period of not less than five years from the date of any entry made involving such assessment.

Notification
of rates of
exchange in
respect of
foreign
currency

71. Rates of exchange determined by the Commissioner-General pursuant to section *eighty-seven* of the Act shall be determined in respect of each consecutive period of two weeks and shall be notified on the first day of each such period by publication in the Gazette.

Provided that the rates of exchange determined by the Commissioner-General shall be the median of the ruling exchange rates obtainable from any four leading commercial banks within Zambia.

PART X REBATES, REFUNDS AND REMISSIONS OF DUTY

Interpretation

72. In this Part unless the context otherwise requires-

“remission” means the granting of an exemption from having to pay duty that would otherwise be payable and the word “remit” shall be construed accordingly;

“refund” means a refund of duty that has previously been paid and the expressions “a refund” and “to refund”, shall be construed accordingly; and

“rebate” means a partial remission of duty payable or a partial refund of duty paid.

Application for
refund of duty
overpaid

73. An application for refund of duty overpaid shall be made in writing to the Commissioner-General.

Refund or
remission
of duty on
goods
destroyed or
lost by
accident while
under customs
control

74. (1) Subject to the provisions of this regulation, the Commissioner-General may grant a refund or remission of duty, on goods that before their removal from Customs Division control were destroyed by accident or lost, without going into consumption, without the wilful act or negligence of any person for the time being responsible for, or in charge or control of, such goods:

Provided that such refund or remission shall be granted only if the Commissioner-General is satisfied that every effort was made and precaution taken to prevent the loss or destruction of the goods.

(2) An importer or owner of goods wishing to claim a refund or remission of duty in terms of this regulation shall make an application in writing to the Commissioner-General.

Remission of duty on warehoused goods not worth the duty

75. (1) The Commissioner-General may grant a remission of duty on goods whose worth is less than the duty thereon if the worth is established to the satisfaction of the Commissioner-General and provided that such goods are destroyed in such manner as the Commissioner-General may direct, under the supervision of an officer authorised for that purpose.

(2) Any application for remission under this Regulation shall be made in writing by the owner of the goods and shall include an undertaking to pay all expenses involved in the destruction of the goods and the attendance of the supervising officer.

Refund of duty paid on goods found to be of defective or faulty manufacture after release from Customs Division control

76. (1) Subject to the provisions of this regulation, the Commissioner-General may grant a refund of any duty, paid in respect of imported goods which, after release from customs control, are found to be defective as a result of faulty manufacture or production:

Provided that any application for a refund under this regulation shall be made in writing by the importer within six months of the date on which duty was paid on the goods and shall be accompanied by-

- (a) the full particulars of the goods imported including all invoices relating thereto;
- (b) the full details of the customs entry made thereto;
- (c) a written statement as to the nature, cause and extent of the defect which is the subject of the claim together with correspondence with the manufacturer, producer or supplier of the goods concerning the defect and copies of relevant insurance claims so made; and
- (d) such other information as may be required in any particular case by the Customs Division.

(2) No refund shall be made unless the goods are destroyed under the supervision of an officer according to terms and conditions set by the Commissioner-General.

(3) The cost of destruction of goods under sub-regulation (2) and the expenses of any officer supervising the destruction shall be met by the applicant and may be deducted from the amount of refund before payment thereof is made.

Refund or remission of excise duty or surtax on destroyed or defective goods or destroyed wet goods

77. (1) Subject to the other provisions of this regulation, the Commissioner-General may grant a refund or remission of any excise duty or surtax paid or payable on goods manufactured in Zambia which are found to be defective as a result of faulty manufacture or production:

Provided that any application for such refund or remission shall be made in writing by the manufacturer and goods returned unused within six months of the date of removal from licensed premises stating-

- (a) the purpose for which they are to be returned;
- (b) full details as to the nature, quantity, weight or volume of goods;

- (c) the date on which they were produced or manufactured and the date on which they were removed from the licensed premises; and
- (d) the nature and cause of defect in the goods.

(2) A refund of excise duty paid on wet goods destroyed shall be granted if the Commissioner-General is satisfied that-

- (a) the goods have not been removed from the vessel in which they were placed by the manufacturer or brewer for the purpose of bottling, canning or other package;
- (b) no substance, other than finning for the purpose of clarification, has been added to such goods subsequent to their removal from the licensed premises.

(3) No refund shall be made unless the goods are destroyed under the supervision of an officer according to terms and conditions set by the Commissioner-General.

(4) The costs of any destruction of goods including the costs and expenses of any officer required to supervise such destruction shall be met by the applicant and may be deducted from the sum of any refund due before payment thereof is made.

Rebate of
duty on goods
temporarily
imported

78. (1) Subject to the other provisions of this regulation, a rebate of duty shall be granted in such circumstances, to such extent, and under such conditions as the Commissioner-General may approve, on goods temporarily imported into Zambia:

Provided that, if the goods are not exported from Zambia within a period fixed by the Commissioner-General, full duty shall be payable on the goods.

(2) Any person wishing to claim a rebate of duty in terms of sub-regulation (1) shall apply to the Customs Division, in writing, submitting details of-

- (a) the nature, quantity, value and country of origin of the goods to be temporarily imported; and
- (b) the purpose for which they are to be temporarily imported into Zambia.

Remission or
rebate of duty
on goods
re-imported

79. (1) Subject to the other provisions of this regulation, the Commissioner-General may grant a remission or rebate of duty on goods re-imported into Zambia after having been exported from Zambia if the goods were not so exported in bond or under any drawback of duty.

(2) Goods which are re-imported in substantially the same condition as they were in when they were exported may be imported free of duty.

(3) Where goods are re-imported after having been exported from Zambia for the purposes of repair and return to Zambia, they shall be subject to duty, if any, according to the rate applicable to their substantive tariff classification applied to the value of any such repair inclusive of freight and insurance costs thereto:

Provided that any person wishing to claim remission or rebate of duty under this regulation shall furnish such evidence and information relevant to the goods as the Commissioner-General may require.

Remission or
rebate of duty
on petty
consignments

- 80.** The Commissioner-General may grant a remission or rebate of duty-
- (a) on a single consignment of goods when the total value, inclusive of freight and insurance, does not exceed the equivalent of twenty United States Dollars;
 - (b) on samples of negligible value; or
 - (c) on any single consignment of goods (excluding alcoholic beverages, cigars, cigarettes, or manufactured tobacco) imported by parcel post or air freight, when the total value of such consignment, inclusive of freight and insurance, does not exceed the equivalent of one hundred United States Dollars, on condition that-
 - (i) such consignment is sent to a private person by or on behalf of another person resident outside Zambia;
 - (ii) such consignment consists only of articles for the personal use of the addressee or the family of the addressee; and
 - (iii) such consignment is not imported for sale or industrial or commercial use.

Refund or
remission of duty
on goods for
diplomatic
personnel

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81. (1) Subject to the provisions of this regulation, a remission of duty shall be granted in respect of goods imported or taken out of bond, if such goods are supplied directly to any person who under the provisions of Article 36 of the Vienna Convention on Diplomatic Relations as applied by the Diplomatic Immunities and Privileges Act, or of any order made under that Act, is exempt from the payment of duty, and a refund of duty shall be granted in respect of motor vehicles and fuel purchased for official purposes from open stocks within Zambia by any such person, under such safeguards as the Commissioner-General may determine:

Provided that in the case of fuel purchased for official use from open stocks within Zambia, a refund of duty under this regulation shall be granted only in respect of fuel purchased from filling stations designated by the Commissioner-General.

(2) The person claiming a refund or remission in respect of goods imported or taken out of bond under this regulation shall make a declaration to the Customs Division that the goods on which the refund or remission is claimed are solely for official or private use and shall not be sold or otherwise disposed of without the prior consent of the Commissioner-General and the payment of the duty thereon at the rate leviable at the date of such sale or disposal.

(3) A remission under this regulation in respect of goods produced within Zambia and liable to excise duty shall be granted only in respect of goods which have been supplied from a bonded warehouse or purchased direct from the manufacturer by the claimant.

(4) The applicant for a refund of duty under this regulation in respect of motor vehicles purchased from open stocks within Zambia shall furnish to the Customs Division a statement showing-

- (a) the make, production year, engine number, model, registration number and value as originally entered for payment of duty, of the vehicle on which a refund of duty is sought;
- (b) the place at which the duty was paid and the number and date of the relevant customs bill of entry;

and shall sign a declaration that the vehicle is being purchased for official or private use and shall not be sold or otherwise disposed of without the prior consent of the Commissioner-General and the payment of duty thereon at the rate leviable at the date of the sale or disposal.

(5) A refund of duty under sub-regulation (4) shall be granted only in respect of new vehicles.

(6) The applicant for refund of duty in respect of motor fuel purchased from open stocks within Zambia shall furnish to the Customs Division a statement from the supplier from which the fuel was purchased, showing-

- (a) the quantity purchased;
- (b) a declaration signed by the applicant that the fuel was purchased for official or private use and that it has not been, and will not be sold or otherwise used or disposed of without the prior consent of the Commissioner-General and the payment of duty thereon.

(7) For the purpose of determining the amount of duty payable on an article sold or disposed of in Zambia after use, the Commissioner-General may take into consideration the depreciation of such article since its importation, removal from bond or purchase from open stocks, and the Commissioner-General shall remit the duty if such sale or disposal is effected more than five years after the date upon which the remission, rebate or refund was first granted.

Remission of
duty on goods
imported
temporarily
by visitors
and tourists

82. (1) Subject to sub-regulation (2) a remission of duty shall be granted in respect of goods, other than motor vehicles, temporarily imported into Zambia by visitors and tourists for their own use.

(2) The goods referred to in sub-regulation (1) shall be declared on importation and, if not similarly declared and produced for inspection by the visitor or tourist at the port or aerodrome of departure, shall be deemed to have been imported and shall be subject to the duty which, as assessed by the Customs Division, shall be due and payable.

Remission of
duty on motor
vehicles imported
by visitors and
tourists

83. (1) Subject to the other provisions of this regulation, a remission of duty shall be granted in respect of motor vehicles temporarily imported into Zambia by visitors and tourists for their own use.

(2) Vehicles referred to in sub-regulation (1) shall be declared on importation and produced for inspection by the visitor or tourist at the port of departure:

Provided that the duty may be remitted on motor vehicles which, having been temporarily imported into Zambia in terms of this regulation, are damaged and are surrendered unconditionally to the Commissioner-General.

(3) Where the owner of a vehicle wishes to surrender it and to claim a remission of duty in terms of the proviso to sub-regulation (2), the owner shall-

- (a) make a written declaration to the Commissioner-General stating-
 - (i) that the owner does not wish to remove the vehicle from Zambia;
 - (ii) that the owner relinquishes all title to the vehicle and surrenders it unconditionally to the Commissioner-General; and
- (b) deliver the vehicle to the Commissioner-General or make such arrangements as may be necessary to enable the Commissioner-General to take possession of it:

Provided that the Commissioner-General may, dispense with any or all of these conditions.

(4) A vehicle shall not be surrendered, under this regulation if its permanent importation would be contrary to any written law relating to control of imports which may be in force in Zambia.

(5) Vehicles surrendered in terms of sub-regulation (3) shall be sold or disposed of in accordance with section *two hundred and three to two hundred and five* of the Act.

Remission
of duty on
commercial
traveller's
sample

84. (1) Subject to the other provisions of this regulation, a remission of duty shall be granted in respect of traveller's samples when imported into Zambia on declaration that they will be exported within twelve months from the date of importation or within such time as the Commissioner-General may specify.

(2) The goods referred to in sub-regulation (1) shall be declared and entered on importation and duty shall be secured by way of deposit of money paid and receipted at the first customs port or aerodrome of arrival.

(3) If the samples are not entered for export and produced for inspection within twelve months from the date of entry, the samples shall be deemed to have been imported and the person who imported them shall be liable for the duty payable thereon according to their value at the time of importation.

(4) Where the importer fails to enter the goods within such further time as may be specified by the Commissioner-General, the goods shall be entered by the Customs Division and the deposit of money paid shall be used to account for the duty owing.

Remission
of duty on
new resident's
effects

85. (1) Subject to the other provisions of this regulation, a remission of duty shall be granted in respect of household and personal effects (excluding motor vehicles) imported by any person (including a citizen of Zambia) who arrives in, or returns to, Zambia to take up or resume employment or residence (in this regulation referred to as the "new resident") if the new resident proves to the satisfaction of the Customs Division:

(a) that the new resident has been resident outside Zambia for a period of not less than two years before the date of arrival in, or return to, Zambia;

(b) that the effects were the property of the new resident before the date of departure for Zambia from the previous country of residence; and

(c) that the effects were imported by the new resident at the time of arrival in Zambia, or, if there is any delay between the arrival and the importation of the goods, that the delay is not unreasonable and is due to circumstances beyond the control of the new resident.

(2) Any person claiming a remission of duty in terms of sub-regulation (1) shall lodge a duly completed entry together with a declaration in Form CE 20 set out in the Eighth Schedule.

(3) The effects on which a rebate of customs duty has been granted under this regulation shall not be sold or otherwise disposed of in Zambia, except with the prior consent of the Commissioner-General and on payment of duty, if any, at the rate leviable at the date of sale or disposal.

(4) For the purpose of determining the amount of duty payable on any effects sold or disposed of in Zambia after use, the Commissioner-General may take into consideration the depreciation since importation, and the Commissioner-General shall remit the whole duty if the sale or disposal is effected more than five years after the date upon which the rebate was first granted.

Remission
of duty on
traveller's
effects

86. (1) A remission of duty shall be granted in respect of goods for the personal use of a traveller that are imported upon that person or in the baggage accompanying that person, on the same ship, aircraft or vehicle provided that the articles have been in use by the traveller prior to importation and are in such quantities as may be considered reasonable by the Commissioner-General.

(2) A remission of duty shall be granted on goods not exceeding in value the equivalent of one hundred and fifty United States Dollars for each traveller in respect of goods, other than goods for commercial use or the goods referred to in sub-regulation (1), imported by a traveller in the baggage accompanying that traveller or upon that person and declared to the Customs Division:

Provided that if the amount of duty payable by the traveller after the allowance of the remission does not exceed ten thousand Kwacha, that amount shall also be remitted.

Remission of duty on goods used in occupational therapy or training

87. (1) Goods imported by organisations listed in the Second Schedule shall be admitted free of duty, on declaration made by the Chairman, Secretary or other responsible officer that the goods will be used exclusively for the purposes of occupational therapy for the treatment of patients suffering from any disease, deformity or physical incapacity or otherwise for the occupational training of the blind.

(2) The declaration referred to in sub-regulation (1) shall be made in Form CE 25 set out in the Eighth Schedule and shall include an undertaking that if any of the goods are used for any purpose other than the declared purpose, the duty thereon shall be paid.

Rebate, refund or remission of duty on goods for scientific, relief or other programmes

88. (1) Subject to the provisions of this regulation, an organisation engaged in scientific, relief, agricultural, technical assistance or development programmes or schemes in Zambia, approved by the Minister and listed in the Third Schedule, shall be granted a rebate, refund or remission of the whole or any part of the duty paid or payable in respect of goods imported or taken out of bond or, in the case of motor vehicles, obtained from open stock, that are to be used in connection with such programmes.

(2) Any rebate, refund or remission shall be granted in accordance with the terms and conditions of an agreement or memorandum of understanding entered into between the Government of the Republic of Zambia and the organisation in question or, as the case may be, the supervising body of that organisation, and shall require the lodgement of a duly completed declaration, made by a responsible member of that organisation that the goods concerned will be solely for the purpose specified in the agreement or memoranda of understanding and will not be sold or otherwise disposed of except with the prior consent of the Commissioner-General and upon payment of duty, if any, at the rate leviable at the date of such sale or disposal.

(3) For the purpose of determining the amount of duty payable on an article in accordance with sub-regulation (2), the Commissioner-General may take into consideration the depreciation of the article since it was imported, removed from bond or purchased from open stocks, as the case may be, and the Commissioner-General shall remit the duty if the sale or disposal is to be effected more than five years after the date when the rebate, refund or remission of duty was granted.

Rebate, refund or remission of duty on goods for the establishment, rehabilitation, or expansion of business enterprise

89. (1) The Minister may, on the recommendation of the Director-General of the Investment Centre approve a rebate, refund or remission of the whole or any part of the duty, paid or payable in respect of machinery and equipment other than spare parts therefor required for the establishment, rehabilitation or expansion of a business enterprise to holders of an investment certificate issued on or before 26 January 1996 under Part 111 of the Investment Act.

(2) Any rebate, refund or remission approved pursuant to this regulation shall be listed in the Fourth Schedule-

(a) on condition that the goods concerned will not be sold or otherwise disposed of except with the prior consent of the Commissioner-General and upon payment of duty, if any, at the rate leviable at the date of such sale or disposal; and

(b) on such other conditions as the Minister may determine.

(3) For the purpose of determining the amount of duty payable on an article in accordance with paragraph (a) of sub-regulation (2) the Commissioner-General may take into consideration the depreciation of the article since it was imported, removed from bond or purchased from open stocks, as the case may be, and the Commissioner-General shall remit the duty if the sale or disposal is to be effected more than five years after the date when the rebate, refund or remission of duty was granted.

(4) In this regulation-

Cap. 385 “business enterprise” has the meaning assigned to it in the Investment Act.

Cap. 385 “Investment Centre” means the Investment Centre constituted under section four of the Investment Centre Act.

Refund or
remission of
duty on goods
for approved
technical staff

90. (1) Subject to the other provisions of this regulation, a person recruited from outside Zambia to work in Zambia in connection with a scientific, relief, agricultural, technical assistance or development programme or scheme conducted or managed by an organisation that is approved by the Minister and listed in the Third Schedule, shall be granted a refund or remission of the whole of any duty paid or payable in respect of the importation of personal effects.

(2) Any rebate, refund or remission granted under this regulation shall be in accordance with the terms and conditions of an agreement or memorandum of understanding entered into between the Government of the Republic of Zambia and the organisation referred to in sub-regulation (1) or as the case may be, the supervising body of that organisation, and shall require the lodgement of a duly completed declaration made by a responsible member of that organisation attesting to the person’s qualification for the refund or remission.

(3) The individual person referred to in sub-regulation (1) shall be required to make a declaration in Form CE 25 set out in the Eighth Schedule and the personal effects imported shall not be sold or otherwise disposed of in Zambia except with the prior consent of the Commissioner-General and upon payment of duty, if any, at the rate leviable at the date of such sale or disposal.

(4) For the purpose of determining the amount of duty payable on any effects sold or disposed of in Zambia after use, the Commissioner-General may take into account the depreciation thereof since its importation and the Commissioner-General shall remit the duty if such sale or disposal is effected more than five years after the date on which goods were imported.

Refund or
remission of
duty on goods
imported or
purchased by
Tazara

91. (1) Subject to the other provisions of this regulation a refund or remission of the whole of the duty paid or payable shall be granted on goods imported or purchased by the Tanzania/Zambia Railway Authority for its own use.

(2) Any entry or application made pursuant to this regulation shall be accompanied by a duly completed declaration in Form CE 25 set out in the Eighth Schedule made by a responsible officer of the company and attesting to the intended use of the goods.

(3) Any goods on which a refund or remission of duty has been granted under the provisions of this regulation shall not be sold or otherwise disposed of in Zambia without the prior consent of the Commissioner-General and on payment of the duty, if any, at the rate leviable at the date of such sale or disposal.

Refund or remission of duty on goods for construction or operation of pipeline

92. (1) Subject to the provisions of this regulation, a refund or remission of the whole of the duty paid or payable shall be granted in respect of all plant, machinery, equipment and other goods and materials imported or taken out of bond by persons engaged in the construction or operation of a pipeline:

Provided that all such plant, machinery, equipment and other goods and materials are to be built into or to form a part of a pipeline or they will be used solely for the operation, maintenance or repair of the pipeline.

(2) The person claiming a refund or remission under this Regulation shall complete a declaration in Form CE 25 set out in the Eighth Schedule and the goods shall not be sold or otherwise disposed of without the prior consent of the Commissioner-General and payment of the duty thereon at the rate leviable on such goods as at the date of such sale or disposal.

(3) For the purposes of this Regulation "pipeline" means a pipeline for the transportation of refined petroleum products or crude oil as may be approved by the Minister for the purposes of this regulation and shall include storage tanks, pumping stations and ancillary works and buildings.

(4) For the purposes of determining the amount of duty payable on an article sold or disposed of in Zambia after use, the Commissioner-General may take into consideration the depreciation of such article since its importation or removal from bond and shall remit the duty if such sale or disposal is effected more than five years after the date on which the refund or remission was granted.

Refund of duty on fuel, lubricants and other technical supplies used in public transport aircraft

93. (1) Subject to the provisions of this regulation, a refund of the whole of the duty paid, shall be granted in respect of fuel, lubricants and other consumable technical supplies that are consumed during the business operation of any public transport aircraft, except aircraft owned or operated by a private club for the purpose of training or pleasure.

(2) An application for a refund under this regulation shall be made in writing to the Commissioner-General.

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(3) In this regulation the term "public transport aircraft" has the meaning assigned to it in Regulation 2 of the Air Navigation Regulations.

Refund or remission of duty on aircraft stores and equipment

94. (1) Subject to the other provisions of this regulation, a refund or remission of the whole of the duty paid or payable shall be granted in respect of-

(a) aircraft equipment, ground equipment and spare parts imported or supplied for use in or for the maintenance of aircraft engaged in international air navigation;

(b) all aircraft, tools spare parts and equipment temporarily imported for use in the search, rescue, investigation, repair or salvage of lost or damaged aircraft, if the aircraft, tools, spare parts and equipment are exported within one month of the conclusion of the search, rescue, investigation, repair or salvage.

(2) Where articles are imported or purchased from in bond stock, in terms of paragraph (a) of sub-regulation (1), the owner of the aircraft or agent shall, on presentation of the relevant bill of entry, make a declaration in Form CE 25 set out in the Eighth Schedule and the goods shall not be sold or otherwise disposed of or used for any other purpose.

(3) Where articles are purchased in terms of sub-regulation (1) from duty paid stocks, application for refund of duty paid thereon shall be made in writing to the Commissioner-General and shall be accompanied by a declaration in Form CE 25 set out in the Eighth Schedule and the goods shall not be sold or otherwise disposed of or used for any other purpose and the burden of proving the amount of duty paid on the articles shall be on the applicant.

(4) Aircraft tools, spare parts and equipment temporarily imported in terms of paragraph (b) of sub-regulation (1) shall be admitted under such conditions as the Commissioner-General may determine.

Remission of duty on airline and airline operators documents

95. (1) Subject to sub-regulation (2) a remission of customs duty shall be granted on airline and airline operators' documents imported in pursuance of the Convention of International Civil Aviation, as defined in the Aviation Act.

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(2) The documents referred to in sub-regulation (1) are airway bills, consignment notes, passenger tickets and boarding passes, miscellaneous charges orders, damage and irregularity reports, baggage and cargo labels, timetables, and weight and balance documents, for use by airlines and airline operators.

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Rebate, refund or remission of duty for mining right holder
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96. (1) A holder of a mining right issued pursuant to the Mines and Minerals Act may apply to the Minister for a rebate, refund or remission of the whole or any part of the duty paid or payable in respect of plant, machinery or equipment other than spare parts therefor as provided under section *ninety-seven* of the Mines and Minerals Act by letter forwarded to the Commissioner-General furnishing details of the-

(a) mining right;

(b) activities carried out pursuant to the mining right; and

(c) nature and quantity, substantive tariff description and classification in the customs tariff, and customs value of the goods in respect of which the rebate, refund or remission is sought.

(2) Any rebate, refund or remission approved pursuant to this regulation shall be listed in the Fifth Schedule and shall be-

(a) on condition that the goods concerned will not be sold or otherwise disposed of except with the prior consent of the Commissioner-General and upon payment of duty, if any, at the rate leviable at the date of sale or disposal; and

(b) on such other conditions as the Minister may determine.

(3) For the purpose of determining the amount of duty payable on an article in accordance with paragraph (a) of sub-regulation (2), the Commissioner-General may take into consideration the depreciation of the article since it was imported, removed from bond or purchased from open stocks, as the case may be, and the Commissioner-General shall remit the duty if the sale or disposal is to be effected more than five years after the date when the rebate, refund or remission of duty was granted.

Remission of excise duty on goods purchased in bond by Zambia Defence Force

97. (1) Subject to the provisions of this regulation, the Commissioner-General shall remit, the whole of the excise duty payable on the locally produced goods listed in the Sixth Schedule, when such goods are purchased in bond through the means of an official local purchase order, for sale to, and for the exclusive use of, and consumption by, Zambia Defence Force personnel.

(2) The goods referred to in sub-regulation(1) shall be purchased from, and supplied in bond directly , by the companies listed in the Sixth Schedule to these regulations.

Rebate or remission of duty on goods imported by the National Assembly

98. (1) Subject to the provisions of this regulation, a refund or remission of duty shall be granted on goods imported or purchased by the National Assembly for use by members of the National Assembly.

(2) The goods on which duty has been remitted under sub-regulation (1) shall not be sold or otherwise disposed of to any person not entitled to import or purchase them free of duty, except with the consent of the Commissioner-General and on payment of duty, if any, at the rate leviable on the date of such sale or disposal.

PART XI DRAWBACK OF DUTY

Interpretation

99. In this Part, unless the context otherwise requires-

“duty” means the duty payable in terms of the Customs and Excise Tariff set out in the First and Second Schedules to the Act;

“drawback” means a refund of duty payable under these regulations;

“inputs” means goods consumed in or used for the growth, production or manufacture of output, but does not include capital items;

Provided that “spare parts” shall be considered as inputs if they are “consumables” as agreed between the Commissioner-General and a registered claimant in advance of the calculation of the applicable co-efficient;

“outputs” means goods grown, produced or manufactured in Zambia, but does not include cobalt, copper, lead or zinc; and

“produce” means to grow, manufacture or process output, but does not include mining, and cognate expressions shall be construed accordingly.

Drawback
of duty

100. (1) Subject to the provisions of this Part, goods produced in Zambia using inputs upon which duty has been paid shall, when exported to any country, be subject to a drawback of duty on such inputs.

(2) Any exporter who intends to claim drawback of duty under sub-regulation (1) shall register with the Commissioner-General by the submission of an application for registration in Form CE 26 set out in the Eighth Schedule.

(3) The Commissioner-General may, after consultation with the person who has produced output-

(a) determine the quantity and value of any inputs used in the production of any output and the quantity and value determined shall be presumed, in the absence of evidence to the contrary, to have been used in the production of the output; and

(b) determine the amount of duty included in the value of any inputs to be used in the production of any output and the amount determined shall be presumed, in the absence of evidence to the contrary, to have been used in the production of the output.

Duty drawback
co-efficient

101. (1) The amount of duty included in the value of any inputs to be used in the production of any output calculated as a proportion of the sales value of such output shall be termed as the duty drawback co-efficient.

(2) The duty drawback co-efficient shall be determined in accordance with Form CE 26A set out in the Eighth Schedule.

(3) The amount of any drawback paid or payable to an exporter shall be calculated by multiplying the selling price, ex-factory or other place of production of the output by the duty drawback co-efficient.

Maintenance of
records

102. A person who produces output shall maintain records in a form approved by the Commissioner-General showing the quantity and value of any inputs used for or consumed in the production of output and the quantity and value of the output which has been exported.

Claim for drawback of duty-

103. (1) When a person who has produced output wishes to claim a drawback of duty on exports, that person shall submit to the Commissioner-General-

(a) a duly completed application in Form CE 26B set out in the Eighth Schedule; and

(b) a duly completed information worksheet in Form CE 26A set out in the Eighth Schedule.

(2) A person who produced output and has exported goods liable to drawback of duty may elect to offset the amount of any drawback due as a credit against future payment of duty on goods subsequently imported by that person:

Provided that a person who has produced output and who wishes to exercise this option shall make an endorsement to this effect on the application form.

(3) An application for duty drawback shall be made within six months of the date of exportation of the output on which the claim is based.

Drawback on unused goods

104. (1) Subject to the other provisions of this regulation, a drawback of the whole of the duty paid shall be granted on unused goods which are exported within two years from the date on which such duty was paid.

Provided that, at the time of export, the goods are in the same state and condition as they were in at the time when the duty was paid.

(2) An application for drawback under this Regulation shall be made to the Customs Division in Form CE 27 set out in the Eighth Schedule prior to the export of any such goods and shall be accompanied by evidence of the payment of duty thereon as may be required by the Commissioner-General.

(3) Payment of drawback shall not be made without producing evidence of exportation to the satisfaction of the Commissioner-General.

(4) Goods to which drawback has been granted under this regulation shall not be re-imported except with the consent of the Commissioner-General and on payment of full duty thereon.

PART XI EXCISE AND SURTAX MANAGEMENT

Application for licence to manufacture goods subject to excise duty or surtax

105. An application pursuant to section *ninety-seven* of the Act for a licence to manufacture goods subject to excise duty or surtax in specified premises shall be made in Form CE 28 set out in the Eighth Schedule.

Licence to manufacture goods subject to excise duty or surtax

106. A licence to manufacture goods subject to excise duty or surtax shall be issued in Form CE 29 set out in the Eighth Schedule subject to the payment of the prescribed fee as set out in the First Schedule.

Application for renewal of licence to manufacture goods subject to excise duty or surtax

107. An application pursuant to section *ninety-seven* of the Act for renewal of a previously issued licence to manufacture goods subject to excise duty or surtax in specified premises shall be made in Form CE 28 set out in the Eighth Schedule.

Entry for consumption by manufacturer

108. The entry of goods liable to excise duty or surtax that are removed for consumption from the premises where they have been manufactured pursuant to paragraph (b) of subsection (1) of section *one hundred and eight* of the Act shall be made in Form CE 20 set out in the Eighth Schedule.

Warehousing of goods subject to excise or surtax by manufacturer

109. If the manufacturer of goods subject to excise or surtax wishes to remove the goods in bond from licensed premises to a bonded warehouse the goods shall be so entered in the manner set out in Regulation 45 and for the purpose of this Regulation, the premises of the manufacturer shall be deemed to be a warehouse.

Cocks and valves to be approved and repairs and alterations to be supervised

110. (1) Only such cocks and valves as have been approved by the Commissioner-General shall be used in a distillery, refinery or winery.

(2) A distiller, manufacturer of wine or refiner shall not, other than in the presence of an officer and with the permission of that officer-

(a) remove or cause to be removed any lock or seal, or any flange, pipe or fitting giving access to hydrocarbon oils, spirits or wines for repair or any other purpose; or

(b) carry out any alteration to any pipeline, still, safe, receiver, tank or vessel through which hydrocarbon oils, spirits or wine are conveyed or in which hydrocarbon oils, spirits, or wine are contained.

Markings on rooms, places, vessels, utensils, stills and machinery

111. (1) A distiller, manufacturer of wine or refiner shall, when required to do so by the Customs Division, mark and number every room, place, vessel, utensil, still and piece of machinery on the premises to the satisfaction of the Customs Division.

(2) A distiller, manufacturer of wine or refiner shall, when required to do so by the Customs Division, mark its capacity on each vat, receiver, tank and vessel on those premises.

(3) No person shall obliterate or alter any markings on any room, place, vessel, utensil, still or piece of machinery without the authority of the Customs Division.

Sampling of hydrocarbon oils on premises licensed in terms of section 97

112. (1) An officer may on application made in Form CE 23 set out in the Eighth Schedule permit a person licensed in terms of section *ninety-seven* of the Act to take samples of any hydrocarbon oils which are necessary for the proper conduct of business from any drum, tank or vessel on the licensed premises for the purposes of determining quality or specification and the samples shall be taken in the presence of an officer.

(2) The officer shall, where appropriate, record particulars of the samples taken in terms of sub-regulation (1), in the register in which the account of such oils is kept and shall deduct the amount of such samples from the quantity of oil shown therein.

(3) A refiner may take samples of hydrocarbon oils from any tank or utensil as may be necessary for the proper conduct of business in the production of hydrocarbon oils:

Provided that, where possible, any such samples taken shall be returned to the tank or utensil which they were taken.

Summary entry on cessation of manufacture

113. The entry required to be lodged by a licensed manufacturer pursuant to paragraph (b) of sub-section (1) of section *one hundred and thirty-eight* of the Act shall be made in Form CE 20 set out in the Eighth Schedule.

PART XI1I OFFENCES, PENAL PROVISIONS AND PROCEDURE

Notice of seizure

114. Notice of seizure pursuant to section *one hundred and sixty-two* of the Act shall be given in Form CE 30 set out in the Eighth Schedule.

Admission of offence

115. Admission of offence pursuant to section *one hundred and sixty-eight* of the Act shall be made in Form CE 31 set out in the Eighth Schedule.

Distress warrant

116. A warrant issued by the Commissioner-General pursuant to section *one hundred and seventy A* of the Act shall be in Form CE 32 set out in the Eighth Schedule.

Officer to show warrant and leave copy at premises

117. An officer executing a warrant issued pursuant to section *one hundred and seventy (A)* of the Act shall show such warrant on demand made by the owner or occupier of the premises and shall give a copy to such person or otherwise leave a copy on or at the premises.

Interest payable on late payment

118. Any interest to be charged pursuant to paragraph (b) of subsections (1) and paragraph (b) of subsection (2) of section *one hundred and seventy* shall be compounded daily on any such unpaid sum.

Recovery of debt from persons other than the principal debtor

119. Notice in writing pursuant to section *one hundred and seventy-one A* of the Act shall be given in Form CE 33 set out in the Eighth Schedule.

PART XIV GENERAL

Requirement to be licensed as customs agent

120. (1) No person, company or body corporate shall do or offer to do for fee or reward for or on behalf of another, anything necessary for compliance with any requirement of the Act or any regulations or rules made thereunder in connection with the entry or clearance of imported goods, goods for export or locally manufactured goods subject to excise duty or surtax, unless that person or company or body corporate is-

(a) a person acting for the employer in the normal course of such employment in the entry of locally manufactured goods subject to excise duty or surtax or goods for export or the entry for consumption of imported goods at the port of first arrival; or

(b) the holder of a current Customs Agent's licence issued in accordance with this Act.

(2) Any person who contravenes this regulation commits an offence.

Application
for Customs
Agents
licence

121. (1) Any company duly incorporated under the Companies Act may apply to be licensed as a Customs Agent by lodging with the Commissioner-General a completed application in Form CE 34 set out in the Eighth Schedule.

(2) Any individual person and any person, company or body corporate who in or with any such application gives any information or makes any representation to the Commissioner-General, knowing the same to be false or misleading in any material particular commits an offence under the Act.

Issue of
Customs
Agents
licence

122. (1) On receipt of any completed application, the Commissioner-General may issue, subject to such terms and conditions as the Commissioner-General may impose, a Customs Agents licence and the licence unless sooner revoked shall remain in force until 31st December next succeeding the date on which it comes into force.

(2) Any such licence issued under this Regulation shall be issued in Form CE 35 set out in the Eighth Schedule subject to the payment of a fee set out in the First Schedule.

(3) Notwithstanding the generality of sub-regulation (1), the terms and conditions of licence to be issued by the Commissioner-General may include a requirement that the applicant complete a form of bond, guarantee or similar undertaking for such amount and of such duration as the Commissioner-General may require.

Renewal
of
Customs
Agents
licence

123. An application for renewal of a licence pursuant to paragraph (d) of sub-section (2) of section *one hundred and eighty-two (A)* of the Act shall be made in Form CE 34 set out in the First Schedule.

Grounds
for not
licensing
or not
renewing
licence

124. A Customs Agent's licence shall not be granted or renewed unless the Commissioner-General is satisfied that-

(a) the company and each director or manager of the company, is of good repute and will act with business integrity;

(b) the company concerned will carry on its customs agency business by means of persons of good repute who will act with business integrity and who are conversant with the provisions of the Act and any regulations or rules made under such Act; and

(c) at each office or place where the company intends to carry on its business there will, at all times, be at least one person who has a recognised industry qualification acceptable to the Commissioner-General.

Revocation
of licence

125. The Commissioner-General may by notice in writing to the licensee at any time revoke a Customs Agent's licence if the Commissioner-General is satisfied that-

(a) the licence or its renewal was procured by fraud or misrepresentation or was otherwise irregularly obtained;

(b) the company, any director or manager or employee of the company has contravened any provisions of the Act or the regulations or rules under the Act, or has in connection with the customs agency business of the company committed any act of fraud or dishonesty; or

(c) the company, any director or manager of the company, has ceased to be of good repute or has acted in a manner inconsistent with business integrity.

Appeal
against
decision not
to licence or
renew
licence

126. (1) Any applicant or licensee aggrieved by a decision of the Commissioner-General not to grant or renew its licence may, within seven days after being informed of the Commissioner-General's decision, appeal to the Minister.

(2) The applicant or licensee, if dissatisfied with the decision of the Minister, may appeal to the High Court.

Transit
Goods

127. (1) Subject to regulation 47, any goods which are conveyed in transit through Zambia shall be so removed by a licensed customs carrier.

(2) Except with the written permission from the Commissioner-General, any carrier in transit through Zambia shall be required to exit from Zambia within five days from the date of entry.

(3) There shall be charged, levied, collected and paid in respect of any carrier that remain in Zambia in contravention of sub-regulation (2) a fee at the rate set out in the First Schedule.

Storage of
goods in
customs
warehouse

128. (1) The customs warehouse declared pursuant to subsection (1) of section *one hundred and ninety-five* of the Act shall be for the storage of detained goods until the requirements of the Act have been satisfied.

(2) Where any goods are lodged in a customs warehouse in terms of sub-regulation (1), the Government shall in no case be liable in respect of any loss or diminution of or accident to any goods; except that the officer shall issue a receipt for the goods for the purpose of showing that a certain number of packages have been received into the customs warehouse.

(3) The Storage fees to be paid on goods placed in the customs warehouse shall be as set out in the First Schedule.

(4) Storage fees shall be charged from the date on which goods are placed in a customs warehouse up to and including the date of final delivery thereof, or the date of sale, as the case may be:

Provided that the Commissioner-General may, having regard to the circumstances pertaining to the detention, remit the rent payable on any consignment of goods which have been placed in a customs warehouse.

(5) If an order for the removal of any goods from a customs warehouse has been given by the Commissioner-General and the person to whom such order has been granted does not, within such period as may be specified, 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* of the Act.

Written authority to act on behalf of another person

129. Where an officer requires the production of written authority for one person to act on behalf of another pursuant to section *one hundred and eighty-four* of the Act, such authority shall be provided in Form CE 36 set out in the Eighth Schedule.

Corrections to a bill of entry subsequent to lodgement

130. Any correction to a bill of entry that is required to be made subsequent to the lodgement of the entry with the Customs Division shall be notified in Form CE 120 set out in the Eighth Schedule and the correction shall pursuant to section *one hundred and ninety-eight* of the Act require payment of the fee set out in the First Schedule.

Search of persons

131. (1) Any person who is to be searched by an officer shall be searched by an officer of the same sex and such search shall be witnessed by an officer of the same sex.

(2) Subject to the provisions of sub-regulation (1) any search under this regulation shall be conducted in private.

Proof of identity

132. When exercising any powers of entry or search under the Act an officer shall, when requested to do so by the owner or occupier of the premises, produce evidence of identity and official status.

Care to be exercised in opening packages

133. An officer shall exercise reasonable care when opening packages or parcels pursuant to any requirement of these regulations.

Fee to be paid on entry of goods

134. The fee to be paid on the entry of goods for consumption, warehousing, re-warehousing or removal from warehousing or exportation shall be as set out in the First Schedule.

Working hours of Customs Division and fees for attendance

135. (1) The working hours of the Customs Division pursuant to section *one hundred and ninety-nine* of the Act, shall be those hours advised from time to time for each port and place in the Ports and Routes Order issued under section *thirteen* of the Act and otherwise shall be from 08:00 to 17:00 hours.

(2) The fee which shall be payable in respect of the attendance of officers outside such hours and the fees which shall be payable for the attendance of officers at remote locations at any time, are as set out in the First Schedule.

Volume conversion

136. For the purposes of these regulations, any quantity of partially processed or finished motor spirit, power paraffin, illuminating or heating paraffin, distillate fuel or residual fuel oil shall be calculated at a temperature of twenty Degrees Celsius by means of such volume conversion tables as the Commissioner-General may from time to time approve:

Provided that the Commissioner-General may approve the use of a conversion meter.

Bonds

137. (1) Any bond required by the Commissioner-General in terms of sub-section (3) of section *forty-three*, subsection (1) of section *fifty-six*, subsection (3) of section *ninety-seven*, sections *one hundred and seventy-nine*, *one hundred and eighty-two* and *one hundred and eighty-two(A)* of the Act shall be in Form CE 121 set out in the Eight Schedule.

(2) Where a cash deposit is required as security for any obligation incurred under the laws relating to customs and excise, such deposit shall be made in Form CE 122 set out in the Eight Schedule.

COMESA Customs Bond Agreement

138. (1) The customs carriers licence issued pursuant to Regulation 30 may be issued in accordance with the terms and conditions set out in Article 3 of Annex 1 to the COMESA Treaty.

(2) No person shall be engaged in executing transit operations without a COMESA Customs Bond Certificate issued by Customs Authorities in the member states where that person is resident or established, except that the competent authority shall inform all member states of all persons so licensed.

(3) Pursuant to sub-section (3) of section *forty-three* of the Act, a COMESA Customs Bond Certificate shall be issued to principal sureties that fulfil the requirements of Annex 1 to the COMESA Treaty and Customs Bond Agreement.

Provided that:-

(a) the Customs Division shall determine the general bond amount for either single transit or multiple transit operations; and

(b) upon notification by the principal surety decide on the admission of the designated surety.

(4) The Customs Division shall issue a certificate of approval to means of transport in accordance with Article 5 of Annex 1 to the COMESA Treaty.

(5) For the purpose of this regulation-

“carrier” means the person actually transporting goods in transit or in charge of or responsible for the operation of the respective means of transport;

“certificate of guarantee” means a customs transit guarantee certificate which is issued to the principal by the customs office of guarantee;

“COMESA transit document” means a customs declaration document approved by the Council of Ministers to be utilised within COMESA for customs transit traffic control in accordance with this agreement;

“COMESA Treaty” means the Common Market for Eastern and Southern African States established by Article 2 of the COMESA Treaty.

“customs office of commencement” means any port, inland or frontier customs office of a member State where the provisions of this Agreement begin to apply;

“customs office en route” means any customs office of a member State where goods are imported or exported in the course of a customs transit operation;

“customs office of destination” means any port, inland or frontier customs office of a member State where the provisions of this Agreement cease to apply;

“customs office of guarantee” means a customs office where a customs guarantee is lodged;

“designated surety” means any person in a transit member State designated by the principal surety to be collaterally responsible for the payment of import duties and taxes that may be levied by Customs Authorities of the transit member State in the event the transit goods go into home consumption or have not been accounted to the satisfaction of the Customs Authorities;

“goods in transit” means goods being conveyed between two member States or between State and a third country and passing through another member State or member States;

“means of transport” includes:

- i) any railway stock, containers, coastal vessels not leaving the territorial waters of members States, lake and river vessels, road vehicles and aircraft; and;
- ii) pipe line and gas lines.

“principal” means the person who, or through an authorised representative, requests permission, in accordance with the required customs formalities, to carry out a transit operation and thereby makes oneself responsible to the competent authorities for the execution of a COMESA transit operation;

“principal surety” means any person who gives an undertaking to the Customs Authorities of the transitor’s member State to be responsible for the payment to the transit member States of import duties and taxes that may be levied by Customs Authorities in the event the transit goods go into home consumption or have not been accounted for to the satisfaction of the Customs Authorities;

“transit traffic” means the passage of goods including unaccompanied baggage, persons and their means of transport through the territories of the member States when coming from-

- i) or bound for other member States; or
- ii) third countries and bound for other member States; or
- iii) other member States and bound for third countries.

“witness” means any person in whose presence the customs transit guarantee certificate is signed by the principal and the principal surety, who by signing on the same document certifies the authenticity of the document and the signature.

139. The statutory instruments set out in the Seventh Schedule are hereby revoked.
