

CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) LAW, 1993 (PNDCL 330)

As amended by

THE CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) (AMENDMENT) ACT, 1996 (ACT 511)1

THE CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) (AMENDMENT) ACT, 1998 (ACT 552)2

THE CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) (AMENDMENT) ACT, 2002 (ACT 614)3

THE REVENUE AGENCIES (RETENTION OF PART OF REVENUE) ACT, 2002 (ACT 628).4

THE CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) (AMENDMENT) ACT, 2002 (ACT 634).5

THE CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) (AMENDMENT) ACT, 2003 (ACT 636).6

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#### SCHEDULE

##### First Schedule

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this Law is hereby made:

#### PART I—CUSTOMS, EXCISE AND PREVENTIVE SERVICE

Section 1—Customs Excise and Preventive Service Continued in Existence.

The Customs, Excise and Preventive Service established under section 1 of the Customs, Excise and Preventive Service Law, 1986 (PNDCL 144) and in existence immediately before the commencement of this Law is hereby continued in existence subject to the provisions of this part.

Section 2—Object and Function of the Service.



The object and function of the Customs, Excise and Preventive Service, referred to in this Law as "the Service", is to collect and account for all duties, taxes, revenue and penalties payable under this Law.

#### Section 3—Membership of the Service.

The Service shall be made up of—

- (a) the personnel of the Customs, Excise and Preventive Service existing immediately before the coming into force of this Law;
- (b) other public officers and public institutions that may be transferred or seconded to the Service; and
- (c) other persons who may be employed by the Service.

#### Section 4—The Board.

- (1) The governing body of the Service shall be the Customs, Excise and Preventive Service Board, referred to in this Law as "the Board".
- (2) The Board shall consist of—
  - (a) a Chairman and six other persons appointed by the Council;
  - (b) the Controller and Accountant-General;
  - (c) the Commissioner of the Customs, Excise and Preventive Service referred to in this Law as "the Commissioner".
- (3) The Chairman shall hold office on such terms and conditions of service as the Council may determine.

#### Section 5—Functions of the Board.

The Board shall:—

- (a) ensure the effective and optimum collection of all duties, taxes and penalties due to the State under the relevant laws that are for the time being in force;
- (b) generally control the management of the Service on matters of policy, subject to the provisions of this Law;
- (c) appoint, promote and discipline (including dismissal of) employees of the Service;
- (d) draw up a scheme of service prescribing the terms and conditions of service as well as the remuneration of the employees of the Service;
- (e) delimit customs surveillance zones, approve routes for customs purposes and build and manage Government warehouses for the purposes of this Law;
- (f) make recommendations to the Secretary on policy governing customs and excise duties, sales taxes as well as other imposts and exemptions as may be required from time to time; and
- (g) ensure that all amounts collected by the Service are paid into the Consolidated Fund unless otherwise provided by law.

#### Section 6—Tenure of Office of Members of the Board.

A member of the Board, other than the Commissioner and the Controller and Accountant-General shall hold office for a period not exceeding three years, and shall on the expiry of that period be eligible for reappointment but for not more than three terms.

#### Section 7—Meetings of the Board.

- (1) The Board shall meet at such times and places as the Chairman may determine, but shall meet at least once every three months.
- (2) A special meeting of the Board shall be called by the Chairman or any person acting as Chairman.
- (3) At every meeting of the Board at which he is present, the Chairman shall preside, and in his absence a member of the Board appointed by those members present from among themselves shall preside.
- (4) The quorum of every meeting of the Board shall be five.
- (5) The Board may at any time co-opt any person to act as an adviser at its meeting but no person so co-opted shall be entitled to vote at the meeting on a matter for decision by the Board.
- (6) The validity of any proceedings of the Board shall not be affected by any vacancy in its membership or by any defect in the appointment of any of its members.

(7) Subject to the provisions of this Law, the Board shall regulate its own procedure.

Section 8—Committees of the Board.

The Board may for the discharge of its functions appoint committees and may assign to such committees such functions as the Board may determine.

Section 9—The Commissioner.

The head of the Service shall be the Commissioner of Customs, Excise and Preventive Service who shall be appointed by the Council.

Section 10—Duty of the Commissioner.

Subject to the direction of the Board on matters of policy, the Commissioner shall be responsible for the day-to-day administration of the Service.

Section 11—Deputy Commissioners.

(1) There shall be Deputy Commissioners who shall be appointed by the Council.

(2) The Deputy Commissioners shall head the Finance and Administration, Operations, Research, Monitoring and Planning and Preventive Departments and such other Departments of the Service as the Council on the recommendation of the Board may direct and shall perform such functions as the Commissioner may in consultation with the Board direct.

Section 12—Co-Operation with Organisations.

The Public Services and other organisations shall co-operate with the Commissioner to ensure the optimum collection of all due customs and excise duties and other taxes payable under this Law.

Section 13—Staff of the Service.

(1) The Board may engage such staff as may be necessary for the proper and efficient discharge of its functions.

(2) The Board may upon the recommendation of the Commissioner engage the services of such consultants or experts as may be necessary.

(3) Such staff, consultants and experts shall be engaged on such terms and conditions as the Board may determine.

(4) The Board may delegate any power of appointment conferred on it by this section to the Commissioner.

Section 14—Secretary.

(1) There shall be a Secretary to the Board who shall be appointed by the Board.

(2) The Secretary to the Board shall arrange the business of the Board and cause to be recorded and kept the minutes of all meetings of the Board.

Section 15—Administrative Expenses

[Repealed by the Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628), s.3(b).]

Section 16—Funds of the Service

[Repealed by the Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628), s.3(b).]

Section 17—Acquisition of Property by the Service.

The Service may for, and in connection with the performance of its functions, hold, manage, or dispose of any movable or immovable property and may enter into such contracts and transactions as may be expedient.

Section 18—Annual Reports and Estimates.

The Board shall every year submit to the Council, and the Secretary responsible for Finance—

(a) a report of its activities and operations during the preceding financial year within three months after the end of that financial year;

(b) detailed estimates of its revenue and expenditure for the next financial year, three months before the commencement of that financial year.

Section 19—Submission of Returns and Received Revenue Estimates.

The Secretary for Finance may at any time call for returns of revenue or revised estimates from the Commissioner.

Section 20—Chief Internal Auditor.

(1) The Service shall have a Chief Internal Auditor who shall have the rank of Deputy Commissioner

- (2) The Chief Internal Auditor shall be responsible for all audit functions of the Service.
- (3) Subject to the provisions of this Law, the Chief Internal Auditor shall be responsible to the Commissioner for the performance of his duties.
- (4) As part of his duties under this Law, the Chief Internal Auditor shall, at intervals of three months, prepare and submit to the Commissioner a report on the internal audit carried out by him during the period of three months immediately preceding the preparation of the report.
- (5) Without prejudice to the general effect of subsection (4) of this section, the Chief Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the affairs of the Service during the period of which the report relates.
- (6) The Chief Internal Auditor shall send a copy of each report prepared by him under this section to each of the following—
  - (a) the Secretary;
  - (b) the Auditor-General; and
  - (c) the Chairman of the Board.

#### Section 21—Accounts.

- (1) The Service shall keep proper books of account and proper records in relation to it and the account books and records of the Service shall be in such form as the Auditor-General may approve.
- (2) The financial year in the Service shall end on the 31st day of December in each year.
- (3) The books and accounts of the Service shall each year be audited by the Auditor-General.
- (4) The Auditor-General shall forward a copy of the report to the Council within three months of the end of each financial year.
- (5) The Service shall keep separate records and accounts for—
  - (a) duties, taxes and penalties collected and paid into the Consolidated Fund; and
  - (b) funds provided for the administration of the Service.[As amended by the Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628), s.2(2).]

#### Section 22—Transfer of Assets and Liabilities.

- (1) All rights, assets and property vested in, or in any manner held on behalf of or for the purposes of the Customs, Excise and Preventive Service immediately before the commencement of this Law shall be vested in the Service.
- (2) All liabilities and obligations subsisting against the Customs, Excise and Preventive Service immediately, before the commencement of this Law shall after the commencement continue to subsist between the Service and the other party.
- (3) All assets of the erstwhile Border Guards of the Ghana Armed Forces shall vest in the Service.

#### Section 23—Regulations.

The Secretary on the recommendation of the Board may by legislative instrument make regulations to give full effect to the provisions of this Law and, in particular, but without prejudice to the generality of the foregoing provide for—

- (a) the delimitation and control of customs surveillance zones;
- (b) the control and approval of routes for customs purposes;
- (c) the class or description of goods which may be manufactured in warehouses and the conditions subject to which and the manner in which they may be manufactured;
- (d) the control and movement of goods in customs area, industrial free zones, frontier zones, free ports, and generally for the effective assessment, collection and protection of customs and excise revenue as well as other taxes as prescribed in this Law; and
- (e) the fees and charges to be paid to the Service for any services rendered to or expenses incurred on behalf of other persons.

## PART II—TAXES AND DUTIES - GENERAL PROVISIONS

#### Section 24—Imposition of Taxes and Duties on Goods.

- (1) Regulations may provide for the imposition of taxes, duties and rates on such goods as may be prescribed.
- (2) Taxes, duties and rates on the prescribed goods may include—

- (a) customs duties;
- (b) excise duties;
- (c) sales tax;
- (d) vehicle importation tax;
- (e) special tax; and
- (f) any other tax or duty on goods prescribed by law.

(3) For customs purposes regulations made under this Law shall divide the duties chargeable in relation to each item of goods into the following categories of duties—

- (a) import duties on goods imported into Ghana;
- (b) export duties on goods exported from Ghana.

(4) Regulations may provide—

- (a) for the imposition of various rates of sales tax on such goods as may be prescribed;
- (b) that taxes, duties and rates shall not be chargeable on such goods as may be prescribed;
- (c) that goods in respect of which regulations have been made under this Law shall be classified in such form as may be prescribed.

Section 25—Goods Admissible at Concessionary Duty Rates.

Regulations may from time to time specify goods that may be admitted at concessionary rates of duty.

Section 26—Exemptions, Remission and Refund.

(1) The Commissioner may, in accordance with provisions of the Investment Code 1985, (PNDCL 116), or any other enactment for the time being in force grant exemptions from duties and taxes as specified in the Code or in that enactment in respect of an approved investment project or goods as defined in that Code or enactment.

Provided that no provision of this Law, other than such as imposes an obligation to pay duty, shall in any way be affected by the granting of an exemption and in all other respects this Law shall apply as if there were no exemption from liability.

(2) The Secretary may by or under this Law exempt any statutory corporation institution or individual from the payment of duties and taxes ordinarily payable under this Law.

(3) The PNDC may remit or authorise the refund in whole or in part of any duty payable or paid by any person if it is satisfied that it is just and equitable to do so.

(4) The remission or refund may apply either to specific instances or generally or in respect of specified class.

(5) Instead of making a remission or refund the PNDC may, if satisfied that it is just and equitable, direct that there shall be paid to a person to whom the goods in question have been sold or transferred an amount not exceeding that paid or estimated to have been paid on them as duty.

Section 27—Prohibited Imports and Exports.

Regulations may prohibit the importation or exportation of such goods as may be prescribed.

Section 28—Harmonized Commodity Description and Coding System.

(1) Except as otherwise expressly specified in this law or in any other enactment for the time being in force in the country, customs tariff, taxes and rates provided to be imposed under this Law and statistical nomenclatures shall be in conformity with the "Harmonized Commodity Description and Coding System" also known as the "Harmonized System", to the extent provided in it and as approved by the Customs Co-operation Council on 14th June, 1983.

Section 29—Definition of Import Value.

(1) For Customs purposes the value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold in the country of origin for export into Ghana and adjusted in accordance with the provisions of section 35 of this Law except—

(a) that the sale or price shall not be subject to any condition or consideration for which a value cannot be determined with respect to the goods being valued;

(b) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with section 35; and

(c) that the buyer and seller are not related, or where buyer and seller are related, that the transaction value is acceptable for customs purposes under sub-section (2) of this section.

(2) In determining whether the transaction value is acceptable for the purpose of sub-section (1), the fact that the buyer and the seller are related within the meaning of this section shall not in itself be grounds for regarding the transaction value as acceptable; in such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price; and if in the light of information provided by the importer or otherwise obtained, the Commissioner has grounds for considering that the relationship influenced the price, he shall communicate his grounds in writing to the importer who shall be given a maximum of thirty days to respond.

(3) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with section 29 (1) whenever the importer demonstrates that the value closely approximates at the time of the valuation to—

(a) the transaction value in sales to unrelated buyers of identical or similar goods for export from the country of origin into Ghana: or

(b) the customs value of identical or similar goods as determined under section 32; or

(c) the customs value of identical or similar goods as determined under section 33; or

(d) the transaction value in sale to unrelated buyers for export to the country which would be identical to the imported goods except for having a different country of production provided that the sellers in any two transactions being compared are not related.

(4) The conditions provided in subsection (3) are to be used at the initiative of the importer and only for purposes of comparison.

(5) For the purposes of this section, persons shall be deemed to be related only if—

(a) they are officers or directors of one another's businesses;

(b) they are legally recognised partners in business;

(c) they are employer and employee;

(d) any person who directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares or 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) together they directly or indirectly control a third person; or

(h) they are members of the same family.

Section 30—Where Value Cannot be Determined Under Section 29.

(1) Where the customs value of the imported goods cannot be determined under the provisions of section 29, the customs value shall be the transaction value of similar goods sold for export into Ghana and exported at or about the same time as the goods being valued.

(2) In applying sub-section (1) of this section, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) Where no sale is found, the transaction value of similar goods sold at a different commercial level or in different quantities or both, adjusted to take account of differences attributable to commercial level or to quantity or both, shall be used, provided that the adjustments may be made on the basis of available evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(4) Where the costs and charges referred to in section 35 (2) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(5) Where in applying this section, more than one transaction value of similar goods is found, the lowest of such value shall be used to determine the customs value of the imported goods.

Section 31—Determination of Value of Goods Under Section 32.

If the customs value of the imported goods cannot be determined under sections 29 and 30, the customs value shall be determined under section 32, or, where the customs value cannot be determined under that section, then under section 33 except that, at the request of the importer, the order of application of sections 32 and 33 may be reversed.

Section 32—Customs Value may be Based on Prices of Similar Goods.

(1) Where the imported goods or identical or similar imported goods are sold in the country in the condition as imported, the customs value of the imported goods under this section shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity at or about the time of the importation of the goods being valued to persons who are not related to the persons from whom they buy such goods, subject to deduction from the following:

(a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;

(b) the usual costs of transport and insurance and associated costs incurred within the country;

(c) where appropriate, the costs and charges referred to in Section 35 (2); and

(d) the customs duties and other taxes payable in respect of the importation or sale of the goods in the country.

(2) Where neither the imported goods nor identical nor similar imported goods are sold in the country in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing.

(3) In determining the value of identical goods or similar goods, goods produced by a different person shall be taken into account only when there are no identical goods or similar goods as the case may be, produced by the same person as the goods being valued.

Section 33—Computed Value.

(1) The customs value of imported goods under this section shall be based on a computed value.

(2) Computed value shall consist of the total of—

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount of profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation; and

(c) the cost or value of all other expenses necessary to reflect the valuation option under section 35 (2) of this Law.

Section 34—Commissioner's Value.

Where in the application of sections 29 to 33 or in the application of any other provisions of this Law to determine the customs value of any imported goods—

(a) there is found to be any doubt as to the customs value of the goods; or

(b) the declared value is less than the Commissioner's value the Commissioner's value of the goods shall prevail. [As substituted by the Customs, Excise and Preventive Service (Management)

(Amendment) Act, 1996 (Act 511), s. 1].

Section 35—Customs Value.

(1) In determining the customs value under the provisions of Section 29 (1), there shall be added to the price actually paid or payable for the imported goods—

(a) the following, to the extent that they are incurred, actually paid or payable for the goods—

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with goods in question; and

(iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable—

- (i) materials, components, parts and similar items incorporated in the imported goods;
  - (ii) tools, dyes, moulds and similar items used in the production of the imported goods;
  - (iii) materials consumed in the production of the imported goods; and
  - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere other than in the country of importation and necessary for the production of the imported goods;
- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that the royalties and fees are not included in the price actually paid or payable; and
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

(2) These shall also be included in the customs value—

- (a) the cost of transport of the imported goods to the port or place of importation;
- (b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (c) the cost of insurance.

(3) Additions to the price actually paid or payable shall be made under this section only on the basis of objective and quantifiable data.

(4) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this section.

Section 36—Rate of Exchange.

Where the conversion of currency is necessary for the determination of the customs value, the current rate of exchange as determined by the Bank of Ghana shall be used.

Section 37—Definition of Export Value.

The value of goods exported shall be the cost to the purchaser abroad including freight, charges incurred for transport up to the port or place of exportation, harbour dues and loading charges, and all other costs, profits, charges and expenses and duties, accruing up to the point where the goods deposited on board the exporting vessel, aircraft or vehicle at the place of departure from Ghana.

Section 38—Definition of Export Value.

Where excise duty and sales tax are levied as percentages of selling price, selling price means—

(a) in relation to cigarettes locally manufactured—

(i) the price declared by the manufacturer to be the price, inclusive of excise duty, and sales tax at which cigarettes of the same brand, weight, quality and description are ordinarily sold by him ex-factory; or

(ii) if it appears to the Commissioner that the price so declared is less than the cost of manufacture of the cigarettes together with the excise duty and sales tax on it and all profits taken or to be taken by their manufacturer the sum which, in the opinion of the Commissioner, is equal to the cost together with the excise duty, sales tax and profits;

(b) in relation to other goods locally manufactured—

(i) the price declared by the manufacturer to be the price exclusive of excise duty and sales tax at which goods of the same brand, quality and description are ordinarily sold by the manufacturer ex-factory; or

(ii) if it appears to the Commissioner that the price declared is less than the cost of the manufacture of the goods exclusive of excise duty and sales tax on it, and all profits taken or to be taken by their manufacturer, a sum which, in the opinion of the Commissioner, is equal to the cost together with the profit.

Section 39—Adjustment of Contract Prices.

Where goods are to be delivered in pursuance of a contract, and on or before the day of their delivery new duty is imposed, or the duty on them is increased, reduced or revoked in accordance with this Law or any other enactment—

(a) the seller shall, in the absence of any agreement to the contrary, be entitled to recover from the purchaser as an addition to the price, a sum equal to the amount paid by him as a result of the new or the increased duty; and

(b) the purchaser shall, in the absence of any agreement to the contrary, be entitled to recover from the seller, or if he has not already paid the price of the goods to the seller, to deduct from the price, any amount that the seller may recover as an excess duty as a result of the reduction or revocation of the duty.

Section 40—Drawback.

Regulations may prescribe that a drawback of the whole or any part of any duty or tax paid may be granted on goods as may be prescribed, and the conditions under which the drawback may be allowed.

Section 41—Claim for Drawback and Refund.

(1) Every sum of money due for drawback and every sum of money due upon any debenture, certificate or other instrument for the payment of money out of duties, excise duty or sales tax shall be paid by the Commissioner on the proper debenture or other document certified by the proper officer.

(2) The owner of any goods entitled to drawback shall make and sign a declaration on the debenture that the conditions under which drawback is allowed have been fulfilled and that at the time of delivery or using of the goods or of their entry for drawback, as the case may be, he was and continues to be entitled to the drawback on them, and in the case of goods exported or shipped as stores, that they have been actually exported or shipped as stores and have not been returned and are not intended to be returned to Ghana.

(3) The Commissioner may require the owner to produce satisfactory evidence of the landing out of Ghana or disposal of any goods exported before certifying the debenture.

(4) All claims for drawback shall be made within a period of twelve months reckoned from the date of exportation of the relative goods or the performance of the conditions on which drawback is allowed as the case may be.

(5) All claims for overpayments or refunds of any duty paid shall be made within six years from the end of the financial year to which the claim relates.

(6) The Commissioner shall return any money which has been overpaid as duty if the proper document for the over-payment is certified by the proper officer.

Section 42—Drawback on Goods Lost or Abandoned.

(1) When it is proved to the satisfaction of the Commissioner that any goods after being duly shipped for exportation or for use as stores have, either before or after exportation been destroyed by accident on board the aircraft or ship, or have been materially damaged on board the aircraft or ship, any drawback or allowance payable in respect of the goods shall be payable as if they had been actually exported or used as stores.

(2) Subsection (1) of this section shall only apply in the case of goods materially damaged on board the aircraft or ship if they are with the consent of the Commissioner unloaded in Ghana and abandoned to the Government.

(3) The Commissioner may modify the form of declaration required under section 41 in such manner as he may think necessary for adapting it to the provisions of this section.

Section 43—Duty Short-Levied or Refunded in Error.

(1) Where duty has been short-levied or refunded in error, the person who should have paid the amount short-levied or to whom the refund has been made in error shall, upon written request made to him by the proper officer within thirty days of the receipt of the request pay the amount short-levied or refunded in error.

(2) In default of payment within thirty days the proper officer shall take adequate measures to ensure that the person does not transact any business with the Service, and shall refuse entry of any



goods consigned to him or prevent any shipment by him until the amount short-levied or refunded in error is paid; and the person shall in addition incur a penalty of two hundred percent of the amount.

**Section 44—Goods Used Contrary to Authorised Purpose.**

(1) If any goods ordinarily liable to duty at a given rate are allowed by law to be entered or delivered at a lower rate of duty or free of duty on any special conditions or for use for some special purpose or because they are the property of or intended for use by a particular person or functionary, they shall be forfeited if—

(a) such conditions are not observed; or

(b) the goods are at any time within two years of the date of importation or delivery used for any purpose other than the specified purpose; or

(c) being goods entered or delivered because they are the property of or intended for use by some particular person or functionary, they are sold or transferred to any other person.

(2) Where the goods are forfeited, the importer or person obtaining delivery of them and any person who is knowingly concerned in their use contrary to the conditions or for some purpose other than that specified or in any way contrary to this section shall incur a penalty in a sum equal to 100 per cent of the duty payable on the goods.

(3) The importer or person to whom the goods have been delivered shall on demand produce them to any officer or otherwise account for them to the satisfaction of the Commissioner within the period of two years, and if he fails to produce or account for them he shall incur a penalty not exceeding 100 per cent the duty payable.

**PART III—CUSTOMS DUTIES**

**Section 45—Time of Entry to Govern Duty Payable.**

(1) All goods deposited in a warehouse or other place of security without payment of customs duty on their first importation or which may be imported or exported, and have not been entered for use within Ghana or for exportation, shall, on being entered for use within Ghana or for exportation, be subject to the rate of duty in force at the time when they are entered, except where provision is otherwise made by law.

(2) For the purposes of this section—

(a) the time of entry of goods imported into Ghana by post shall be taken to be the time of delivery to the addressee, and the time of entry of goods exported from Ghana by post shall be taken to be the time of posting;

(b) the time of entry of goods imported or exported overland or by inland waters shall be deemed to be the time when they cross the boundary of Ghana or the time of the actual payment of duty on them, whichever yields the higher amount of duty.

**Section 46—Duty on Goods Re-Imported.**

(1) Where any goods liable to import duty or tax are imported into Ghana and are then exported and re-imported; on the re-importation, if it is shown to the satisfaction of the Commissioner that customs duty was paid either before or after the exportation and that no drawback of the duty was allowed on exportation, or that any drawback allowed has been repaid to the Commissioner then—

(a) if it is further shown to the satisfaction of the Commissioner that the goods have not been subjected to any process abroad, or having been subjected but without change of their form or character are goods not liable at the time of re-importation of duty ad valorem, they shall be exempt from any further duty when entered for use within Ghana after re-importation; or

(b) if it is further shown to the satisfaction of the Commissioner that the goods have been subjected to a process of repair, renovation, or improvement abroad, but that their form or character has not been changed, they shall be chargeable with duty only upon the increase in their value attributable to that process, and, where any sum has been contracted to be paid for the execution of the process that sum shall be prima facie evidence of that amount, but without prejudice to the powers of the Commissioner under this law as to the ascertainment of the value of the goods for duty thereon ad valorem.

(2) The provisions of this section shall be conditional on the person exporting goods for subsequent re-importation giving written notice and producing the goods for identification at the port or place of shipment to the proper officer or in the case of exportation by post to the proper postal authority, before their exportation, unless the Commissioner in this discretion waives this condition in any case where in his opinion it may be unreasonable or impose hardship.

#### Section 47—Goods Imported for Temporary Use.

(1) The Commissioner may give permission to import any goods without payment of duty if he is satisfied that they are imported for temporary use or purpose; only except that regulations may prohibit the importation of any goods or classes of goods under this section, or may provide that the goods shall be subject to such proportion of the duty thereon as may be specified.

(2) No goods shall be imported under this section unless—

(a) they are exported within three months of the date of permission to import; and

(b) the person to whom the permission is given deposits with the Commissioner the amount of the duty on the goods, or gives security for the duty, as the Commissioner may determine.

(3) The Commissioner may, on provision of additional security where he so requires, extend the period of three months where he is satisfied that the goods are the bona fide property or bona fide in the use of a person on a temporary visit to Ghana.

(4) If the goods are not exported within the relevant time, the deposit held by the Commissioner shall be forfeited, or if security has been given the importer shall pay to the Commissioner the full duties on the goods.

(5) If the goods are exported within the relevant time, the deposit shall be refunded or the security cancelled.

#### Section 48—Transit Goods.

(1) Goods entered for transshipment or in transit through Ghana in accordance with any regulation made under this Law shall be exempt from payment of import duties.

(2) Transit fees of the equivalent in cedis of 200 US dollars shall be paid to the Commissioner for each consignment in transit through Ghana.

(3) Escort fees shall be paid at a daily rate of the equivalent in cedis of 65 US dollars per escort to the Commissioner for goods entered for transshipment or in transit through Ghana. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.1].

#### Section 49—Export Goods and Stores.

Subject to the observance by the exporter of all the provisions of this Law and the conditions of any bond, no duty shall be charged upon—

(a) goods entered under bond for exportation or use as aircraft's or ship's stores, and subsequently proved to the satisfaction of the Commissioner to have been duly exported to and landed at some place outside Ghana or exported as stores;

(b) goods remaining on board an importing aircraft or ship for re-exportation or use as stores on the importing aircraft or ship,

unless the Commissioner has reasonable grounds to believe that any deficiency in the goods has arisen from illegal abstraction, in which case duty shall be paid on the deficiency by their owner.

#### Section 50—Re-Export of Transit Goods and Stores.

(1) Goods imported in transit or in transshipment, or as the bona fide stores of any aircraft or ship shall be duly re-exported within such time as the Commissioner may allow.

(2) The re-exportation of goods specified in subsection (1) shall be made in such manner and by such routes as shall be determined by the Commissioner.

(3) The goods shall not be deemed to be goods prohibited to be imported or exported unless they are expressly prohibited by regulations to be imported in transit or in transshipment or as aircraft's or ship's stores.

(4) This section shall be subject to the provisions of any enactment prohibiting the importation, carriage coastwise or exportation of any goods.

#### Section 51—Abatement of Duty.

(1) No claim for abatement of duty upon goods imported into Ghana shall be allowed on account of damage unless the claim was made on the first examination of the goods, or unless it is proved to the satisfaction of the Commissioner that the damage was sustained before they were delivered out of customs control.

(2) Subject to section 52 the damage sustained by any goods shall be assessed by the Commissioner who may allow abatement of the duty in proportion to the damage.

(3) No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, wines and spirits.

#### Section 52—Restrictions on Abatement.

(1) All goods derelict, jetsam, flotsam, lagan and wreck brought or coming into Ghana shall be subject to the same duty as similar goods imported into Ghana, unless it is shown to the satisfaction of the Commissioner that they are damaged.

(2) No claim for abatement of duty on account of damage shall be allowed in respect of any other imported goods except on proof to the satisfaction of the Commissioner that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage; and the abatement shall not exceed such proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with the regulations.

#### Section 53—Remission for Goods Lost or Destroyed.

(1) Where any goods are lost or destroyed by accident—

(a) on board any aircraft or ship; or

(b) in any customs area or warehouse; or

(c) in removing, loading them into, or delivering them from, any customs area or warehouse, the Commissioner may remit or refund the duty due or paid on them, if satisfied that the goods have not been and will not be consumed in Ghana.

(2) Any goods which are abandoned by their owner as not worth the duty while in the charge of any officer may be destroyed or otherwise disposed of as the Commissioner shall direct, at the expense of their owner, and the proceeds realised paid into the Consolidated Fund.

#### Section 54—Remission or Refund for Pre-Entered Goods.

(1) The Commissioner shall remit or refund the duty payable or paid by any person on goods pre-entered under this Law—

(a) if he is satisfied that the goods will not be imported into Ghana by reason that they are lost or destroyed or for any other reason; or

(b) in any case, if the goods are not imported into Ghana within twelve months after they have been pre-entered.

(2) Any goods the duty on which is remitted or refunded under this section shall, after the remission or refund, be treated as if they had never been entered.

### PART IV(A)—EXCISE DUTIES AND SALES TAX

#### Section 55—Imposition of Excise Duty.

Excise duty is payable on all locally manufactured or produced goods, unless the goods are exempt from the duty.

#### Section 56—Exemptions.

(1) On an application to the Commissioner and subject to such conditions as he may impose, no excise duty shall be payable on any goods manufactured in Ghana and—

(a) shipped as stores for consumption outside Ghana on a ship or aircraft proceeding to a place outside Ghana; or

(b) exported by their manufacturer,

if they are shipped or exported in accordance with the provisions of this Law and within seven days or such further period as the proper officer may by notice in writing allow from the date of their delivery from the factory or warehouse.

(2) No excise duty shall be paid on—

(a) goods delivered for shipment as stores for use outside Ghana on a ship or aircraft proceeding to a place outside Ghana; or

- (b) goods delivered for exportation and duly shipped; or
- (c) goods permitted to be used free of duty and duly so used.

Section 57—When Excise Duty is Payable.

(1) Excise duty becomes due and shall be paid by the manufacturer to the Commissioner before the goods are delivered from his factory or from a warehouse, if they are goods permitted by the Commissioner to be warehoused without payment of duties on them, or before they are used by the manufacturer in his factory or in a warehouse for any purpose, or otherwise as specially provided by law.

(2) The Commissioner may defer the payment of duty on such terms as he may allow, if the manufacturer gives the security by bond or otherwise as the Commissioner may require: Provided that in that case all duties which have become due within any month or any other period that may be prescribed shall be paid to the Commissioner within twenty-one days of the last day of the month or other prescribed period.

(3) Except where other provision is made by law for periodical returns by manufacturers, every manufacturer shall within ten days of the close of each month or any longer period that may be prescribed deliver to the Commissioner in the approved form an account of—

- (a) all material in or received into his factory;
- (b) all excisable goods manufactured, delivered, used, removed to or from another factory or to or from a warehouse lost by evaporation, leakage or other cause or otherwise disposed of; and
- (c) any duties which have become due or have been paid during that month or other prescribed period on any goods manufactured by him,

and shall sign a declaration at the foot of the account that all the particulars contained in it are true.

Section 58—Remission for Goods Lost or Destroyed.

(1) If any goods liable to excise duty are lost or destroyed—

- (a) before they have been delivered from a factory or warehouse; or
- (b) in removing them from a factory or warehouse; or
- (c) in shipping them for exportation or for use as stores; or
- (d) in the course of delivery from or receiving into any factory or warehouse,

the Commissioner may remit any duties due on them, if satisfied that they have not been used or consumed in Ghana.

(2) If a manufacturer wishes to destroy any goods liable to excise duty before they have been delivered from his factory or from a warehouse, they may be destroyed subject to any directions which the Commissioner may give, and upon their destruction in accordance with the direction the duty on it shall be remitted.

Section 59—Deficiency and Excess in Stock.

(1) Any manufacturer or warehouse keeper who fails to produce to any proper officer on his request any excisable goods manufactured or warehoused by him and not delivered or used in accordance with this Law shall immediately pay to the Commissioner the duties due on them, except in respect of any deficiency shown to the satisfaction of the Commissioner to be due to evaporation, accidental leakage or other unavoidable cause; and in addition to paying the duties and taxes on the goods he shall incur a penalty not exceeding three times the duties payable on the goods unaccounted for.

(2) If at any time the quantity of excisable goods found in any factory or warehouse is greater than the quantity which ought, according to the books of the manufacturer or warehouse keeper to be there, the manufacturer or warehouse keeper shall incur penalty not exceeding three times, the duties payable on the goods found in excess, unless he explains the excess to the satisfaction of the Commissioner.

Section 60—Imposition of Sales Tax.

(1) Sales tax shall be payable on all locally manufactured or produced goods, as well as goods imported into the country unless the goods are exempt.

(2) Sales tax shall be payable on goods given as gifts or used for protocol and sales promotion purposes.

#### Section 61—Calculation of Sales Tax.

Sales tax shall be calculated on the cost of production and profit margin.

#### Section 62—When Sales Tax is Payable.

(1) Sales tax shall be payable on the sales price of all goods produced or manufactured in Ghana by the producer or manufacturer at the time when the goods are delivered to the purchaser or at the time when the property in the goods passes whichever is earlier.

(2) Sales tax on locally manufactured or produced goods shall become due and payable to the Commissioner upon delivery ex-factory or from a warehouse for consumption in Ghana or for use in another factory.

(3) Sales tax shall become payable in a case when the contract for the sale of the goods (including a hire-purchase contract and any other contract under which property in the goods passes upon satisfaction of a condition) provides that the sale price or other consideration shall be paid to the manufacturer or producer by instalments (whether the contract provides that the goods are to be delivered or property in the goods is to pass before or after payment of any or all instalments), by the producer or manufacturer pro tanto at the time each of the instalments becomes payable in accordance with the terms of the contract.

(4) Sales tax shall become payable in a case where the goods are for use by the producer or manufacturer of them, by the producer or manufacturer at the time the goods are appropriated for use.

(5) Unless goods are imported into the country, sales tax shall become payable by the importer or transferee who takes the goods out of bond for consumption at the time when the goods are imported or taken out of warehouse for consumption.

(6) Unless goods are sold by a licensed wholesaler, sales tax shall become payable by him to the time of delivery to the purchaser, and the tax shall be computed—

(a) on the duty paid value of the goods, if they were imported by the licensed wholesaler, or  
(b) on the price for which the goods were purchased by the licensed wholesaler, if they were not imported by him and the price shall include the amount of excise duties on goods sold in bond.

(7) Unless goods are retained by a wholesaler for his own use or for rental by him to others, sales tax shall become payable by the licensed wholesaler at the time the goods are put to his own use or first rented to others.

(8) Except otherwise provided in this section, sales tax which become due and payable shall be paid to the Commissioner within fifteen days after the end of the month it becomes due and payable.

#### Section 63—Rates of Sales Tax and Exemptions.

Regulations made under this Law—

(a) shall specify the rate of sales tax payable on goods imported or produced or manufactured locally;

(b) may specify goods exempted from payment of sales tax.

#### Section 64—Filing Returns on Locally Manufactured Goods.

(1) Every person, or organisation or enterprise required to pay sales tax shall within ten days of the close of each month or any longer period that may be prescribed by the Commissioner make a true return of his taxable sales for the last preceding month which shall include:

(a) the description, quantity and sales price or value of any article sold, purchased, retained for use by importer or wholesale or manufacturer or producer in respect of which title has passed as the case may be;

(b) the date of the transaction;

(c) name and address of the dealer who was the other party to the transaction;

(d) the amount of the sales tax payable on the transaction; and

(e) such other matter as may be prescribed by regulation under this Law.

#### Section 65—Receipts, Etc.

(1) Every manufacturer, producer or wholesale dealer shall give to any retail trader or other wholesale dealer in respect of every transaction between them immediately after the conclusion of

the transaction a receipt or other document specifying the price or value, as the case may be, at the time of the transaction and the amount of sales tax payable on it.

(2) Every person to whom receipts or other documents have been given under subsection (1) shall retain the receipts or documents and shall, within twenty-one days after the end of a month transmit to the Commissioner copies of it received by him during the month.

**Section 66—Registration of Wholesale Dealers and Retail Traders.**

(1) No wholesale dealer or retail trader shall carry out any transaction under this Law unless he has been registered by the Commissioner.

(2) The Commissioner shall not register a wholesale dealer or a retail trader unless he is satisfied that such dealer or trader maintains records in such form as he thinks fit.

(3) Subject to the provisions of section 68, the Commissioner may refuse to register a wholesale dealer or a retail trader.

**Section 67—Resolution of Doubts.**

(1) If there is any doubt as to—

(a) whether a person is a retail trader, a wholesale dealer; or

(b) whether a person is engaged in carrying on the business of both a dealer or trader; or

(c) whether a person referred to in paragraph (b) is, for the purpose of any provision, engaged in carrying on the business of such trader or dealer, as the case may be; or

(d) the sale price or value of an article; and

(e) whether or not an article is an article to which this Law applies, the doubt shall be resolved by the Commissioner.

**Section 68—Appeal Against Decision of Commissioner.**

(1) Where any person is aggrieved by a decision of the Commissioner under this Part, he shall within twenty-one days after becoming aware of the decision, lodge a formal appeal with the Tax Tribunal for determination.

(2) Where there is no appeal from the decision of the Commissioner, his decision shall be final.

(3) Notwithstanding any appeal made under subsection (1) the tax in issue shall be paid in accordance with this Law, and after the determination of the appeal, any refund or balance payable, as the case may be, shall be paid within such time as may be specified by the Tax Tribunal.

**Section 69—Inspection of Premises.**

(1) For the purposes of this Law, the Commissioner may—

(a) inspect the business premises or residence of any manufacturer, producer, retail trader, wholesale dealer or any other person and examine at the premises or residence any books or other documents kept there by the manufacturer, trader, dealer or person;

(b) request in writing that the manufacturer, producer, trader, dealer or person furnish him within the period specified in the request any books or documents specified in it for examination at the office of the Commissioner or at some other place specified by him.

(2) Any person who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding ₦100,000.00 or imprisonment for a term not exceeding six months or both.

**PART IV(B)—SPECIFIC OFFENCES AND PENALTIES RELATING TO EXCISE DUTY AND SALES TAX**

**Section 70—Default in the Submission of Sales Tax Returns.**

(1) Any person, institution or enterprise liable to the payment of excise duty and sales tax who defaults in submitting excise duty or sales tax returns or both on due dates shall incur a pecuniary penalty of fifteen per centum of the amount due and payable for the month of default.

(2) Where any person, institution or enterprise liable to pay excise duty or sales tax fails to pay the penalties specified in subsection (1); its licence to manufacture and recognition shall be withdrawn and the person, institution or enterprise shall cease to transact any business or deal in any manner with the Service until all the penalties have been paid.

**Section 71—Failure to Pay Excise Duty and or Sales Tax on Due Dates.**

**Section 72—False and Deceptive Return.**

Any person who makes, assents to or acquiesces in the making of a false or deceptive statement in a return is guilty of an offence and whether or not prosecuted shall be liable to a penalty of 100 per cent of the amount of the Excise Duty or Sales tax that should have been paid in respect of the period covered by the return.

Section 73—Excise and Sale Tax Clearance Certificate.

(1) No manufacturer or persons liable to pay excise duty or sales tax or both shall be admitted to transact any business with the Service unless the person or manufacturer produces a tax clearance certificate issued in respect of himself or company or enterprise.

(2) A tax clearance certificate issued under this section may be valid for such period and for such purposes as may be determined by the Commissioner.

Section 74—Failure to Maintain Proper Records.

Any manufacturer, wholesale dealer or person liable to the payment of excise duty sales tax or both who fails to keep and maintain records to the satisfaction of the Commissioner shall be guilty of an offence and shall have his licence recognition withdrawn and be barred from transacting any business whatsoever with the Service until he purges himself of such offence to the satisfaction of the Commissioner.

Section 75—Revocation of Licence to Manufacture.

(1) Where any excise duty or sales tax payable by a producer or a manufacturer or any person remains unpaid after the time within which it is payable, whether or not a distress is levied, the Commissioner may, by notice in writing addressed to the producer or manufacturer and delivered at his licensed premises, revoke any licence to manufacture issued to the manufacturer under this Law.

(2) If after the revocation the producer or manufacturer continues to produce or manufacture any goods liable to excise duty or sales tax, he and every person aiding or assisting him to produce or manufacture the goods commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months and to a fine not exceeding three hundred per cent the amount of excise duty and sales tax left unpaid under subsection (1) of this section.

Section 76—Distraint for Excise/Sales Tax or Penalty Imposed.

(1) Where excise duty and or sales tax on any goods remains unpaid after the time within which it is payable, the Commissioner may in writing authorise the levying of a distress

(a) upon the manufactured goods, chattels and effects of their manufacturer; and

(b) upon all assets, property, buildings, factory, machinery, plant, tools, means of transport and communication, accessories, animals, and all goods used in Ghana in the manufacture, production, sale or distribution of any taxable goods, commodity or items found in any premises or any lands owned by or in use or in possession of such manufacturer or of any person on his behalf and or in trust for him.

(2) The authority to distraint under this section shall be in the form contained in the First Schedule and shall be a warrant and authority to levy by distress the amount of any excise duties or sales tax due.

(3) The distress warrant so taken shall be executed on only the assets of the manufacturer and the Service shall take possession of the properties specified in subsection (1) of this section exclusive of all liabilities.

(4) For the purpose of levying the distress any person expressly authorised in writing under the hand of the Commissioner may execute any warrant of distress and if necessary break open any building or place in the day-time and may call to his assistance any Police Officer; and it shall be the duty of any Police Officer when required to assist in the execution of any warrant of distress and in levying the distress.

(5) The distress so taken may, at the cost of its owner, be kept for fourteen days and if the amount due in respect of taxes, duties and or penalties and the cost and charges of and incidental to the distress are not then paid, the items specified under subsection (1) may be sold.

(6) Out of the proceeds of sale there shall be paid first the cost or charges of and incidental to the sale and keeping of the distress and the next amount due in respect of duties, taxes and penalties,

and the residue, if any, shall be payable to the owner of the things distrained on demand being made within one year of the date of sale.

(7) Where any property specified in subsection (1) seized in the execution of the distress warrant is under a mortgage, bill of sale, charged by way of security for any debt, or is in any way encumbered, the sale of the property shall be made subject to the prior interest of the Service which shall have precedence over all other interests.

(8) It is lawful in the exercise of the powers of distress conferred under this section, for the person to whom the authority is given to distrain upon all things as specified in subsection (1) of this section belonging to the manufacturer wherever they may be found.

#### Section 77—Liability to Prosecution.

Any person, manufacturer, producer or enterprise liable to pay excise duty or sales tax who fails to pay it to the Service, within the period prescribed under this Law shall incur a pecuniary penalty of fifteen per centum of the amount due and payable and shall in addition pay on that amount interest at the prevailing commercial bank rate.

### PART V—IMPORTATION OF VEHICLES

#### Section 78—Taxes Payable on Imported Vehicles.

All vehicles imported into the country unless specifically exempted under this law or any other enactment shall attract the following imposts—

- (a) Vehicle Purchase Tax;
- (b) Import Duty;
- (c) Sales Tax.

#### Section 79—Exemptions.

Regulations may provide for the exemption of all or some of the imports referred to in section 78 on specified vehicles.

#### Section 80—Additional Taxes.

Notwithstanding section 78 regulations may provide for the imposition of special taxes on imported vehicles in addition to the imports referred to in section 78.

#### Section 81—Purchase Tax on Vehicles.

Any person who imports a vehicle whether new or used shall pay vehicle purchase tax on the price of the vehicle as assessed for the imposition of import duty under section 29 of this Law calculated at a rate to be specified in regulations from time to time.

#### Section 82—Time for Payment of Purchase Tax.

(1) Every person who imports a vehicle shall pay the purchase tax payable on that vehicle to the Commission at the time he pays the import duty on that vehicle.

(2) Every purchaser of a vehicle specified in regulations to this Law shall pay the purchase tax payable on that vehicle to the seller of that vehicle at the time he takes delivery of that vehicle.

#### Section 83—Motor Dealers Etc. Pay Tax Received.

Every motor dealer or proprietor of vehicle assembly plants shall within thirty days of the receipt by him of the purchase tax payable on that vehicle, transmit the amount of that tax to the Commissioner.

#### Section 84—Motor Dealers Etc. to Specify Purchase Tax.

Every motor dealer or proprietor of a vehicle assembly plant shall in books maintained for the purpose of this Law in his principal place of business, and in all advertisements relating to that vehicle, specify the sale price of that vehicle and the purchase tax on that vehicle.

#### Section 85—Receipts to be Issued.

(1) Every motor dealer or proprietor of a vehicle assembly plant shall issue to the purchaser of that vehicle a receipt in duplicate indicating that the purchase tax has been received by him.

(2) The Commissioner shall in the case of a vehicle imported by a person for his own use, issue to the owner of that vehicle a receipt in duplicate indicating that the purchase tax on the vehicle has been received by him.

(3) Where the purchaser or owner of a vehicle referred to in subsection (1) or (2) applies to register that vehicle under the Road Traffic Ordinance, 1952 (No. 55 of 1952) he shall submit to the



licensing authority, together with the application for registration one of the receipts issued to him under subsection (1) or (2) of this section.

(4) Where the seller of a vehicle referred to in subsection (1) applies to register that vehicle under the Road Traffic Ordinance, 1952 (No. 55 of 1952) on behalf of the owner, the seller shall submit to the licensing authority, together with the application for registration receipt indicating that the purchase tax on the vehicle has been received by him.

**Section 86—Form of Receipt.**

(1) Every seller who issues a receipt for the purpose of section 85 shall specify on that receipt the full name and address of the owner of the vehicle.

(2) Where the Commissioner issues a receipt for the purpose of section 85 he shall specify in that receipt the full name and address of the owner of the vehicle.

**Section 87—Duties of Licensing Authority.**

(1) No licensing authority appointed under the Road Traffic Ordinance 1952 shall register a vehicle until he receives the receipt referred to in section 85.

(2) Every licensing authority shall within seven days after the end of each month—

(a) submit a statement to the Commissioner setting out the number of vehicles which were registered by him during that month, indicating the registration number, engine and chassis numbers, the name and address of the owners;

(b) submit to the Commissioner the receipts received by him during that month.

**Section 88—Purchase Tax to be Additional to Other Taxes.**

Notwithstanding anything to the contrary in any enactment, the purchase tax payable in respect of any vehicle shall be in addition to any other tax imposed on that vehicle.

**Section 89—Importation of Motor Cars.**

(1) A person who imports a motor car that is more than 10 years old but not more than 12 years old shall pay in respect of the motor car a penalty of 5% of the CIF value of the motor car.

(2) A person who imports a motor car that is more than 12 years old but not more than 15 years old shall pay in respect of the motor car a penalty of 20% of the CIF value of the motor car.

(3) A person who imports a motor car that is more than 15 years old shall pay in respect of the motor car a penalty of 50% of the CIF value of the motor car.

**Section 89A—Importation of Commercial Vehicles i.e. Buses, Coaches and Vans.**

(1) Where a person imports a commercial vehicle, namely, a bus, a coach, or a van the following shall apply—

(a) where the vehicle is more than 10 years old but not more than 12 years old, there shall be paid in respect of the vehicle a penalty of 2.5% of the CIF value of the vehicle;

(b) where the vehicle is more than 12 years old but not more than 15 years old, there shall be paid in respect of the vehicle a penalty of 10% of the CIF value of the vehicle;

(c) where the vehicle is more than 15 years old but not more than 20 years old, there shall be paid in respect of the vehicle a penalty of 15% of the CIF value of the vehicle;

(d) where the vehicle is more than 20 years old, there shall be paid a penalty of 50% of the CIF value of the vehicle.

**Section 89B—Importation of Commercial Vehicle i.e. Trucks, Lorries, Tipper truck.**

(1) Where a person imports a commercial vehicle, namely, a truck, a lorry, or a tipper truck the following shall apply—

(a) where the vehicle is more than 10 years old but not more than 12 years old, there shall be paid in respect of the vehicle a penalty of 5% of the CIF value of the vehicle;

(b) where the vehicle is over 12 years old but not more than 22 years old, there shall be paid a penalty of 10% of the CIF value of the vehicle;

(c) where the vehicle is over 22 years old there shall be paid a penalty of 30% of the CIF value of the vehicle.

**Section 89C—Date of Manufacture and Payment of Duties.**

(1) The age of a motor vehicle for the purposes of this Law shall be calculated from the year in which the motor vehicle was first manufactured.

(2) A penalty payable in respect of a vehicle specified in sections 89, 89A and 89B is in addition to any applicable duties to which the vehicle is subject under this or any other enactment.

#### Section 89D—Prohibition of Importation of Right-Hand-Steering Vehicles.

(1) It is prohibited for any person to import a right-hand-steering motor vehicle into this country unless otherwise authorised by the Minister.

(2) Subject to any other provisions of this Law, a prohibited vehicle imported into the country shall be seized and forfeited to the state. [As substituted by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634), s. 1].

#### Section 90—Import Value of Used Vehicles.

(1) Notwithstanding the provisions of any enactment, this section shall apply for the determination of the value for customs purposes of used motor vehicles imported under this Law.

(2) The value of a used motor vehicle shall be the price of the motor vehicle as assessed in accordance with the following provisions of this section together with freight, insurance commission and all other costs, charges and expenses incidental to the delivery of the vehicle at the port or place at which the vehicle first entered Ghana.

(3) Where the age of a used motor vehicle—

(a) does not exceed six months the price shall be deemed to be the first purchase price;

(b) exceeds six months but does not exceed one and a half years the price shall be deemed to be eighty-five per centum of the first purchase price;

(c) exceeds one and a half years but does not exceed two and a half years the price shall be deemed to be seventy per centum of the first purchase price;

(d) exceeds two and a half years but does not exceed five years the price shall be deemed to be sixty per centum of the first purchase price; or

(e) exceeds five years the price shall be deemed to be fifty per centum of the first purchase price.

(4) Where a person disputes the age of a used motor vehicle assessed by the Commissioner in accordance with the provisions of this section the onus of proof shall be on that person to prove the age so assessed.

(5) Where the age of a used motor vehicle is in dispute as in subsection (4), the Commissioner's assessment shall unless the contrary is proved to his satisfaction, prevail.

(6) For the purposes of converting the first purchase price of any motor vehicle in Ghana currency the prevailing rate of exchange as quoted by the Bank of Ghana at the time the vehicle is entered for delivery into Ghana shall be used.

(7) In this section "first purchase price" means the price at which the type of motor vehicle in question is usually sold for use when new by a dealer in such vehicle in the country of manufacture of the vehicle concerned, excluding any tax, or impost charged in relation to the vehicle in accordance with the Law of that country.

#### Section 91—Forfeiture of Vehicle.

Without prejudice to sections 117 and 118 of this Law, any vehicle that remains unentered and uncleared within 60 days after discharge or in the case of overland vehicle, from the date it crossed the national border into the country shall be forfeited to the State.[As substituted by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634), s. 2].

#### Section 92—Local Dealers to Furnish Details of Manufacture.

(1) A local dealer in any motor vehicle the importation of which is permitted under this Law shall furnish the Commissioner with the following information—

(a) year of manufacture;

(b) the make or model of the vehicle;

(c) the name and address of the manufacturer of the vehicle; and

(d) the home delivery value of the vehicle.

(2) Any local dealer who fails or refuses to furnish the Commissioner with the information required under subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵5,000,000.00 or to imprisonment not exceeding twelve months or to both,

and without prejudice to any penalty imposed under this subsection liable to an additional fine of ₵30,000.00 for every week during which the offence continues.

#### Section 93—Disposal of Forfeited Vehicle.

(1) Any motor vehicle forfeited to the state under this Law shall be disposed of in accordance with this section.

(2) There shall be appointed by the Minister for the purpose of disposal of forfeited vehicles, a committee comprising three members, namely—

(a) a representative of the Office of the Chief of Staff;

(b) a representative of the Ministry of Finance; and

(c) a representative of the Customs, Excise and Preventive Service.

(3) The Commissioner shall dispose of forfeited vehicles, on the advice of the Committee, which shall include auction sale and allocation to such institutions, bodies or persons as the Committee may direct.

(4) The price at which a forfeited vehicle is disposed of, whether by auction sale, allocation or any other method, shall include the duties, taxes and penalties exigible on the vehicle.[As substituted by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634), s. 3].

#### Section 94—Forgery, Etc.

Any person who—

(a) makes or signs any declaration, certificate or instrument which is false in any material particular in relation to any motor vehicle imported under this Law;

(b) forges or causes to be forged any document relating to any motor vehicle imported under this Law; or

(c) furnishes or causes to be furnished any information relating to any matter under this Law which he knows to be false,

shall be liable to the sanctions specified under sections 250 and 251 which ever is appropriate.

#### PART VI—CUSTOMS: ARRIVAL REPORT, ENTRY, ETC.

##### Section 95—Arrival.

(1) Every aircraft or ship arriving in Ghana—

(a) shall come to a port, or other place allowed by the Commissioner in special circumstances, without touching at any other place in Ghana; and

(b) on arriving at any such port or place shall come as quickly up to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place; and

(c) in proceeding to such proper place, shall bring to at the station appointed for the boarding of aircraft or ships.

(2) No aircraft or ship after arriving at a proper place of mooring or unloading shall depart from there, except—

(a) directly to some other place of mooring or unloading approved by the proper officer; or

(b) with the authority of the proper officer, directly to another port or to a place allowed by the Commissioner in special circumstances in Ghana; or

(c) directly on a flight or voyage to a place outside Ghana in accordance with the provisions of this Law.

(3) No aircraft or ship after departing on a flight or voyage to a place outside Ghana shall bring to within Ghana except in accordance with this Law or with the permission of the proper officer, or for some cause which the master explains to the satisfaction of the Commissioner.

(4) The master of an aircraft or ship which contravenes any provision of this section shall incur a penalty of ₵1,000,000.00 and the aircraft or ship shall be detained until payment is made.

##### Section 96—Mooring and Unloading.

The Commissioner may, subject to any other authority provided by law, direct at what particular part of any port or other place aircraft or ships shall moor or unload their cargo.

##### Section 97—Report.

(1) The master of every aircraft or ship, whether laden or in ballast, or his agent, shall (except as otherwise provided in regulations), within twenty-four hours after arrival from outside Ghana, make a report of the aircraft or ship and its stores and cargo to the Commissioner on the prescribed form in the prescribed manner, giving the prescribed particulars.

(2) The report shall show separately any goods which are in transit, or which are to be transferred to another aircraft or ship for re-exportation, and shall state whether any goods are to remain on board for re-exportation in the same aircraft or ship.

(3) The report shall (except in the case of steamship or where otherwise specially allowed by the Commissioner) give a particular account of all goods remaining on board for exportation, and shall be made before bulk is broken.

#### Section 98—Steamship Report.

The master of a steamship shall make report of its stores and of any packages for which no bill of lading has been issued, before bulk is broken, unless the Commissioner otherwise allows.

#### Section 99—Report when Unloading at More than One Port.

(1) Notwithstanding any provision of this Law to the contrary, when an aircraft or ship carrying cargo for delivery at more than one port or place in Ghana arrives from outside Ghana, the master or his agent shall make report of the whole cargo at the first port or place, reporting separately such part of the cargo as may be intended for the first port or place, and unloading it there.

(2) After unloading the cargo, and upon being authorised by the proper officer, the master may proceed to subsequent ports or other places specially allowed by the Commissioner, and at each port or place the master or his agent shall report such part of the cargo as may be intended for that particular port or place; and the master or agent reporting and all persons concerned in unloading the cargo shall be subject to such provisions of this law as are applicable.

#### Section 100—Delivery of Previous Clearance.

The master of an aircraft or ship or his agent shall, if required, deliver to the Commissioner at the time of making a report of arrival, the clearance of the aircraft or ship, if any, from the port or ports from which it has arrived.

#### Section 101—Failure to Make Due Report.

If the master of an aircraft or ship or his agent fails to make due report, or if any of the particulars contained in the report are false, the master or his agent shall incur a penalty of ₵5,000,000.00 and all goods not duly reported shall be liable to forfeiture, unless the omission is explained to the satisfaction of the Commissioner. [As amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002, s6.]

#### Section 102—Failure to Account for Package Reported.

(1) If any package reported is not—

(a) duly unloaded, removed and deposited in a customs area or other place approved by the Commissioner, and entered and cleared from it in accordance with this Law; or

(b) produced to the proper officer for deposit or deposited in a State warehouse in accordance with section 116;

the master or his agent shall pay the duty on it, unless he explains to the satisfaction of the Commissioner the failure so to deal with the package.

(2) Subsection (1) does not apply to goods kept on board as stores or for re-exportation or with the permission of the Commissioner kept on board for direct transfer to another aircraft or ship for use as stores or for re-exportation.

#### Section 103—Cargo Defined.

No goods may be imported as aircraft's or ship's stores except those as are required for consumption or use by or for the aircraft or ship, its officers, crew and passengers, and any goods not so required (other than the bona fide baggage of passengers) shall for all purposes be deemed to be the cargo of the aircraft or ship.

#### Section 104—Master's Duties.

(1) The master or his agent shall, in relation to the aircraft or ship, its cargo, stores, baggage, crew, passengers, and flight or voyage—

- (a) answer immediately all questions the proper officer shall ask him; and
  - (b) produce all books and documents in his custody or control that the proper officer may require.
- (2) Before any person (unless permitted by the proper officer) disembarks, the master or his agent shall give to the officer who boards the aircraft or ship on arrival at any port or place a list containing the names of each passenger on board, and also, if required by the officer, the names of the master and of each officer and member of the crew.
- (3) If the list of names is not correct and complete (unless the inaccuracy or omission is explained to the satisfaction of the Commissioner), the master or his agent shall incur a penalty of ₵2,000,000.00.[As amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002, s.6].

#### Section 105—Wrongly Breaking Bulk.

If any time after a ship or aircraft enters Ghana and without the knowledge and consent of the proper officer—

- (a) bulk is broken contrary to section 97 or 98; or
  - (b) any alteration is made in the stowage of her cargo so as to facilitate the unloading of any part of the cargo before arrival at a proper place of unloading, or not being a steamship, or any aircraft or ship specially allowed to do so, before report of the aircraft or ship has been made; or
  - (c) any goods are staved, destroyed or thrown overboard or any package opened,
- the master or his agent shall incur a penalty of ₵1,000,000.00 unless cause is shown to the satisfaction of the Commissioner.

#### Section 106—Unloading of Cargo.

- (1) Except in accordance with any regulation made under this Law, or with the written permission of the proper officer or subject to any conditions he may in any particular case impose—
- (a) no cargo shall be unloaded from an aircraft or ship arriving from outside Ghana unless the proper officer has authorised its unloading, nor from any ship unless the cargo has first been duly entered;
  - (b) no cargo shall be unloaded or removed from an aircraft or ship arriving from outside Ghana except between 7 a.m. and 6 p.m., nor on Sundays or public holidays;
  - (c) no cargo shall be transferred from an aircraft or ship arriving from outside Ghana into any vessel at such time as will cause the cargo to be afloat in the vessel on a Sunday or public holiday, or on any other day except between 7 a.m. and 6 p.m.
  - (d) no cargo (except cargo unloaded in a vessel to be landed in accordance with section 107) shall be unloaded from an aircraft or ship arriving from outside Ghana except at an approved place of unloading or sufferance wharf approved for the purpose.
- (2) If any cargo is unloaded contrary to this section or to the terms and conditions contained in any written permission from the Commissioner, it shall be liable to forfeiture.

#### Section 107—Removal of Cargo.

- (1) Except in accordance with regulations made under this Law, or with written permission of the proper officer or subject to any conditions he may in any particular case impose—
- (a) the vessel into which any cargo is put after being unloaded from a ship shall be a ship licensed under section 275;
  - (b) no cargo which has been unloaded from an aircraft or ship arriving from outside Ghana into any vessel to be loaded shall be transhipped or removed into any other vessel before it is landed;
  - (c) cargo which has been unloaded from an aircraft or ship and put into any vessel to be landed shall be taken directly and without delay to an approved place of unloading or sufferance wharf approved for the purpose within the same port, and landed there without delay.
- (2) If cargo is removed contrary to this section or to the terms and conditions contained in any written permission from the Commissioner, it shall be liable to forfeiture.

#### Section 108—Deposit of Cargo.

- (1) All cargo when unloaded at an approved place of unloading or sufferance wharf approved for the purpose, and all cargo which has been put into a vessel to be landed in accordance with section 107 shall immediately upon being unloaded or landed be conveyed into the care of the proper

officer in the customs area, and deposited in a transit shed or in a State warehouse if the proper officer so requires.

(2) Such cargo as the proper officer may consider unsuitable for storage in a transit shed or State warehouse shall be deposited in such place as he may direct, at the risk and expense of the importer, as if it was deemed to be unsuitable for storage in a State warehouse under section 115.

(3) Except in accordance with regulations made under this Law, or with the written permission of the proper officer or subject to any conditions he may in any particular case impose, no cargo shall be removed from any part of the customs area or from the transit shed or State warehouse into which it has been conveyed unless it has first been duly reported and entered, and the proper officer has authorised its removal or delivery:

Provided that the proper officer may, if he thinks the action necessary, require the agent of an aircraft or ship from which cargo has been landed into any transit shed, State warehouse, or other place of security to remove it to some other place of security selected by the proper officer; and if the agent fails to remove it when so required, he shall incur a penalty of ₵500,000 and the proper officer may have the cargo removed to another place of security at the expense of the agent. [As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.6.]

(4) Cargo entered to be warehoused shall be removed by the importer by such ways, in such manner and within such period as the proper officer shall direct to the warehouse for which it is entered, and delivered into the care of the officer in charge of the warehouse:

Provided that the importer shall first enter into a bond for the due warehousing of such cargo, if the proper officer so requires.

(5) If any cargo is removed, deposited or dealt with contrary to this section or the terms and conditions contained in any written permission given by the Commissioner, it shall be liable to forfeiture.

Section 109—Liability of Goods Other than Cargo, Approved to Forfeiture.

(1) No goods whatsoever other than cargo duly reported as such shall be taken out of an aircraft or ship arriving from outside Ghana or delivered to any person aboard such aircraft or ship other than for the consumption or use of its crew or passengers except under such conditions (which may vary the procedure as to reporting the aircraft or ship as required by this Law) as may be prescribed in regulations made under this Law or as directed by the Commissioner in any particular case.

(2) For the purpose of this section "goods" includes passengers' baggage, stores and any goods which may be taken on board an aircraft or ship arriving from outside Ghana while it is within Ghana.

(3) If goods are taken out or delivered contrary to this section or to any conditions prescribed by regulations or to any directive of the Commissioner, they shall be liable to forfeiture.

Section 110—Delivery of Bullion, Coin, Etc.

Notwithstanding anything contained in the preceding provisions of this Part, the proper officer may permit the delivery to an importer of bullion, currency notes or coin without entry but if the importer does not within forty-eight hours after their removal from the importing aircraft or ship deliver to the proper officer a full and true account of them, including their weight and value, he shall incur a penalty of ₵1,000,000.00.

Section 111—Entry and Pre-Entry.

(1) The importer of any goods shall deliver to the proper officer an entry of the goods in such form and manner and containing such particulars supported by documentary evidence as the Commissioner may direct:

Provided that this requirement shall not apply in relation to passengers' accompanied baggage unless the proper officer in any particular case so directs.

(2) Goods may be entered under this section for use in Ghana, for warehousing, for transit or for transshipment, if so eligible.

(3) With the permission of the Commissioner, and subject to such conditions and restrictions as he may prescribe, goods may be entered under this section prior to importation; and the provisions of

this Law relating to the entry of goods shall, with the necessary modifications, apply to the pre-entry of goods under this subsection.

(4) Except insofar as the contrary intention appears, wherever in this Law there occurs a reference to imported goods that shall, in relation to any goods pre-entered or to be pre-entered, the reference shall be deemed to include a reference also to goods not yet imported.

#### Section 112—Entry in Absence of Documents.

(1) If the importer of any goods cannot give full particulars of them for want of any documents or information concerning them, other than documents or information relating to their origin required by any provision of this Law, he shall make and sign a declaration in the prescribed form to that effect before the proper officer, who shall permit the importer to examine and enter the goods, and may allow delivery of them, if satisfied that their description for tariff and statistical purposes is correct and also, in the case of goods liable to duty ad valorem, that the value declared on the entry is approximately correct, and in the case of goods liable to duty according to their weight, measurement or strength, that the weight, measurement or strength declared on the entry is correct.

(2) The proper officer may retain the samples of the goods entered under this section for such period up to their final entry as he shall require and shall make an inventory of them.

(3) In the case of goods liable to duty ad valorem the entry made in accordance with this section shall be deemed provisional.

(4) The amount estimated, together with such sum as the proper officer may require, not being less than one-half of the estimated duty, shall be held on deposit, and shall be forfeited unless the importer within three months or such further time as the proper officer may in special circumstances allow produces to the proper officer satisfactory evidence of the value and makes a final entry of the goods, in which case so much of the sum deposited as shall be necessary shall be brought to account as duty, and the balance returned to the person who deposited it.

#### Section 113—Goods not Entered after Declaration.

If the importer, having made a declaration in accordance with section 112, does not make entry as provided in that section, or if the proper officer is not satisfied, in which case an entry which has been made shall be ipso facto void, the proper officer shall cause the goods referred to in the declaration to be deposited in a State warehouse and dealt with as provided in section 107.

#### Section 114—Power to Waive Production of Documents.

(1) Notwithstanding anything provided before in this Law, if the Commissioner is satisfied, whether before or after the deposit in a State warehouse under section 113 any goods liable to duty ad valorem, that it is impossible for the importer to obtain satisfactory documentary evidence of their value, or if in any case the documentary evidence relating to them, though not complete, is in the opinion of the Commissioner sufficient to enable a reliable estimate of the value to be made, the Commissioner may permit them to be entered according to a value which two officers to be appointed by him for the purpose are satisfied is, as nearly as may be estimated, and not less than, their correct value.

(2) Where the Commissioner allows goods to be entered in the absence of any document under this section, he may require the person entering them to deposit with him such additional sum as he shall require, not exceeding one-half of the duty paid upon such goods.

(3) Any sum so deposited shall be forfeited unless the person entering the goods produces the required document within three months of the date of entry, or unless he explains his failure to the satisfaction of the Commissioner.

#### Section 115—Goods Deemed to be in State Warehouse.

(1) Where under this Law goods are required to be deposited in a State warehouse, and for any reason the proper officer in his discretion decides that it is undesirable or inconvenient to deposit them in a State warehouse, they shall for all purposes be deemed to be deposited in a State warehouse as from the time they are required to be so deposited, and shall in addition to the rent and other charges payable under section 116 be chargeable with such expenses for securing, watching and guarding, and of removing them from the original to some other place of deposit as the proper officer considers reasonable.

(2) No officer shall be liable to make good any damage or losses which goods may sustain by reason of their being deposited and dealt with as provided in subsection (1).

Section 116—Uncleared Goods.

(1) Where goods imported in any aircraft or ship are not entered and also delivered from the customs area within four days exclusive of Sundays and public holidays) after being unloaded, or within such further period as the proper officer may in special circumstances allow, the proper officer may deposit them in a State warehouse or direct the agent of the aircraft or ship to deposit them immediately in a specified State warehouse.

(2) Goods so deposited shall be subject to such regulations in regard to rent and other charges as may be prescribed.

(3) Any officer who has custody of any goods under this Law, (other than goods which have been warehoused in pursuance of an entry for warehousing) may refuse delivery of them from a State warehouse or other place of deposit until proof is given to his satisfaction that the freight and any other charges due on them have been paid.

Section 117—Sale of Goods in State Warehouse.

(1) Where goods of a perishable nature are deposited or are required to be deposited in a State warehouse the proper officer may sell them immediately by public auction.

(2) Where any goods, other than goods of perishable nature, are deposited or are required to be deposited in a State warehouse, the proper officer may sell them by public auction after fourteen days notice by publication in the Gazette or in the national newspapers, if they are not entered for warehousing or delivery from the State warehouse within fourteen days after deposit, or such further period as the proper officer may allow, and all charges paid for removal, freight, rent and all other expenses incurred in respect of them.

(3) Where goods are sold under this section, the proceeds shall be applied first in the discharge of duties, of the expenses of removal and sale, and of rent and charges due to the Government, and of freight and other charges; and, subject to section 118 (3), the balance, if any, shall be paid to the owner of the goods if he applies for it within 180 days from the time of the sale, but otherwise shall be paid into the Consolidated Fund.

(4) If any goods on being offered for sale cannot be sold for a sum sufficient to pay all duties, expenses, rent and charges, they may be destroyed or otherwise disposed of as the Commissioner may direct.

(5) This section shall apply notwithstanding any law to the contrary.

Section 118—Disposal of Goods Suspected to be Uncustomed.

(1) Where goods suspected to be uncustomed goods are seized in accordance with any enactment the person authorised by law to effect the seizure shall deliver them immediately into the custody of the Commissioner, unless the Commissioner otherwise directs.

(2) All goods delivered into the custody of the Commissioner in accordance with this section shall be deposited in a State warehouse and—

(a) where they are of a perishable nature, the proper officer may sell them forthwith by public auction;

(b) where they are not of a perishable nature, the proper officer may sell them by public auction after a fourteen day notice by publication in the Gazette or in the national dailies, and the proceeds of the sale shall be disposed of as provided in section 117(3).

(3) Where the owner of the goods is charged with any offence in respect of the goods—

(a) the proceeds of the sale of the goods shall be retained to abide the outcome of the case; and

(b) if the owner is convicted of any offence in respect of those goods, any part of the proceeds of the sale of the goods which would otherwise have been payable to him in accordance with section 117 (3) shall be deemed to be forfeited to the Republic and shall be paid into the Consolidated Fund.

(4) This section shall apply notwithstanding any law to the contrary.

Section 119—Examination of Goods in State Warehouse.



The proper officer may cause any goods required to be removed under this Law to a State warehouse to be opened and may require their owner to have them opened for examination at his own expense.

#### Section 120—Ship Owner May Enter Goods.

(1) Where the owner of any goods imported into Ghana in a ship fails to make entry of them, or having made entry, fails to land them or take delivery of them by the times provided in this section, the ship owner or master or the agent or either may make entry of them—

(a) if a time for delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the time expressed; and

(b) if no time for delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or public holiday, after the report of the ship.

(2) However, if at any time before the goods are landed their owner is ready and offers to land or take delivery of them, he shall be allowed to do so, and his entry shall in such case be preferred to any entry which may have been made by the ship owner or master or the agent or either.

(3) The period of time specified in this section shall be computed from the time at which the aircraft or ship and goods have been released from any quarantine to which they may have been subjected.

#### Section 121—Detention of Aircraft/Ship Till Goods Landed.

(1) Where any goods remain on board an importing aircraft or ship, beyond seven days after its arrival, or beyond such further time as the proper officer may allow, the proper officer shall detain the aircraft or ship until all expenses of watching or guarding such goods beyond the seven days or further time, if any, allowed, and all expenses of removing the goods or any of them to a State warehouse, if the proper officer shall so remove them, are paid.

(2) A charge not exceeding 50 US dollars or its equivalent in cedis per day shall also be made in respect of any derelict or other aircraft or ship coming, driven or brought into Ghana under legal process, by stress of weather or for safety, when it is necessary to station any officer in charge, either on board or otherwise, for the protection of the revenue, so long as the officer remains.

#### Section 122—Restriction on Persons Disembarking.

No person, whether a passenger or not, shall disembark or go ashore from or go on board any aircraft or ship that has arrived within Ghana, except at such times and by such means and ways as may be described in any regulations made under this Law, or otherwise as the Commissioner may allow.

### PART VII—CUSTOMS: WAREHOUSE AND CUSTOMS AREAS

#### Section 123—Conditions of Warehousing.

(1) The Secretary may by notice in the Gazette or national newspapers declare what kinds of goods shall or may be warehoused upon first importation without payment of duty.

(2) Any goods while in warehouse or customs area shall be subject to such regulations as may be made under this Law, and in the case of goods deposited in a Government warehouse, to the payment by their owner of such rent and other charges at such time as may be prescribed.

(2A) Where the importer fails to declare the insurance paid, the rate of insurance shall be calculated

(i) at a rate of 1% of the cost and freight value for air freight; and

(ii) at a rate of 0.875% of the cost and freight value for sea freight. [As Inserted by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.2]

(3) If any prescribed rent or other charges are not paid to the proper officer when due and payable on any goods in a Government warehouse, such goods may, without prejudice to any other lawful method of recovery, be sold or otherwise dealt with and any proceeds applied as if they were goods which might be sold or otherwise dealt with under Sections 144 and 145.

#### Section 123A—Registration Fee for Bonded Warehouse.

(1) There shall be paid to the Commissioner the equivalent in cedis of 2,000.00 US dollars as registration fee for a bonded warehouse Category "A".

(2) There shall be paid to the Commissioner the equivalent in cedis of 1,000 US dollars as a registration fee for a bonded Warehouse category "B".

(3) The renewal fee for the registration of bonded warehouse category "A" shall be the equivalent in cedis of 600 US dollars.

(4) The renewal fee for the registration of a bonded warehouse category "B" shall be the equivalent in cedis of 300 US dollars.

(5) Registration and renewal fees for the registration of bonded warehouses shall be valid for a period of one year from the date of issue.[As Inserted by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.3]

Section 124—Licence for Private Warehouses.

(1) No building or place may be used as private bonded warehouse unless—

(a) it has been duly licensed by the Commissioner;and

(b) the warehouse keeper gives a bond in such sum as the Commissioner may require, with one or more sufficient sureties, conditioned on the due payment of all duties and the due observance of the provisions of this Law.

(2) A licence shall be in the approved form and shall be issued by the Commissioner on payment of ₦5,000,000.00 or such sum as the Secretary may by legislative instrument prescribe.[As amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002, s.6.]

(2A) The renewal fee for a licence shall be ₦2,500,000.00 paid to the Commissioner; [As Inserted by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.4(a).]

(3) A licence or renewal licence shall be valid for a period of one year from date of issue.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.4(b).]

(4) The Commissioner may at any time revoke a licence, and no part of the licence fee paid shall be recoverable by the licensee unless the Commissioner in his discretion considers that it is unreasonable or may impose hardship.

Section 125—Owner Not to Enter his Warehouse Without Permission.

(1) No warehouse keeper shall, by himself or by any person in his employ, open or gain access to his warehouse except in the presence or with the knowledge and consent of an officer acting in the execution of his duty.

Section 126—Owner to Provide Facilities.

Every warehouse keeper shall provide such office accommodation, weights scales, measures and other facilities as the proper officer may require to examine account and secure any goods.

Section 127—Revocation of Appointment.

(1) The Commissioner may revoke the appointment of any private warehouse, and on revocation the duties on all the goods warehoused shall be paid, or the goods shall be exported or removed to another warehouse within such time, being not less than three months, as the Commissioner may direct.

(2) Written notice of revocation addressed to the warehouse keeper of the private warehouse and left there shall be deemed to be notice to all persons interested in the goods.

(3) Any goods not duly exported or removed in accordance with subsection (1) of this section shall be taken to a State warehouse by the proper officer, and may be sold or otherwise dealt with, under section 117.

Section 128—Procedure for Warehousing.

(1) The officer in charge of any warehouse shall, upon the delivery into his care any goods entered to be warehoused, and subject to any other direction of the Commissioner, whether account has been taken of the goods on the quay or elsewhere or not, take particular account of them, and shall cause to be entered in a book prepared for that purpose the name of the importing aircraft or ship, and of the person in whose name the goods are entered, the number of packages, the mark and number of each package and the description of the goods.

(2) When the goods have been deposited in the warehouse, with authority of the officer, he shall certify at the foot of the account that the entry and warehousing of the goods is complete, and they shall from that time be considered duly warehoused.

Section 129—Goods to be Warehoused in Original Packages.

All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to be skipped on the quay, or bulked, sorted, lotted, packed or re-packed in the warehouse, in which case they shall be deposited in the packages in which they are contained when the account of them is taken by the proper officer on the completion of the operation.

Section 130—Interfering with Storage.

If in the case of goods warehoused in a private warehouse—

- (a) any alteration is made afterwards in the goods or packages deposited, or in the packaging of them in the warehouse or in the marks or number of the packages; or
  - (b) the goods are removed from the part of the warehouse where they were deposited in the absence and without the consent of the proper officer,
- the goods shall be liable to forfeiture.

Section 131—Stowing of Goods.

(1) The proper officer may direct in what different parts or divisions of any warehouse or customs area and in what manner any goods shall be deposited, and if any goods are deposited contrary to the directions, the occupier of the warehouse or the depositor of the goods in a customs area shall in respect of every package so deposited incur a penalty of €50,000 together with a further penalty of €5,000 for each day during which any package remains so deposited.

(2) If the occupier of a private warehouse neglects to stow the goods deposited so that easy access may be had to every package, he shall incur a penalty of €50,000.00, together with a further penalty of €5,000.00 for each day during which the neglect continues.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.6.]

Section 132—Production of Goods.

Where the occupier of a private warehouse or the depositor of any goods in a customs area fails to produce to any officer at his request goods deposited in the warehouse or customs area, or any part of it, which have not been duly entered and delivered from it, he shall incur a penalty of €5,000.00 in respect of every package not so produced, and shall pay the duties due on it.

Section 133—Failure to Warehouse.

Where any goods entered to be warehoused are not duly warehoused by the importer in pursuance of the entry, or if any goods whatsoever, being duly warehoused or deposited in a customs area, are in any way concealed in or removed from the warehouse or customs area or abstracted from any package or transferred from one package to another, or otherwise for the purpose of illegal mixing, removal or concealment, they shall be liable to forfeiture.

Section 134—Unlawful Access.

Any person who clandestinely opens a warehouse or transit shed or, except in the presence of the proper officer acting in the execution of his duty, gains access to the goods in it, shall incur a penalty of €5,000,000.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.6.]

Section 135—Trespass.

Any person who enters a warehouse or any part of a customs area when forbidden by an officer, or refuses to leave a warehouse or a part of a Customs area when requested to do so by an officer, shall incur a penalty of €5,000,000.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.6.]

Section 136—Taking of Unentered Goods.

(1) If any goods required to be previously entered are taken out of a warehouse or customs area without being duly entered (except as permitted by this Law), the warehouse keeper or the depositor of the goods shall immediately pay the duties upon them and a penalty not exceeding three times the duties payable on them.

(2) Any person taking out any goods from a warehouse or customs area before they have been duly entered (except as stated) or who aids, assists, or is concerned in it, shall be guilty of an offence and in addition to paying a penalty not exceeding three times the duties on the goods, be liable on conviction to imprisonment not exceeding five years.

Section 137—Destruction and Stealing of Goods.

Any person who destroys or steals any goods duly warehoused or deposited in a customs area shall be guilty of an offence and is liable on conviction to imprisonment not exceeding ten years, and shall pay a fine equal to the value of the goods, as well as the duties or taxes and other charges due on it and the Service shall not be liable to any legal action in respect of the goods.

Section 138—Reasonable Acts by Proper Officer.

(1) The proper officer may at the expense of the owner of goods warehoused in a Government warehouse, or deposited in a customs area in the occupation or use of the Government, do all such reasonable acts as he considers necessary for their proper custody and preservation, and shall have a lien on them for expenses so incurred; but no acts shall be done until the expiration of twenty-four hours after their owner has been notified that the acts are required, unless the proper officer in his discretion decides that immediate action is necessary for their proper custody or preservation.

(2) The importer or owner of any goods shall pay any expenses incurred in respect of them under this section at such times and in such manner as the Commissioner shall either generally or in any particular case direct, and if any expenses are not paid, the goods may be sold or otherwise dealt with and any proceeds applied as if they were goods which might be sold or otherwise dealt with under section 145.

Section 139—Removal from One Warehouse to Another.

The removal of warehoused goods from one warehouse to another shall be subject to any regulations made under this Law and to such other conditions as the Commissioner may direct.

Section 140—Procedure on Delivery of Goods Removed.

(1) On the delivery of any goods for removal as provided the proper officer at the port or place of removal shall send an account containing the particulars of them to the proper officer at the port or place of destination, and the person requiring their removal shall enter into a bond, with such security or securities as the Commissioner shall require, in a sum equal at least to the duty chargeable on the goods, for their due arrival and re-warehousing at the port or place of destination within such time as the proper officer may direct.

(2) Such bond shall not be discharged unless the goods have been produced to the proper officer and duly re-warehoused at the port or place of destination within the time directed by the proper officer or unless the full customs duties have been paid on them as provided in section 141, or unless the goods have been otherwise accounted for to the satisfaction of the Commissioner, or until the full duties due upon any deficiency of the goods not so accounted for have been paid.

Section 141—Removal Subject to Warehouse Regulations.

(1) Upon the arrival of the goods at the port or place of destination, they shall be warehoused in the same manner, and under and subject to the same law, rules and regulations, so far as they are or can be made applicable, as on the warehousing of goods on their first importation.

(2) If, upon the arrival of goods so removed at the port or place of destination, the parties wish to export immediately or to pay duty on them for use within Ghana, without actually lodging them in the warehouse for which they have been entered and examined to be re-warehoused, the officer at that port or place may permit them to be entered and delivered for home use, or, after all the formalities of examining them for re-warehousing have been duly performed, to be entered and loaded for exportation, as if they had been actually lodged in the warehouse.

Section 142—Removal Subject to Conditions.

(1) If any goods taken from a warehouse for removal or for exportation or use as aircrafts' or ships' stores are removed or put on board an aircraft or ship, except with the authority or under the care of the proper officer, and in accordance with regulations made under this Law and in such manner, by such persons and within such time, and by such roads or ways, as that officer shall permit or direct, they shall be liable to forfeiture.

(2) If the goods are illegally removed or carried away prior to being put on board the exporting or removing aircraft, ship or carriage, or from any exporting or removing aircraft, ship or vehicle, in or on which they have been put, the bond given in respect of them shall be forfeited, and may immediately be put in suit for the penalty, although the time prescribed in the bond for putting the

goods on board the exporting aircraft or ship or re-warehousing them at the place of destination shall not have expired; and all these goods shall be liable to forfeiture.

(3) There shall be paid to the Commissioner in respect of commercial goods re-exported from bonded warehouses, a processing fee of one percent of the C.I.F. value of the goods. [As Inserted by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2003 (Act 636)].

Section 143—Transfer from One Warehouse to Another.

Notwithstanding anything mentioned before, the Commissioner may transfer goods at the cost of the Government from one Government warehouse to another in any manner he considers reasonable.

Section 144—Re-Warehousing.

(1) All warehoused goods shall be entered and delivered either for use within Ghana or as aircrafts' or ships' stores, or for exportation, not later than two years after the day on which they were warehoused, or within such further time and in such cases as the Commissioner shall direct, unless their owner wishes to re-warehouse them.

(2) Where the owner wishes to re-warehouse the goods, they shall be examined by the proper officer, and the duties due upon any deficiency or difference between the quantity ascertained on importation and the quantity found to exist on the examination, together with the necessary expenses attendant on it, and any charges incurred in respect of the goods, shall, subject to such allowances as are by law permitted in respect of them, be paid to the Commissioner at the rates for the time being in force; and the quantity so found shall be re-warehoused in the name of their owner in the same manner as on first importation;

Provided that if the owner with the concurrence of the warehouse keeper, wishes to re-warehouse the goods according to the account taken at their importation, without re-examination, the examination may be dispensed with if the officer is satisfied that the goods are still in the warehouses, and that there is no reason to suspect any undue deficiency; but the warehouse keeper shall be liable to make good the duty on any deficiency not allowed by law which may be discovered in the goods at the time of their delivery, or any earlier time.

Section 145—Disposal of Goods not Re-Warehoused.

(1) If any warehoused goods are not duly entered for use within Ghana, or as aircrafts' or ships' stores, or exported or re-warehoused, and the duties ascertained to be due on the deficiencies and any charges and expenses have not been paid at the expiration of one year from their previous entry and warehousing or within such further time as may be directed, they shall be sold by public auction as soon as possible, after thirty days' notice by advertisement in the Gazette or the national newspapers.

(2) In all cases where goods are sold under this section, the proceeds shall be applied first to payment of the duties, expenses of the sale, and of rent and charges due to the Government, and then in discharge of any lien for freight and other charges; and the balance, if any, shall be paid to the owner of the goods if he applies for it within 180 days from the time of sale, but otherwise shall be paid into the Consolidated Fund.

(3) If any goods on being offered for sale cannot be sold for a sum to pay all duties, expenses, rent and charges, they may be destroyed or otherwise disposed of as the Commissioner may direct.

(4) The duties due upon any deficiency in any warehoused goods not allowed by law shall be immediately paid by the warehouse keeper.

Section 146—Delivery of Stores.

The Commissioner may permit warehoused goods to be delivered as stores for a ship of not less than one hundred tons burden, or an aircraft, in accordance with section 167, and if any goods taken from a warehouse for use as stores are not duly put on board the aircraft or ship for which they are entered, or otherwise accounted for to the satisfaction of the Commissioner, or are dealt with in any way contrary to this Law, they shall be liable to forfeiture and in addition the master of agent or aircraft or ship shall be liable to a penalty not exceeding thrice the duties/taxes evaded.

Section 147—Duty to be Paid on Original Account.

The duties to be paid when warehoused goods are entered for use within Ghana shall not be less in amount than would have been payable according to their value, except in the case of tobacco in leaf, oil in casks, wine in casks, malt liquor in casks, and spirits in casks, the duties on which, when cleared from the warehouse for use within Ghana, shall be chargeable upon their quantity ascertained by weight, measure, or strength, as the case may be, at the time of their actual delivery, unless there is reason to suppose that any part or any deficiency has been caused by illegal abstraction.

Section 148—Forfeiture of Uncollected Goods.

If any goods remain in any warehouse for fourteen days after being entered for use within Ghana or after being sold by public auction under this Law, they shall all be forfeited unless the failure to move them is explained to the satisfaction of the Commissioner.

Section 149—Delivery in Special Circumstances.

(1) The Commissioner may permit any goods to be taken out of any warehouse or customs area without payment of duty for such purpose and time as he thinks proper, and in such quantities, and under such conditions and restrictions, and with such security by bond for their due return or the payment of the duties due on them, as he may direct or require.

(2) If any goods are dealt with in any way contrary to the terms of the permission or to the conditions or restrictions, they shall be forfeited.

Section 150—Taking of Samples by Owner.

(1) The Commissioner may, in relation to any customs area or warehouse, give directions as to what goods may be skipped, bulked, sorted, lotted, packed or re-packed there.

(2) No goods in a customs area or warehouse shall be re-packed into packages of a size in which those goods are prohibited to be imported or exported, except where otherwise expressly provided by regulations.

(3) Directions given under this section may include the manner and conditions under which an owner of goods may take samples of them from a customs area or warehouse.

Section 151—Manufacture in a Private Warehouse.

No goods shall be manufactured in a private warehouse except in accordance with regulations made under this Law.

Section 152—Goods to be Handled by Owner.

(1) The unloading, loading and removal of goods and bringing them at the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations are necessary or permitted, and removing to and placing them in the proper place or deposit until delivered or shipped, shall be performed by or at the expenses of their owner.

(2) The owner of any goods shall unpack, sort, pile or otherwise prepare, them either before or after entry of them, in such manner as the proper officer shall require to enable him to examine or take account of them.

**PART VIII—CUSTOMS - LOADING AND EXPORTATION**

Section 153—Ships to be Entered Outwards.

The master of every ship in which any goods are to be exported, or his agent, shall before any goods are taken on board deliver to the proper officer at the port at which the ship has first arrived on entry outwards of the ship, verified by his signature, in the prescribed form, and containing—

(a) the particulars indicated in or required; and

(b) a declaration that no imported goods are left on board other than such goods and stores as are specified in the entry outwards.

Section 154—Certificate of Rummage.

(1) The master of every ship to which section 153 applies shall if required obtain from the proper officer a certificate of rummage in the prescribed form.

(2) If the master wishes to obtain the certificate before the whole of the inward cargo of the ship has been unloaded, he shall remove and stow the inward cargo remaining on board in such manner as the officer may direct in order to enable him to rummage the ship, and, after the ship has been

rummaged, shall stow the inward cargo remaining on board separately and keep it separate to the satisfaction of the proper officer from any coastwise or any outward cargo that may subsequently be put into the ship.

**Section 155—Restrictions on Carriage Coastwise.**

On arrival at any port or place in Ghana of any ship about to deliver cargo at more than one port or place in Ghana, or having on board any goods duly reported for exportation in the same ship, it shall be lawful, subject to any regulations made under this Law, or to such conditions as the Commissioner may consider necessary, to allow the entry outwards of the ship, and to permit the loading of goods for exportation in the ship or for carriage coastwise as provided in section 181 before the goods imported in the ship have been unloaded, the complete separation of the goods being loaded for exportation or carriage coastwise from the goods being imported and from any cargo remaining on board being effected to the satisfaction of the proper officer.

**Section 156—Export of Certain Goods Restricted.**

Any person who, without the written permission of the Commissioner—

(a) exports or attempts to export any warehoused goods, or goods liable to duties of customs transferred from an importing aircraft or ship, or goods entitled to drawback on exportation; or

(b) enters or attempts to enter any of the goods for exportation in any ship of less than one hundred tons burden; or

(c) places any of the goods for exportation on board a ship of less than one hundred tons burden, shall incur a penalty equal to the amount of duties payable, and in the case of free goods a penalty of a hundred per cent the value of the goods, and the goods shall be liable to forfeiture.

**Section 157—General Provisions for Loading and Exportation.**

(1) No goods shall be put on board an aircraft or ship for exportation or use as stores, or be put into any vessel to be water-borne, or be put on board an aircraft or ship for exportation or use as stores, except—

(a) between 7 a.m. and 6 p.m. or such hours as the Secretary may by regulation determine;

(b) from an approved place of loading; and

(c) with the authority of the proper officer.

(2) No goods shall be so dealt with on a Sunday or public holiday unless an application for that purpose in the prescribed form is submitted to the proper officer.

(3) No goods shall be so dealt with before they are duly entered, nor before due entry outwards of the exporting aircraft or ship, if it is required by law to be entered outwards.

(4) No goods having been put into any vessel to be water-borne to an aircraft or ship for exportation or use as stores shall be put on board the exporting aircraft or ship outside the limits of a port.

(5) Any officer may open and examine all goods put on board an aircraft or ship or brought to any place in Ghana to be put on board an aircraft or ship for exportation or for use as stores.

**Section 158—Commissioner may Relax Conditions of Shipment.**

(1) Notwithstanding section 157, the Commissioner may, permit any goods to be put on board an aircraft or ship on such days, at such time, from or at such places, and under such conditions as he may either generally or in any particular case direct, and in like manner may direct what goods need not be entered by the exporter until after the departure of the aircraft or ship, but any of the goods must be entered within ninety-six hours of the departure or such further time as the Commissioner may allow; and if they are not so entered the exporter shall incur a penalty equal to five per cent of their export value.

(2) Where goods are permitted to be entered after being put on board, the Commissioner may require the exporter or his agent to give security for the payment of any export duties of customs on any goods liable to them.

**Section 159—Vessels Loading Goods to Proceed Direct.**

(1) Any goods which have been put into a vessel to be water-borne to an aircraft or ship for exportation or use as stores shall be taken directly and without delay to the aircraft or ship in which they are to be exported or used as stores, and put on board immediately.

(2) Every vessel in which goods are water-borne to any ship shall be a ship licensed in accordance with section 275 unless the Commissioner otherwise allows.

#### Section 160—Permission to Unload Goods Loaded.

No goods having been put on board an aircraft or ship in accordance with section 169, or for exportation, or for use as stores, shall be unloaded in any part of Ghana without the written permission of the proper officer, and except in accordance with such conditions as the Commissioner shall impose.

#### Section 161—Forfeiture of Goods.

If any person puts or attempts to put goods on board an aircraft or ship or unloads or attempts to unload, or deals with any goods, in any way contrary to sections 157 to 160, the goods shall be forfeited.

#### Section 162—Bonds.

Before any warehoused goods, or goods entitled to any drawback on being put on board an aircraft or ship for use as store or for exportation, or goods exportable only under particular rules, regulations or restrictions, or goods liable to duties of custom intended for transfer from an importing to an exporting aircraft or ship shall be permitted to be entered for use as stores, or for exportation or transfer, the exporter shall give such security by bond as the proper officer may require that the goods shall be duly put on board the aircraft or ship for which they are entered and shall be used as stores (if so entered) or else exported to and unloaded at the place for which they are entered within such time as the proper officer considers reasonable, or be otherwise accounted for to his satisfaction.

#### Section 163—Offences with Bonded Goods.

If any goods for which a bond is required under section 162 or any goods liable to export duties are put on board any aircraft or ship, or brought to any aerodrome, customs area, quay, wharf or other place to be put on board an aircraft or ship, and on examination by the proper officer—

(a) are found not to agree with the entered particulars; or

(b) being goods on which drawback is claimed or allowed, are found to be goods not entitled to drawback,

they shall be forfeited and their exporter shall incur a penalty equal to a hundred per cent their value or ₵100,000.00, which ever is the greater.

#### Section 164—Failure to Export.

If any goods for which a bond is required under section 162 after being entered and put on board an aircraft or ship, are used otherwise than as stores (if so entered), or are not duly exported to and unloaded at the declared destination the goods not having been unloaded in Ghana, with the permission of the proper officer as provided in section 160 or otherwise accounted for to the satisfaction of the Commissioner they shall be forfeited and the master of the aircraft or ship shall incur a penalty equal to hundred per cent of their value or ₵100,000.00 whichever is the greater.

#### Section 165—Short-Loading of Bonded Goods.

If any person who had entered any goods for which a bond is required under section 162 fails, in case the goods or any of them are not duly put on board the aircraft or ship for which they have been entered, to attend the proper officer within twenty-four hours of the time of clearance of the aircraft or ship, or such further time as the Commissioner may allow, and notify, the officer of the short-loading of the goods, and re-warehouse or re-enter for exportation or use as stores in some other aircraft or ship within the period of twenty-four hours any goods which have been removed from a warehouse for exportation or use as stores, any of the goods so entered shall be forfeited.

#### Section 166—Short-Loading of Non-Bonded Goods.

If any exporter who has entered goods, not being goods for which a bond is required, for exportation in an aircraft or ship fails in case of goods or any of them are not duly put on board the aircraft or ship for which they are entered, to attend the proper officer within twenty-four hours after the departure of the aircraft or ship, or such further time as the Commissioner may allow, and notify the officer of the short-loading of the goods, he shall incur a penalty of ₵500,000.[As



amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.6.]

**Section 167—Shipment of Stores.**

(1) Notwithstanding anything to the contrary contained in this Law, and subject to any regulations made under this Law, the proper officer may, upon due request being made, permit the master of an aircraft or ship departing from a port in Ghana upon a flight or voyage to any place outside Ghana, to take on board stores (not being goods prohibited to be exported for the use of the aircraft or ship, and of the master, crew and passengers, upon payment of any export duty leviable on similar goods exported, and upon such other terms and conditions as the Commissioner may direct, and in such quantities as the proper officer in his discretion thinks reasonable.

(2) Every request shall be made on the prescribed form and contain the particulars required, signed by the master or his agent.

(3) No stores shall be put on board for the use of any aircraft or ship, nor shall any articles taken on board an aircraft or ship be deemed to be stores, except such as shall be or have been put on board in accordance with this section.

**Section 168—Drawback and Transshipment Goods.**

The provisions of this Law with reference to the importation and exportation of warehoused goods, so far as they are applicable, shall apply to goods liable to customs duties transferred from an importing to an exporting aircraft or ship, and goods exported on drawback; and all the goods while remaining in a customs area shall be liable to such rent and other charges as may be prescribed.

**Section 169—Loading of Goods Other than Cargo or Stores.**

(1) Notwithstanding anything to the contrary contained in this Law and subject to regulations made under this Law, the proper officer may permit the loading of passenger, baggage and also permit any person to take on board an aircraft or ship any goods for sale or delivery to her passengers, officers or crew, or for such purpose as the proper officer shall allow, under such conditions as he may either generally or in any particular case direct.

(2) If any goods, not being part of the cargo or authorised stores of an aircraft or ship which is about to proceed to a place outside Ghana or which has any goods remaining on board from a voyage from a place outside Ghana, or if any attempt is made to put any goods on board the aircraft or ship without the permission of or contrary to any conditions directed by the proper officer, or otherwise contrary to this Law, the goods shall be forfeited.

**Section 170—Export Goods Stored at Risk of Exporter.**

All goods which are stored in a customs area with the permission of the proper officer pending shipment is stored at the risk and expense of the exporter and is subject to such rent and other charges as may be prescribed.

**PART IX—CUSTOMS - DEPARTURE AND CLEARANCE**

**Section 171—Clearance of Aircraft and Ship.**

(1) No aircraft or ship shall leave a port or place in Ghana for a place outside Ghana until the master or his agent has satisfied the proper officer that all the provisions of this Law have been fulfilled, and unless he has decided to withhold clearance in accordance with any other provision or law, the officer, shall deliver to the master or his agent a clearance in the prescribed form, which shall authorise the departure of the aircraft or ship.

(2) If an aircraft or ship departs from any port or place in Ghana to a place outside Ghana without a clearance given under this section, the master or his agent shall incur a penalty of ₵1,000,000, and after that the aircraft or ship shall be blacklisted.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.6.]

**Section 172—Master to Deliver Content.**

(1) The master of every aircraft or ship, or his agent, shall, immediately before its departure from any port or place in Ghana, deliver to the proper officer a content of the aircraft or ship in the prescribed form and containing the particulars required as far as they can be known to him, and shall make and sign the declaration in the presence of the officer, and shall answer all questions the

officer may ask him concerning the aircraft or ship, the cargo, stores, baggage, officers, crew, passengers, and the flight or voyage.

(2) If the master of agent fails to deliver the content or if any of the particulars contained in the declaration are false, or if any required particular is omitted from the content and the omission is not explained to the satisfaction of the Commissioner, the master or agent shall incur a penalty of ₵500,000. [As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.6.]

Section 173—Clearance in Ballast.

(1) If a ship departs in ballast from Ghana to a place outside Ghana, not having any goods on board except stores duly shipped as stores, nor any goods reported inwards for exportation in that ship, the Commissioner shall, on the application of the master or his agent, clear the ship in ballast and the master of the ship or his agent shall comply with this Law as if the ship had cargo on board except that the words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo.

(2) For the purpose of this section, ships having passengers with their bona fide baggage on board, in addition to stores, shall be deemed to be in ballast.

Section 174—Clearance to be Produced on Demand.

An officer may go on board any aircraft or ship within Ghana and demand its clearance, and if the master does not produce it he shall incur a penalty of ₵5,000,000 and the aircraft or ship shall be detained until clearance is obtained.[As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614) s.6.]

Section 175—Goods not Contained in Content Forfeited.

If there are any goods or stores on board an aircraft or ship which may have been boarded by an officer within Ghana, not contained in the content, they shall be forfeited, and the master shall incur a penalty not exceeding three times the duties payable on them as if they are being imported.

Section 176—Failure to Produce Goods.

If any officer, having boarded an aircraft or ship within Ghana after clearance, discovers that any goods which were loaded on board in Ghana as stores or for exportation or which at the time of clearance remained on board from the inward voyage are no longer on board unless they have been unloaded in Ghana with the permission of the proper officer as provided in section 160 the master shall incur a penalty equal to hundred per cent the value of the goods or ₵10,000.00 for every package of the goods not on board, whichever is greater.

Section 177—Deficiency in Stores.

(1) Where any officer, boards an aircraft or ship within Ghana after clearance and discovers that any stores remaining on board from the inward voyage are less than the quantity which should be on board after making allowance for what might fairly have been consumed, having regard to the time during which the aircraft or ship has been within Ghana, the master shall incur a penalty equal to the value of the deficiency in the stores.

(2) If an aircraft or ship, having departed from Ghana on a flight or voyage to a place outside Ghana and having returned within Ghana, is boarded by an officer and he discovers any deficiency in her stores which in his opinion is in excess of the quantity which might fairly have been consumed, having regard to the time which has elapsed between the departure of the aircraft or ship and the discovery of the deficiency, the master shall pay the duties on the deficiency at the rate chargeable on similar goods imported, and in addition shall incur a penalty of not less than ₵5,000,000. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614) s.6.]

Section 178—Failure to Set Down Officer on Departure.

If an aircraft or ship departing from Ghana does not bring to at the proper boarding station for setting down officers, or for any other purpose required by this Law, or departs on a flight or voyage with any officer on board without his assent, the master shall incur a penalty of ₵20,000,000.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

## PART X—CUSTOMS - COASTING TRADE

### Section 179—Definitions.

Except as provided in section 180, all trade by air or by sea from one part of Ghana to another part of Ghana shall be deemed to be coasting trade, and all aircraft and ships while employed in that way shall be deemed to be coasting aircraft and coasting ships, and if any doubt arises as to whether any aircraft or ship is involved in a coastal trade, the Secretary shall determine.

### Section 180—Aircraft and Ships Outside Ghana.

(1) Notwithstanding any provision in this Law to the contrary, the proper officer may, on the arrival from a place outside Ghana of an aircraft or ship having on board cargo intended to be delivered at more than one port in Ghana, permit the aircraft or ship to convey goods from any port at which she partially unloads her cargo to her other port or ports of destination in Ghana for delivery after the complete separation of the goods from the inward cargo still on board if effected to the satisfaction of the proper officer but the conveyance of goods from one port to another shall not constitute the aircraft or ship a coasting aircraft or coasting ship within the meaning of the Law.

(2) The loading, unloading and conveyance of goods under this section shall be subject to any regulations made under this Law and to such conditions as the Commissioner may impose and if any goods are loaded, unloaded, conveyed or dealt with contrary to the regulations or conditions, they shall be liable to forfeiture and the master of the aircraft or ship shall incur a penalty equal to the value of the goods.

### Section 181—Permission Required for Coasting Trade.

(1) No aircraft or ship shall trade coastwise without the written permission of the Commissioner.

(2) Every aircraft or ship trading contrary to this section shall incur a penalty equal to 10 per cent value of the aircraft or ship and the aircraft or ship shall be detained until the amount is paid by the master, owner or agent.

### Section 182—Coastwise Ship to Display Name.

(1) Every ship trading coastwise shall have her name painted on each bow in letters not less than six inches high and of proportionate width in white on a dark background or in black on a light background.

(2) The master of a ship in respect of which this section is contravened shall incur a penalty of ₵100,000.00 and the ship may be seized by any officer and detained until the penalty is paid.

### Section 183—Coastwise Cargo Only to be Carried.

No goods shall be carried in a coasting aircraft or ship except such as are loaded to be carried coastwise at some port or place in Ghana.

### Section 184—Deviation from Flight or Voyage.

If a coasting aircraft or ship deviates from her flight or voyage, unless forced by unavoidable circumstances (the proof of which shall lie on her master,) or if the master of a coasting aircraft or ship which has deviated from her flight or voyage or which has taken on board any wreck or other goods or unloaded any goods in the course of a flight or voyage from one part of Ghana to another does not proceed direct to the nearest port in Ghana and report that fact in writing to the proper officer and deliver all goods so taken on board into his care, the master shall incur a penalty equal to the value of goods or 5 per cent of the value of the aircraft or ship whichever is higher and the aircraft or ship may be seized by any officer and detained until the penalty is paid.

### Section 185—Restrictions on Dealing with Coastwise Cargo.

Where without written permission of the proper officer, any goods are—

(a) unloaded from an aircraft or ship arriving coastwise or from any vessel into which they have been put to be landed; or

(b) put on board or put into any vessel to be water-borne; or

(c) water-borne to be put on board an aircraft or ship for carriage coastwise on Sunday or, public holidays or except between 7 a.m. and 6 p.m. on any other day,

the goods shall be forfeited and the master of the aircraft, ship or vessel shall incur a penalty equal to the value of the goods or 5 per cent of the value of the aircraft, ship or vessel whichever is greater and the ship or vessel may be seized by any officer and detained until the penalty is paid.

### Section 186—Prohibited Goods.

If any person—

- (a) puts on board a coasting aircraft or ship; or
- (b) puts off, or puts into any carrier to be put on board a coasting aircraft or ship; or
- (c) brings to any place whatever in Ghana for carriage coastwise; or
- (d) carries coastwise,

any goods prohibited to be carried coastwise, or any goods whose carriage coastwise is restricted, contrary to the restriction, or attempts to perform, or is knowingly concerned in the performance of any of the acts specified in this section, he shall incur a penalty of ₵5,000.000, and all the goods shall be forfeited and the carrier of the goods may be seized by any officer and detained until the penalty is paid.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

### Section 187—Coastwise Passengers.

The carriage of passengers, officer and crew coastwise whether in a coasting aircraft or ship or not, shall be subject to, regulations made under this Law.

### Section 188—Master to Deliver Account of Cargo before Departure.

(1) Before a coasting aircraft or ship departs from any port or place, the master or agent shall deliver to the proper officer an account in triplicate in the prescribed form of all cargo and stores taken on board.

(2) The original account, dated and signed by the proper officer, shall be the clearance of the aircraft or ship for the voyage and the transire for the goods, if any specified on it.

(3) If the master fails to deliver the account, or if the account is false, the master or agent shall incur a penalty of twice the value of the goods and the aircraft or ship may be seized by any officer and detained until the penalty is paid.

### Section 189—Master to Deliver Transire on Arrival.

Immediately after the arrival of a coasting aircraft or ship at her port or place of unloading and before any goods are unloaded, the master shall produce to the proper officer the transire, and if any goods on board are unloaded contrary to this, the master shall incur a penalty equal to the value of the goods and the aircraft or ship may be seized by any officer and detained until the penalty is paid.

### Section 190—Forfeiture of Goods Unlawfully Loaded or Unloaded.

Any goods which are loaded on board an aircraft or ship in any port or place within Ghana and carried coastwise contrary to this Law, or which having been carried coastwise are unloaded in any port or place contrary to this Law, shall be forfeited.

### Section 191—Commissioner may Vary Procedure.

Notwithstanding anything to the contrary, the Commissioner may permit the loading and clearance and the entry and unloading of any coasting aircraft or ship and goods under such conditions as he may in any particular case impose.

### Section 192—Power of Search, Etc.

An officer may go on board a coasting aircraft or ship in a port or place in Ghana or on a coasting ship at any period of her voyage, and all the provisions of section 245 shall apply accordingly.

### Section 193—Entry Outwards.

The Commissioner may, subject to such conditions as he may require to be observed, permit the master of an aircraft or ship bringing goods coastwise to an approved port to enter the aircraft or ship and goods or any of them outwards for exportation without first unloading them.

## PART XI—POSTAL AND REMOVAL ARTICLES

### Section 194—Application to Postal Articles.

(1) Subject to any exceptions and modifications made by regulations under this Law the provisions of this Law relating to customs shall apply as far as possible to postal articles as they apply to any other goods; and persons may be punished for offences against this Law, and goods may be examined, seized and forfeited, and the officers examining and seizing them shall be protected, and legal proceedings in relation to these matters may be taken accordingly, under this Law.

(2) The provisions of this Part shall be in addition to and not in derogation from the provisions of the Posts and Telecommunications Corporation Decree, 1975 (NRCD 311).

#### Section 195—Regulations for Postal Articles.

(1) Regulations may

- (a) prescribe what descriptions of postal articles may or may not contain goods or other articles of any description at all, and the conditions under which they may contain the goods or articles;
- (b) modify or exempt the application of any provision of this Law to postal articles;
- (c) secure the observance of this Law in the case of postal articles;
- (d) enable officers of the Post Office to perform for the purposes of this Law and otherwise all or any of the duties of the importer and exporter;
- (e) be made to carry into effect any arrangement with the Government or Postal Administration of any other country with reference to postal articles.

(2) The Director-General of Posts and Telecommunications shall have the same right to recover any sum paid in pursuance of this Law or otherwise under the regulations in respect of any postal article as he would have if the sum so paid were a rate of postage.

(3) A contravention of regulations made in respect of postal articles shall be deemed to be contravention of this Law and shall involve accordingly the same punishment of offenders and the same forfeiture of goods.

#### Section 196—Detention and Examination of Postal Article.

(1) Any officer of the Post Office may detain an incoming postal article which he suspects to contain any letter, printed matter, document or any other thing whose conveyance by post or importation is prohibited or restricted by law, and may deliver the article to the proper officer.

(2) The proper officer may open and examine the article—

- (a) in the presence of the person to whom it is addressed or his accredited representative; or
- (b) in the absence of that person, if after written notice from the officer requiring his attendance left at or forwarded by post to the address on the article (if any) he or his accredited representative fails to attend.

(3) If the proper officer finds any goods in it, or any letter, printed matter, document or other thing being conveyed by post or imported contrary to any lawful prohibition or restriction, he may detain the article and deal with it and its contents as goods imported contrary to this Law.

(4) If the proper officer finds no goods, letter, printed matter, document or other thing, he shall deliver the article either to the person to whom it is addressed or his accredited representative, upon his paying the postage or other sum, if any, chargeable on it, or if he is absent, forward the article by post to the person to whom it is to be delivered.

#### Section 197—Removal Articles may be Exempted from Duty.

(1) The removal articles of any citizen of Ghana previously resident outside Ghana or members of the household of that person imported into Ghana on the return of that person shall, subject to the provisions of this Law, be exempted from duty.

(2) No exemption from duty shall be granted under this Law in respect of any motor vehicle.

#### Section 198—Persons Claiming Exemption to Apply.

(1) Any person who claims exemption under this Law shall submit an application in writing to the Commissioner or an Officer authorised by him before or after his arrival in Ghana.

(2) The application shall be accompanied by a list of all removal articles in respect of which the person claims exemption.

#### Section 199—Commissioner to Grant Exemption.

(1) The Commissioner shall not exempt any person from payment of any duty under this Law in respect of any removal articles unless he is satisfied that —

- (a) the articles have been used by that person before importation into Ghana and show unmistakable signs of continued use outside Ghana for a continuous period of not less than three months; or
- (b) the articles are intended for the personal use of that person or a member of his household and are not imported in commercial quantities; and

(c) that person has lived outside Ghana continuously for at least one year immediately prior to his return to Ghana.

Section 200—Persons Above 18 Years may Import Certain Articles Duty Free.

Any person who is above the age of eighteen and entitled to exemption from duty under section 197 of this Law shall be entitled to import into Ghana potable spirits, or perfumed spirits, and wine, not exceeding one reputed (quart) of each and tobacco goods, (including cigars, cheroots, cigarettes, snuff or tobacco) not exceeding in all 0.4536 kilogram (kg.) weight.

PART XII—EXCISE - WAREHOUSES

Section 201—Bond by Warehouse Keeper.

The Commissioner may require any warehouse keeper to enter into a bond to secure the duties on any goods that may at any time be warehoused in his warehouse.

Section 202—Duty not Payable on Goods Warehoused.

Subject to the provision of this Law, the Commissioner may permit a manufacturer to remove excisable goods from his factory to a warehouse and no duty shall be payable on any of the goods while in the warehouse, unless contrary provision is made by law.

Section 203—Further Conditions.

All excisable goods while in a warehouse shall be subject to such regulations, and to the payment by the warehouse keeper to the Commissioner at the prescribed times of such fees and charges for supervising and taking account of them, as may be prescribed.

Section 204—Restrictions on Removal.

If any excisable goods are removed to a warehouse otherwise than in accordance with regulations or except by such ways, means and persons or at such times and within such hours as the Commissioner may direct, they shall be liable to forfeiture.

Section 205—Removal to and from Warehouse.

Any goods warehoused under this Part may be removed to another warehouse or, with the written permission of the Commissioner returned to the factory of their manufacturer subject to the same regulations and provisions as govern the removal of excisable goods from a factory to a warehouse, so far as they are or can be made applicable; and any excisable goods, with the same permission; may be removed in the same way and subject to the same conditions from one factory to another; Provided that notwithstanding the removal to a warehouse or factory, the manufacturer of any excisable goods so removed shall be and continues to be liable to pay the duty on it when it becomes due unless provision is made by law to the contrary.

Section 206—Revocation of Appointment of Warehouse.

(1) The Commissioner may revoke the appointment of any warehouse on giving to the warehouse keeper notice in writing of the revocation.

(2) The notice addressed to the warehouse keeper at his warehouse shall be deemed to be notice to all persons interested in any excisable goods in it or any other contents of the warehouse.

(3) If within three months from the date of a notice of revocation any excisable goods in the warehouse have not been removed to another warehouse or returned to the factory of their manufacturer or shipped as stores or exported or delivered for use within Ghana in the manner provided by law, the warehouse keeper shall immediately pay to the Commissioner the duties on them.

PART XIII—EXCISE - REMOVAL

Section 207—Goods Loaded Deemed Delivered.

For the purpose of this part any goods which have been put on to a vehicle shall be deemed to have been delivered and taken out from a factory or warehouse unless the manufacturer satisfies the Commissioner, or in the case of proceedings instituted under this Law the defendant proves, that the goods were not put on to the vehicle with intent to deliver them from the factory or warehouse.

Section 208—Certificates.

(1) Except in accordance with regulations made under this Law or with the written permission of the Commissioner, no excisable goods shall be delivered from a factory or warehouse, for any purpose whatsoever unless it is accompanied by a certificate in the prescribed form signed by the

manufacturer or warehouse keeper and stating the quantity of goods delivered, the time and date of removal, the person whom and the place where sent, the purpose for which delivered and such other particulars as may be prescribed and unless a duplicate of the certificate is made.

(2) Every duplicate shall be kept on the premises from which the goods have been delivered and shall be produced by the manufacturer or warehouse keeper to any officer on demand made at any time within one year of the date.

(3) Where any excisable goods are by law permitted to be used in any factory or warehouse for any purpose whatsoever, the manufacturer or warehouse keeper shall, when the goods are taken at any time from stock to be so used, make out a certificate for them in duplicate in the same way as if they had been delivered from the factory or filed by the manufacturer or warehouse keeper and produced to any officer on demand made within one year of the date thereof, and the duplicates dealt with as earlier provided.

(4) If any manufacturer or warehouse keeper—

(a) delivers any excisable goods contrary to this section or accompanied by inaccurate certificate or without filling in the particulars on the counterfoil; or

(b) does not deliver the certificate along with the goods to the person and at the place named in it; or

(c) does not keep on his premises and produce the duplicate of any certificate to an officer as indicated; or

(d) contravenes any of the provisions of subsection (3);

he shall whether prosecuted or not incur a penalty not exceeding three times the amount of duty payable on the goods to which the certificate relates, or in respect of which there is no certificate, and all goods delivered or used in contravention of this section shall be forfeited.

Section 209—Illegal Removal.

(1) Any person who takes out any excisable goods which are required to be accompanied by a certificate from any factory or warehouse, unless accompanied by the certificate, or who aids, assists or is concerned, with excisable goods shall whether prosecuted or not incur a penalty not exceeding three times the duty payable on the goods and all the goods shall be forfeited.

(2) Notwithstanding subsection (1) of this section, any person who takes out any excisable goods from a factory or warehouse without the knowledge and consent of the manufacturer or the warehouse keeper, as the case may be, shall incur a penalty not exceeding three times the duty payable on the goods and all the goods shall be restored to the manufacturer.

Section 210—Receiving without Certificates.

(1) If any person—

(a) receives any excisable goods required to be accompanied by a certificate, without the certificate; or

(b) does not produce a certificate in respect of excisable goods received by him and required to be accompanied by a certificate, upon the demand by an officer at any time within fourteen days of the date of receipt of the goods; or

(c) produces or causes or allows to be produced to any person any certificate as having been received with any excisable goods other than the goods described in it,

he shall incur a penalty not exceeding twice the duty payable on the goods.

(2) If any person knowingly buys or receives or has in his possession or under his control in any manner or in any place any excisable goods which have been unlawfully removed or abstracted from a factory or warehouse without the knowledge and consent of the manufacturer or warehouse keeper, he shall incur a penalty not exceeding treble the duty payable on the goods and may be prosecuted.

Section 211—Goods to be Handled by Owner.

(1) The removal and shipment of excisable goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where the operations are necessary or permitted and removing to and placing them in the proper place of deposit until delivered or shipped shall be performed by or at the expense of the owner.

(2) The owner shall unpack, sort, pile or otherwise prepare any such goods in such manner as the proper officer may require to enable him to examine or take account of them.

(3) The Commissioner may direct what excisable goods may be bulked, sorted, lotted, packed and repacked in a factory or warehouse and in what manner and subject to what conditions their owner may take samples of them.

#### PART XIV—EXCISE - MANUFACTURERS AND WAREHOUSE KEEPERS

##### Section 212—Licences to Manufacture.

(1) No person shall manufacture or commence to manufacture goods unless he first obtains a licence to do so.

(2) No person shall distribute, sell or dispose of a still or of any apparatus suitable for the distillation of alcohol or the rectification of spirits unless he first obtains a licence to do so and except in accordance with the conditions of the licence.

(3) A licence to manufacture excisable goods shall be issued by the Commissioner on payment of a fee of ₦500,000 or a renewal fee of ₦200,000.00. [As substituted by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.5.]

(4) A licence to manufacture excisable goods shall expire one year after the date of issue.

(5) Subject to a right of appeal to the Secretary within twenty-eight days of the date of refusal, the Commissioner may refuse to issue a licence under this section to any person after stating his reasons in writing for the refusal.

##### Section 213—Failure to Obtain Licence.

(1) If any person manufactures or commences to manufacture any excisable goods without licence to do so, he shall incur a penalty of not less than ₦1,000,000 and all goods in respect of which any act is committed and also all vessels, utensils and materials in his possession, which in the opinion of the Commissioner are capable of being used in the manufacture of any excisable goods, shall be forfeited.

(2) If any person distributes, sells or disposes of a still or any apparatus suitable for the distillation of alcohol or the rectification of spirits in contravention of section 212, he shall incur a penalty of not less than ₦1,000,000 and the still or apparatus shall be forfeited.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002, (Act 614), s.6.]

##### Section 214—Licence Applies to one Premises only.

A licence to manufacture excisable goods shall only authorise the licence to manufacture excisable goods in one set of premises to be specified in the licence (in this Part referred to as "licensed premises") and the whole of the premises must be adjoining and held together for the same purpose: Provided that no licence shall be deemed to extend to any part of the premises not described in the written description and plans required by section 222.

##### Section 215—Publication of Licences Granted.

(1) The Commissioner shall publish in the Gazette quarterly returns of all licences granted, issued and transferred under the provisions of this Part.

(2) Production of a copy of a Gazette containing any return shall be prima facie evidence as to any licence specified.

##### Section 216—Disqualification for Licence.

No licence shall be granted or transferred—

(a) save with the approval of the Commissioner, to any person who has been convicted of any offence under this Law; or

(b) to any person under the age of 18 years; or

(c) to any person whose licence has been cancelled under this Law, or, during his life to his wife or any member of his family resident with him.

##### Section 217—Transfer of Licence.

(1) On the death of a licensed person, the licence may, subject to section 216, be transferred by endorsement by the Commissioner to the licensed person's personal representative or to the person



beneficially entitled to the business, or to the Administrator-General or public or Public Trustee or to the appointee of the Administrator-General or Public Trustee.

(2) On the bona fide assignment or transfer of a licensed business, the licence may, subject to section 216 with the consent of the parties, be transferred by endorsement by and at the discretion of the Commissioner.

(3) For every transfer under this section there shall be paid a fee of ₪200,000.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

(4) No penalty under this Law shall be incurred by the executors or administrators or the widow or child of a licensed person who dies before the expiration of his licence, or whose affairs are liquidated by arrangement before the expiration of his licence, in respect of the manufacture of any excisable goods, if the manufacturing is carried on at the premises specified in the licence and takes place for not longer than twenty-eight days after the death of the licensed person, or the liquidation of his affairs by arrangement;

Provided that the Commissioner may, on reasonable cause being shown, extend the period of twenty-eight days by notification in writing.

Section 218—Transfer to Other Premises.

The holder of a licence to manufacture excisable goods may apply to the Commissioner for its transfer to other premises, and the Commissioner may in his discretion grant the transfer by licence endorsement on payment of a fee of ₪200,000 and the licence shall then be deemed to authorise manufacture on the premises substituted, and no longer authorise manufacture on the premises originally licensed. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

Section 219—Books to be Kept.

(1) Every manufacturer and warehouse keeper shall keep at his factory and warehouse respectively in the approved form and manner such books and forms relating to the manufacture, storing and delivery of excisable goods as the Commissioner may direct, in which he shall make the approved entries at the approved times.

(2) All entries shall be made legible in ink and no entry shall be altered in any manner; but any entry may be cancelled by drawing a single line in ink through the incorrect entry so as to allow it to remain legible and a correcting entry may be made immediately above the entry cancelled or in any other approved place.

(3) The books shall be open at all times for the inspection of all officers and the manufacturer or warehouse keeper shall allow any officer to take any abstract from them at any time.

(4) If any manufacturer or warehouse keeper—

(a) fails to keep the books or to produce them when required by any officer to do so; or

(b) fails to make in the books legibly in ink at the approved times and in the approved manner any entry required to be made in it; or

(c) fraudulently or in any manner contrary to the requirements of this Law makes any entry, obliteration, alteration or erasure in the books.

he shall be guilty and liable to prosecution.

(5) Where the result of any act, or omission referred to in subsection 4 (a-c) leads to revenue loss the manufacturer or warehouse keeper shall in addition to prosecution incur a penalty of twice the total sum that would have been lost.

Section 220—Information to be Given.

(1) In addition to complying with section 219, every manufacturer shall, if so required by the Commissioner—

(a) produce for inspection such invoices and other books or documents in his possession relating to any excisable goods manufactured by him during the preceding twelve months as the Commissioner shall require;

(b) answer such questions as may be put to him by the Commissioner regarding the description, manufacture, quantity, weight, volume, selling price, consignee, destination, cost of production and

manufacturer's profits, and any other matter relating to the goods which the Commissioner may think necessary for carrying out the provisions of this Law or any regulations made under it;

(c) produce such evidence as the Commissioner may consider necessary in support of any information so given,

and if a manufacturer neglects or refuses to comply with the requirement or untruthfully or evasively answers a question put to him, he shall incur a penalty of not less than ₦2,000,000.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

(2) Notwithstanding any other provision of this Law, the powers conferred by this section on the Commissioner, in so far as they relate to questions regarding the cost of production and manufacturer's profits in respect of any excisable goods, shall not be excisable by any officer other than—

(a) the Commissioner;

(b) the Deputy Commissioner;

(c) an officer of the Customs, Excise and Preventive Service not below the rank of Chief Collector of the Service whom the Commissioner, with the approval of the Secretary, may authorise for that purpose.

Section 221—Certificate of Audit.

(1) The Commissioner may require any manufacturer to submit annually, or at any other times specified by the Commissioner, a certificate of audit by an accountant approved by the Commissioner who is an employee of the manufacturer.

(2) A certificate of audit shall certify the correctness of all the books and records required by or under this Law to be kept by the manufacturer, and in addition shall be in respect of any matter referred to in subsection (1)(b) of section 220 as the Commissioner may require.

(3) Any manufacturer who without reasonable excuse fails to submit a certificate of audit in accordance with this section shall incur a penalty of ₦2,000,000 and shall not be issued with a tax clearance certificate in respect of the year subsequent to the default.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

Section 222—Description of Premises, Machines, Etc. to be given.

(1) Every manufacturer shall, before commencing to manufacture and also at any later time on request of the Commissioner deliver to the Commissioner such written description and plans of his factory and of every machine, apparatus, utensil or vessel as the Commissioner may require.

(2) If any manufacturer fails to deliver the written description and plans to the Commissioner—

(a) before commencing the manufacture; or

(b) within one month of the date of any request in writing made by the Commissioner and addressed to him at his factory,

he shall incur a penalty of ₦2,000,000 and his licence to manufacture shall be withdrawn until the written description and plans are delivered to the Commissioner.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

(3) On receipt by him from a manufacturer of a written description and plans of a factory the Commissioner may, by, notice in writing addressed to the manufacturer at his factory require him to make such alterations in the specifications, structure or disposition of the factory and to comply with any other conditions (specified in the notice) relating to the structure of the factory as the Commissioner considers necessary or desirable.

(4) If any manufacturer fails to comply with any requirement contained in a notice addressed to him under subsection (3) of this section within a reasonable time after the receipt by him of the notice, he shall incur a penalty of ₦200,000 for each subsequent day of default. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6]

(5) If any manufacturer;

(a) makes any alteration in the structure of his factory or in any disposition of it; or

(b) uses any new or substantially alters any existing machine, apparatus, utensil or vessel,

without delivering to the Commissioner fourteen days notice of it in writing, he shall incur a penalty of ₵2,000,000. [As amended by Customs, Excise and Preventive (Management) (Amendment) Act, 2002 (Act 614), s.6.]

(6) Where the Commissioner is satisfied that the application of all or any of the provisions of this section in relation to the manufacture of any excisable goods or class of excisable goods is unreasonable or imposes hardship on the manufacturer, he may by executive instrument declare that all or any of the provisions, shall not apply to the manufacturer of the goods or class of goods from a date specified in the instrument.

Section 223—Prescribed Standards and Necessary Apparatus.

(1) Standards and methods of manufacture of excisable goods and of marking and storing excisable goods and implements and materials used in the manufacture of excisable goods shall be as prescribed.

(2) Every manufacturer or warehouse keeper shall keep in his factory or warehouse such reasonable and necessary apparatus and instruments for measuring, weighing and testing any excisable goods and materials and any packages, vats or utensils there as the Commissioner shall require and shall permit any officer to use them for the purpose of measuring, weighing or taking an account of any excisable goods and materials or of any package, vat, or utensil in the factory or warehouse.

(3) Any manufacturer or warehouse keeper who contravenes this section or uses or causes or allows to be used any false, unjust or insufficient apparatus or instrument or practises or allows to be practised any art, device or contrivance by which any officer may be hindered or prevented from taking a just and true measure or account, shall incur a penalty of ₵2,000,000 and all the false and unjust apparatus and instrument shall be forfeited. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act 2002 (Act 614), s.6.]

Section 224—Commissioner May Station Officer in Factory.

(1) The Commissioner may station any officer in or upon any factory to watch the process of manufacture there and to ensure compliance with this law, and every manufacturer shall provide accommodation at or adjacent to his factory for the officer to the satisfaction to the Commissioner.

(2) Any manufacturer who fails to provide the accommodation to the satisfaction of the Commissioner shall incur a penalty of ₵2,000,000 on each day of default. [As amended by Customs Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614) s.6.]

Section 225—Assistance to be given to Officers.

(1) On demand by any officer—

(a) safe and convenient ladders of sufficient length to enable him to ascend to and examine any vessel or, utensil in any factory or warehouse or to gauge or ascertain the contents or capacity of any vessel or utensil shall be provided and conveniently and firmly placed;

(b) the ladder shall be fixed at or in any part of the vessel or utensil where the officer may require; and

(c) sufficient lights and other sufficient aid and assistance shall be supplied to enable the officer to gauge or ascertain the contents or capacity of any vessel or utensil or to search for or gauge and take an account of all excisable goods and materials in a factory or warehouse by night as by day.

(2) Every manufacturer or warehouse keeper in whose factory or warehouse any contravention of this section has occurred shall incur a penalty of ₵200,000 on each occasion that the contravention occurs.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6.]

PART XV—FOLDED WOVEN GOODS

Section 226—Prohibited Sales.

(1) No folded woven goods, whether imported into Ghana or manufactured in Ghana, shall be sold or form the subject of any contract of sale unless they are folded and marked in accordance with section 227.

(2) This section shall not apply to the classes of goods specified in section 227(5).

Section 227—Prohibited Imports.

(1) No folded woven goods, other than those specified in subsection (5) of this section, shall be imported into Ghana for any purpose, except for transshipment to or in transit for any other country in which the manner of folding or marking such goods is regulated by law, unless they are folded in folds of not less than thirty-six inches in length and each piece is marked with the number of yards and inches (if any) contained.

(2) Such mark shall be stamped upon the fabric of each piece.

(3) Any words, figures, marks or abbreviations of the words "meters" and "centimeters" which according to common usage or the custom of the trade are commonly taken to indicate the measure of folded woven goods may be used in such marking.

(4) No piece shall be made upon it so as to show more folds than the full number of meters it actually contains, any portion of a meter (over the number of meters) not to be shown as a fold.

(5) This section shall not apply to and nothing in this part contained shall be taken to affect, the importation, folding or marking of any of the following classes of goods:

Indian bafts, cashmeres, serges, alpaca, silesia, fents, abourettes, gold and silver cloths, tinsel woven cloths, damasks, flannels, silks, silk velvets, tweeds, handkerchief cloth, broad cloth, and worsted cloth.

#### Section 228—Penalties.

Any person who contravenes any provision of section 226 or 227 shall be guilty of an offence and liable on conviction to a fine not exceeding three times the duty payable on the goods, and the goods in respect of which the offence is committed shall be forfeited:

Provided that no prosecution or proceedings shall lie or be taken under this Law against any importer or holder of folded woven goods—

(a) where such Goods are shorter than indicated by the mark upon them by not more than—  
10.26 centimeters in a piece marked 9.144 meters or under,

12.70 centimeters in a piece marked above 9.144 meters and up to 21.03 meters,

17.78 centimeters in a piece marked above 21.03 meters and up to 32.92 meters,

22.86 centimeters in a piece marked above 32.92 meters and up to 42.98 meters,

47.72 centimeters in a piece marked above 42.98 meters; or

(b) where the contents of a piece are properly marked as total length but the final fold only is less than thirty-six inches.

#### Section 229—Search Warrants.

When a court or tribunal is satisfied with information upon oath that there is reasonable cause to suspect that any goods, in respect of which an offence against section 226 or section 227 has been committed, are in any house or premises, he may issue a warrant authorising any officer named or included in the warrant to enter the house or premises at any reasonable time by day, and to search there for and seize and take away the goods.

#### Section 230—Power to Demand Invoices and Inspect Packages.

(1) The proper officer may require the importer of any package supposed to contain folded woven goods (other than those specified in section 227(5))—

(a) to produce the original invoices, bills of lading, or other documents showing the character of the goods contained in the package, and the place and date of shipment of the goods; and

(b) to open the package and produce the goods for inspection.

(2) The package may be detained by the proper officer until the importer has complied with this section.

#### Section 231—Warranty by Vendor.

On the sale or contract for the sale of any goods to which the provisions of this part apply, the vendor shall be deemed to warrant, within the limits provided by section 228 that the material bears on its face the true and correct number of meters or centimeters actually contained in the folded woven goods on which the number appears.

#### Section 232—Savings.

(1) This Part of this Law shall not exempt any person from any suit or other proceeding which might, but for the provisions of this Part, be brought against him.

(2) Nothing in this Part shall affect any provision of the Merchandise Marks Act, 1964 (Act 263), except so far as that Act relates to trade descriptions, as to the measure only of folded woven goods within the scope and meaning of this Part.

Section 233—Regulations.

Regulations may—

(a) exempt from the operation of this Part any goods or classes of goods not specified in section 227(5);

(b) increase or reduce the allowance for shrinkages specified in section 228.

PART XVI—POWERS OF OFFICERS

Section 234—Officers to Have Powers of Police.

For the administration of this Law all officers shall have the same powers, authorities and privileges as are given by law to police officers.

Section 235—Power to Search Persons.

(1) Any officer may search a person he has reason to suspect is carrying or has any uncustomed or prohibited goods or excisable goods the duties on which have not been paid on his person or in his possession or in his baggage.

(2) If the person upon being asked by an officer whether he has any of the goods on his person or in his possession or in his baggage refuses to answer or denies having them, and any of the goods are discovered to be or to have been on his person or in his possession or in his baggage, they shall be liable to forfeiture.

(3) If any officer upon searching the person discovers any goods which he has reason to suppose to be uncustomed or prohibited or to be excisable goods the duties on them have not been paid, he may seize them and arrest and detain that person and take him before court or tribunal.

(4) If the person fails to satisfy the court or tribunal that the goods are not uncustomed or prohibited or that the full duties have been paid on them or secured as required by law, he shall incur a penalty not exceeding three times the amount of duties payable on them.

Section 236—Restrictions on Search of Persons.

(1) Before a person is searched he may require to be taken as soon as possible before the Commissioner or other superior officer who shall discharge him if he sees no reasonable cause for the search but shall otherwise direct that he be searched.

(2) No female shall be searched except by a female.

(3) No officer shall be liable to any prosecution, an action or suit on account of a search made in good faith and in accordance with the provisions of this Law.

Section 237—Power of Arrest and Detention.

(1) Any officer, if he considers it necessary in the circumstances, may arrest and detain any person whom he reasonably suspects to be committing, or to have committed, or to be or to have been concerned in the commission of any evasion of or offence against the provisions of the Law.

(2) If a person liable to arrest under this Law escapes from an officer attempting to arrest him or if any officer is for any reason whatever unable or fails to arrest him he may afterwards be arrested and detained by any officer at any place in Ghana within seven years from the time the offence was committed and dealt with as if he had been arrested at the time of committing the offence.

Section 238—Power to Patrol Freely.

(1) Any officer when on duty may patrol upon and pass freely along and over any part of Ghana and shall not be liable to any prosecution, action or suit for doing so.

(2) The officer in charge of all aircraft, ship or vehicle employed to prevent smuggling or to protect revenue may take it to such place as he thinks most convenient for that purpose and keep it there for such time as he thinks necessary, and shall not be liable to any prosecution, action or suit for doing so.

Section 239—Power to Enter Factory.

(1) Any officer may at any time, during night or day enter a part of factory or warehouse and gauge, measure and take any account of every still or other vessel or utensil of any kind and of any

excisable goods and materials in the factory or warehouse and take such samples of such goods or materials as he requires.

(2) If an officer who has demanded admittance into the factory or warehouse is not immediately admitted, the manufacturer or warehouse keeper shall incur a penalty of ₵50,000.00.

(3) If the officer is not admitted immediately and without delay, he or any person acting in his aid or assistance may lawfully at all times, by night or by day, break open by force any of the doors or windows or break through any of the walls or any part of the factory or warehouse where necessary in his opinion to effect entry.

**Section 240—Power to Examine Stock.**

(1) Any officer may by day or night enter into any premises made use of by any person selling or offering for sale any excisable or sales taxable goods upon the premises, and take an account of any excisable goods in the custody or possession of that person, and take samples of the goods, paying for them their usual price if demanded.

(2) If a person selling or offering for sale any excisable and sales taxable goods on any premises fails to aid and assist the officer to the utmost of his power in measuring and taking an account of all excisable goods in or upon the premises, he shall incur a penalty of not more than ₵500,000. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614) s.6.]

**Section 241—Power to Seal Off Premises, Buildings, Etc.**

An officer so authorised by the Commissioner may seal off, lock up or in any physical manner prevent any person from entering or gaining access to any area, manufacturing concern, store, company suspected to be harbouring, keeping or in which are concealed or being kept uncustomed, prohibited, restricted or goods on which excise duty or sales tax have not been paid or secured by certificate or otherwise required by law pending final determination under provisions of the Law.

**Section 242—Writ of Assistance.**

(1) The Tax Tribunal or any court of competent jurisdiction may issue writs of assistance under this section to have effect either throughout Ghana or in any part of Ghana specified in the writ, and the writs shall continue in force in Ghana or that part of Ghana as specified without limit of time.

(2) Any officer or person acting under the direction of the Commissioner who has a writ of assistance may by day or night enter into and search any house, shop, cellar warehouse, room or other place, and in case of resistance may break open doors, chests, trunks and other packages, and seize and bring away any uncustomed, restricted or prohibited goods and deposit them in a State warehouse or in any other place approved by the Commissioner.

**Section 243—Power to Search Premises.**

(1) When the Commissioner is satisfied by information that there is reasonable cause to suspect that any uncustomed, prohibited or restricted goods or goods on which the duties and taxes have not been paid or secured by certificates or otherwise as required by law are harboured, kept or concealed in any premises, he may issue a written order under his hand authorising any officer to enter and search those premises, by day or by night, and to seize and take away any of the goods.

(2) An officer so authorised may lawfully—

(a) arrest and detain any person in whose possession and under whose control the goods are found and bring him before a competent court or tribunal.

(b) in case of resistance, break open any door and force and remove any impediment or obstruction to the entry, search or seizure in execution of the order.

**Section 244—Power to Stop Ships, Aircraft or Vehicle.**

(1) Any officer may upon reasonable suspicion stop and examine any ship, aircraft or vehicle to ascertain whether any uncustomed, prohibited or restricted goods or any goods on which the duties or taxes have not been paid or secured by certificate or otherwise as required by law are contained in it.

(2) If no goods are found, the officer shall not on account of the stoppage and examination be liable to any prosecution, action or suit.

(3) If the person in charge of a ship or aircraft, or the driver of a vehicle, refuses to stop or allow the examination when required by any officer, he shall incur a penalty of not less than ₵5,000,000 or on conviction to a term of imprisonment not exceeding one year or both.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6]

(4) If the officer, finds any of the goods, or if he finds any goods which he reasonably considers ought to be accompanied by a certificate, and the person in charge of the ship, aircraft or vehicle does not produce the certificate on demand, the officer may seize the ship, aircraft or vehicle and its contents and may arrest and detain any person found in or accompanying the ship, aircraft or vehicle at the time of the stoppage and take him before a competent court or tribunal.

(5) If the person fails to satisfy the court or tribunal that the goods were lawfully in his custody or possession for removal he shall incur a penalty not exceeding three times the duty payable on the goods and the goods shall be forfeited.

#### Section 245—Power to Board Ship or Aircraft.

(1) Any officer on duty may board any aircraft or ship within Ghana and stay on board for any period, and shall have free access to every part, with power—

(a) to search the aircraft or ship;

(b) to demand all books or other documents which ought to be on board;

(c) to require all or any of the books or other documents to be brought to him for inspection;

(d) to examine all goods on board, and all goods then being loaded or unloaded;

(e) to secure any part by means as he considers necessary;

(f) to require any goods to be unloaded and removed for examination or for their security, or to unload and remove them at the expense of the master or owner or the agent of either; and

(g) to lock up, seal, mark or otherwise secure any goods on board.

(2) If an officer so acting finds that there is no free access to any place or to any box or chest, or if the keys of any place, box or chest which is locked are withheld, he may open it in any manner and shall not be liable to any prosecution, action or suit for so doing; and if any goods are found concealed on board they shall be forfeited.

(3) If any lock, mark or seal placed upon goods or stores on board an aircraft or ship, or upon any place or package in which they may be, is wilfully opened, altered or broken before due delivery of the goods or stores within Ghana except with the authority of the proper officer, or if any of the goods or stores are secretly conveyed away, or if goods, stores, pieces or packages which have been secured by the officer are opened within Ghana without the authority of the proper officer, or if goods are not unloaded and removed for examination or for their security as required by the officer, the master of the aircraft or ship shall incur a penalty of not less than ₵5,000,000.[As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614), s.6].

(4) The master shall answer all questions the officer may ask him concerning the aircraft or ship and its cargo, stores, baggage, officers, crew, passengers and the flight or voyage.

(5) If the master refuses or without reasonable cause fails to produce the books or other documents on demand, or to bring them to the officer when required, or to answer any question put to him by the officer he shall incur a penalty of not less than ₵50,000.00, and the aircraft or ship may be seized by any officer and detained until the penalty is paid.

#### Section 246—Power to Seize Abandoned Ship or Aircraft.

Any aircraft or ship found abandoned within Ghana may be seized by any officer and shall be forfeited unless the owner claims it within thirty days of the date of seizure, and satisfies the Commissioner that the requirements of this Law have been complied with.

### PART XVII—GENERAL PENAL PROVISIONS

#### Section 247—General Penalty.

Except as otherwise provided in section 248, any person who does any act or makes any omission which constitutes a contravention of a provision of this Law for which no specific punishment or penalty is provided, or is concerned in the doing or making of any of the act or omission, or who does any act or makes any omission with intent to facilitate the evasion by himself or by any other person of any provision of this Law, shall pay a reparation as determined by the Commissioner;

however the reparation where quantifiable shall not be less than three times the duty or revenue that would have been lost.

#### Section 248—Penalty or Forfeiture.

Where anything is forfeited or becomes liable to forfeiture under this Law, any person who is knowingly concerned in the act or omission which renders it liable to forfeiture shall incur the penalty provided by law in respect of the act or omission or, where no penalty is provided, shall incur a penalty in a sum equal to double the tax or duty payable on the thing seized or forfeited.

#### Section 249—False Declarations, Etc.

(1) If any person either knowingly or recklessly—

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

(b) makes any statement in answer to any question put to him by an officer, acting in the execution of his duty,

being a document or statement produced or made for any purpose or any assigned matter, which is untrue in any material particular, he shall be guilty of an offence under this subsection and may be detained; and any goods in relation to which the document or statement was made shall be forfeited.

(2) If any person in any matter relating to this Law—

(a) makes and signs or causes to be made and signed any false declaration or any declaration certificate or other instrument required to be verified by signature only, which is false in any material particular; or

(b) refuses to answer any question put to him by any officer acting in the execution of his duty; shall be guilty of an offence under this subsection and may be detained; and any goods in respect of which the offence was committed shall be forfeited.

(3) Where by reason of the offence specified in subsection (1) or (2) the full amount of any duty payable is not paid, the offending person—

(a) shall incur a penalty not exceeding three times the amount not paid in addition to forfeiture of the goods; or

(b) the offending person shall be liable on conviction, to imprisonment for a term not exceeding one year or both;

#### Section 250—Falsifications, Alterations, Etc.

(1) If any person—

(a) counterfeits, falsifies or wilfully uses when counterfeited or falsified any certificate or other document required by this Law or by or under the directions of the Commissioner or any instrument used in the transaction of any business or matter relating to customs or excise; or

(b) alters any document or instrument relating to customs or excise after it has been officially issued, or counterfeits the seal, signature, initials or other mark of or used by any officer for the verification of any document or instrument or for the security of goods or any other purpose in the conduct of business relating to custom, excise or any tax payable under this Law; or

(c) on any document or instrument required for the purposes of this Law counterfeits or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of that person; or

(d) makes or signs any declaration, certificate or instrument which is false in any material particular in relation to any motor vehicle imported under this Law; or

(e) forges or causes to be forged any document relating to any motor vehicle imported under this Law; or

(f) furnishes or causes to be furnished any information relating to any matter under this Law which he knows to be false,

shall be guilty of an offence under this sub-section and may be detained; and any goods in respect of which the offence was committed shall be forfeited.

(2) Where because of the offence specified in sub-section (1) the full amount of any duty payable is not paid—



(a) the offending person shall incur a penalty not exceeding three times the amount not paid in addition to forfeiture of the goods where applicable; or

(b) the offending person shall be liable on conviction to imprisonment for a term not exceeding one year or both.

#### Section 251—Smuggling and Other Evasions.

(1) If any person—

(a) imports or is concerned in importing any prohibited or restricted goods contrary to the prohibition or restriction, whether they are unloaded or not; or

(b) unloads or is concerned in unloading any prohibited goods or any restricted goods imported contrary to the prohibition or restriction; or

(c) exports or is concerned in exporting any prohibited or restricted goods contrary to the prohibition or restriction; or

(d) with intent to defraud the Republic of any duty, harbours, keeps or conceals or permits or suffers or causes or procures to be harboured, kept or concealed any prohibited, restricted, uncustomed or excisable goods; or

(e) with intent to defraud the Republic of any duty, acquires possession of or is in any way concerned in the carrying, removing, depositing or concealing any prohibited, restricted, uncustomed or excisable goods;

(f) is in any way concerned in any fraudulent evasion or attempt at evasion of any customs or excise duties or sales tax under the provisions of this Law,

he shall be guilty of an offence and liable on conviction to a fine not exceeding three times the duty tax evaded or to imprisonment for a term not less than five years and not exceeding ten years or to both and all goods in respect of which the offence was committed shall be forfeited.

(2) A person who commits any of the acts referred to in sub-section (1) shall, whether or not he is prosecuted under that sub-section, incur a penalty not exceeding treble the duty or tax evaded and all goods in respect of which the offence was committed shall be forfeited:

Provided that no penalty shall be exacted where a fine imposed under sub-section (1) equals or exceeds three times the duty/tax of the goods in respect of which the offence was committed.

#### Section 252—Procuring Another to Assist Evasion.

Any person who by any means procures or hires, or disputes or authorises any other person to procure or hire any person to assist in any evasion of this Law shall be guilty of an offence and liable on conviction to imprisonment not exceeding five years.

#### Section 253—Prohibition of Conveyance of Certain Goods.

(1) Regulations may provide that the conveyance of specified goods on specified roads or across specified rivers or in specified directions on or across such roads and rivers shall be deemed to be an attempt at exportation of uncustomed goods and an attempted evasion of the export duty payable on such goods.

(2) In any regulations, the inclusion of any place under the designation of a road shall be conclusive evidence that the place is a road.

(3) Notwithstanding the provisions of this section, the Secretary may authorise in writing on such terms and conditions as he thinks fit the conveyance of goods on or across any specified road or river.

#### Section 254—Prohibition of Road Construction Near Boundary.

(1) The Secretary may by legislative instrument prohibit, except with his written permission, the construction of any road and the making of any metro track which leads to any point within a specified distance of any specified part of the boundary of Ghana.

(2) Any person who contravenes any instrument made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding ₵500,000.00 or to imprisonment not exceeding two years or to both.

#### Section 255—Shooting of Aircraft or Ship.

A person who maliciously shoots at any aircraft or ship in the service of the Customs, Excise and Preventive Service shall be guilty of an offence and liable on conviction to imprisonment not exceeding twenty-years.

Section 256—Shooting at Officer.

A person who maliciously shoots at, maims or wounds any officer acting in the execution of his duty shall be guilty of an offence and liable on conviction to imprisonment not exceeding twenty-years.

Section 257—Offender Going Armed.

(1) A person who is or has been engaged in the commission of any offence against this Law and who is armed with a firearm or other offensive weapon shall be guilty of an offence and liable on conviction to imprisonment not exceeding ten years.

(2) A person who is armed with a firearm or other offensive weapon and who is found with any goods liable to forfeiture under this Law shall be guilty of an offence and is liable on conviction to imprisonment not exceeding ten years.

Section 258—Offender Going Disguised.

(1) A person who is or has been engaged in the Commission of an offence against this Law and who is disguised in any way shall be guilty of an offence and is liable on conviction to imprisonment not exceeding five years.

(2) A person who is disguised in any way and who is found with any goods which may be forfeited under this Law shall be guilty of an offence and is liable on conviction to imprisonment not exceeding five years.

Section 259—Interference with Seizure.

(1) A person who staves, breaks or destroys any goods to prevent their seizure by an officer or other person authorised to seize them or to prevent their being secured after they have been seized shall be guilty of an offence and liable on conviction to imprisonment not exceeding ten years.

(2) A person who receives any goods seized by an officer or other person authorised to seize them shall be guilty of an offence and be liable on conviction to a term of imprisonment not exceeding ten years.

Section 260—Rescue of Offender.

A person who rescues a person arrested for any offence punishable under this Law shall be guilty of an offence and is liable on conviction to imprisonment not exceeding ten years.

Section 261—Prevention of Arrest.

A person who prevents the arrest of a person sought for any offence under this Law shall be guilty of an offence and is liable on conviction to imprisonment not exceeding ten years.

Section 262—Obstruction of Officer.

A person who obstructs an officer in the execution of his duty shall be guilty of an offence and is liable on conviction to imprisonment not exceeding twelve months or to a fine not exceeding ₪50,000.00 or to both.

Section 263—Impersonation of Officer.

A person who impersonates an officer in any way shall be guilty of an offence and is liable on conviction to imprisonment not exceeding three years.

Section 264—Assembling to Run Goods.

Any three or more persons who assemble for the purpose of evading any provision of this Law, or who having so assembled evade any provision, shall each be guilty of an offence and be liable on summary conviction to a term of imprisonment not exceeding ten years.

Section 265—Signalling to Offender.

(1) A person who with intent to frustrate any officer in the execution of his duty warns, or attempts to warn, or causes to be warned any person engaged in a contravention or attempted contravention of any provision of this Law, whether any person is within distance to take advantage of the warning or not, shall be guilty of an offence and be liable on conviction to a term of imprisonment not exceeding five years.

(2) In any prosecution under this section, the burden of proof that anything done by the defendant was not done with the expressed intent shall be upon that defendant.

(3) Any person may prevent any warning being given and may go upon any land for that purpose without being liable to any prosecution, action or suit for so doing.

#### Section 266—Offering Goods for Sale Under Pretence.

(1) If any person offers for sale any goods under pretence that the duty due on them has been paid, the goods shall be liable to forfeiture.

(2) Where any person offers prohibited goods for sale the goods shall be forfeited and in addition he shall on conviction be sentenced to imprisonment for a term not exceeding five years.

#### Section 267—Marking of Seized Goods.

(1) All goods prescribed by the Secretary responsible for Finance by Executive Instrument which are seized as uncustomed goods in accordance with any enactment shall immediately be marked in such manner as the Commissioner may direct, to indicate that the goods have been seized.

(2) The mark shall in every case be readily identifiable, and where circumstances permit, it shall be indelible or otherwise permanent.

(3) Any person who, without lawful excuse (proof of which shall be on him) has in his possession any uncustomed goods of a class prescribed under this section which do not bear a mark as required by this section shall be liable on conviction to a fine not exceeding 100 per cent the value of the goods, and all the unmarked goods shall be forfeited.

#### Section 268—Concealment of Goods.

(1) If any person imports or exports, or attempts to import or export, or causes to be imported or exported any goods concealed in any way, or packed in any package (whether there are other goods in the package or not) in a manner calculated to deceive the officers of customs, or any package containing goods not corresponding with its entry, the package and all goods in it shall be forfeited, and that person shall incur a penalty not exceeding three times the duty or tax payable on the goods contained in the package.

(2) Any vehicle on which is constructed a false compartment or structure or which has any secret or disguised place in which are concealed any uncustomed, prohibited, or restricted goods intended for importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation shall be forfeited immediately and the owner or driver or both of the vehicle may in addition be prosecuted.

(3) Notwithstanding subsection (2) of this section, the owner of the goods shall whether or not prosecuted incur a penalty in a sum not exceeding three times the duty payable on them and the goods shall be forfeited.

(4) For the purposes of this section the meaning of "goods" shall be construed to include "currency" and "precious metals".

#### Section 269—Detention and Purchase of Goods Incorrectly Valued.

(1) Where on the examination of any imported goods which are liable to payment of duty, it appears to the Commissioner that their value as declared by the importer and according to which duty has been or is to be paid is not the true value, the Commissioner shall apply his own values.

(2) The Commissioner shall give a written notice of his values personally to the importer or send it by post addressed to the importer at his place of residence or business.

(3) Where the goods remain uncleared for more than one month after the Commissioner's established value has been given to the importer, the goods shall be sold and if the proceeds exceed the duty, together with all charges incurred as a result of the sale, the surplus shall be paid into the Consolidated Fund.

#### Section 270—Bribery, Extortion, Etc., by Officer.

(1) Any officer who—

(a) demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty; or

(b) demands or takes any unauthorised fee, perquisite or reward, whether pecuniary or otherwise, directly or indirectly, on account of anything relating to this office or employment; or

(c) delivers up or agrees to deliver up or not to seize anything liable to forfeiture; or  
(d) commits, or conspires or connives with any person for the purpose of committing any offence against this Law,  
shall, on proof of any of the acts above to the satisfaction of the Board, be summarily dismissed from his office.

(2) Any officer who commits any of the acts referred to in subsection (1) shall be guilty of an offence and is liable on conviction to a fine not exceeding 200 per cent of the total loss that would have occasioned his neglect or non-performance of the offence or to a fine not exceeding ₵500,000.00 or to imprisonment not exceeding ten years.

#### Section 271—Offering of Bribes, Etc.

Any person who—

(a) gives, offers, or agrees to give or procure to be given, any bribe, gratuity, recompense or reward to any officer or;

(b) gives, offers, or agrees to give any unauthorised fee, perquisite or reward to any officer; or

(c) induces or attempts to induce any officer to connive at any evasion of this Law or otherwise to neglect his duty,

shall be guilty of an offence and is liable on summary conviction to a fine not exceeding 200 per cent of the total loss that would have occasioned the offence or to a fine not exceeding ₵500,000.00 whichever is higher or to imprisonment not exceeding ten years or both a fine and imprisonment as specified in the sub-section.

#### Section 272—Smuggling Aircraft.

(1) If any ship or aircraft is found or discovered to have been within or over Ghana—

(a) which has any secret or disguised place adapted for concealing goods or any device adapted for running goods; or

(b) which has on board or in any manner attached to it, or which is conveying or has conveyed in any manner, goods imported or intended for exportation contrary to this Law; or

(c) any part of whose contents has been thrown overboard to prevent seizure; or

(d) on board which any goods have been staved or destroyed to prevent seizure;

every person who is knowingly concerned in or privy to the illegal act or thing proved to have been committed, shall incur a penalty equal to 200 per cent of the value of the goods or an amount equal to 50 per cent of the current market value of the ship or aircraft whichever is higher.

(2) All goods in respect of which a contravention of this section has been committed shall be forfeited.

(3) Every ship of less than 250 tons burden on board which or in respect of which a contravention of this section has been committed shall be liable to forfeiture.

#### Section 273—Officer of Ship or Aircraft Implicated in Smuggling.

(1) An aircraft, or a ship of 250 tons burden or more, which is used in the removal or conveyance of goods which may be forfeited under this law or on board or in respect of which a contravention of section 272 has been committed, shall not be forfeited, but—

(a) the Commissioner may, subject to appeal to the Secretary, impose a penalty in respect of the aircraft or ship in a sum equal to 200 per cent of the value of the goods or an amount equal to 5 per cent of the current value of the aircraft or ship whichever is higher where in his opinion a responsible officer of the aircraft or ship is implicated either actually or by neglect;

(b) to cover the penalty, the Commissioner may require the deposit with him, at the port or place where the aircraft or ship is, of such sum as he thinks fit, but not exceeding 200 per cent of the value of the goods or an amount equal to 10 per cent of the current value of the aircraft or ship, pending the ultimate decision; and in default of payment of the deposit the Commissioner may withhold clearance and detain the aircraft or ship;

(c) no claim shall be made against the Commissioner for damages in respect of the payment of a deposit or the detention of an aircraft or ship under this section.

(2) For the purpose of this section—

"responsible officer" includes the master, mates and engineers of a ship, the purser or chief steward of a ship carrying a passenger certificate, and the pilot navigator, radio operator, chief steward and chief engineer of an aircraft;

"neglect" includes cases where goods unowned by any of the crew are discovered in a place in which they could not reasonably have been put or remained if the responsible officer or officers having supervision of the place had exercised proper care at the time of the loading of the aircraft or ship or subsequently.

#### Section 274—Regulations for Small Ships.

(1) Regulations may be prescribed for ships not exceeding one hundred tons burden, with reference to their tonnage, build or general description, the limits within which they may be used or employed, the mode of navigation, the manner in which they shall be used or employed, the number and description of arms and the quantity of ammunition which they may carry, and such other terms, particulars, conditions and restrictions as the Secretary may think fit.

(2) Every ship used or employed contrary to any regulations shall be liable to forfeiture together with everything contained in it unless it has been licensed by the Commissioner under section 275 to be so used or employed.

#### Section 275—Licences for Small Ships.

(1) The Commissioner may grant licences for a ship not exceeding one hundred tons burden upon terms and conditions in the licences, notwithstanding any regulations referred to in section 274.

(2) Any ship so licensed which does not comply with the conditions imposed by or expressed in the licence, or is found without having the licence on board, shall be liable to forfeiture.

(3) The Commissioner may revoke, alter or vary the licence.

#### Section 276—Control of Small Ships.

(1) If upon boarding a ship not exceeding one hundred tons burden an officer finds goods of which the master does not give a satisfactory account, and which the officer suspects are being or have been or are intended to be dealt with in any way contrary to this Law, he may arrest and detain the master and take him before a competent court or tribunal.

(2) If the master fails to satisfy the court or tribunal that the goods had not been, were not being, and were not intended to be dealt with contrary to this Law, he shall incur a penalty equal to 100 per cent of the duty payable on them and all the goods shall be forfeited.

#### Section 277—Goods Unlawfully Unloaded.

If an officer boards an aircraft or ship and finds any goods on it, and after leaving the aircraft or ship he or any other officer boards her and finds any part of the goods to be no longer on board and the master is unable to give a due account of their lawful unloading, the master shall incur a penalty not exceeding the value of the goods.

#### Section 278—Ship Forfeited for Offence During Chase.

If any ship within Ghana does not bring to upon the proper signal made by any vessel or boat in the service of the Republic and it is chased, and any person on board the ship, whether during chase or before the ship brings to or is brought to, throws overboard any part of her content or staves or destroys any part of them to prevent seizure, the ship shall be liable to forfeiture.

#### Section 279—Taxes, Duties and Penalties to be Recovered by Attachment.

(1) Notwithstanding anything to the contrary in this Law any tax, duty or penalty payable under this Law but which remains unpaid on due dates or upon demand shall be deemed to be a debt due to the Republic.

(2) It is lawful for the Commissioner after giving not less than forty-eight hours notice to the debtor to attach any property that belongs to the debtor to recover the debt.

(3) Where the property is attached under sub-section (2) the Commissioner shall as soon as possible after the attachment give notice of it to the debtor and also publish the notice in the Gazette or in the national newspapers and after that it shall not be lawful for any person to deal with the property either by sale or other form of disposal of the property without the prior consent in writing of the Commissioner.

(4) Any property attached under sub-section (2) of this section shall immediately be seized or taken possession of by, or placed under the control or custody of the Commissioner at the cost of the debtor and it shall not be lawful for any other person unless authorised by the Commissioner to have any dealing in the property.

(5) Except in the case of perishable goods, where property is seized or taken possession of by, or placed under the custody or control of the Commissioner, the Commissioner shall within fourteen days after the seizure or take-over of the property by notice published in the Gazette or in a newspaper circulating within the area in which the property is situated or in which the debtor has his usual residence give details of the property and after the expiration of a period of twenty-one days following the publication of the notice the interest of any person in the property shall be deemed to have been extinguished.

(6) The Commissioner may proceed to sell by public auction the property after the expiration of twenty-one days following the publication of the notice.

(7) The Commissioner shall by notice published in the Gazette or the national newspapers for a period of seven days give details of any proposed public auction under this sub-section.

(8) In the case of perishable goods, the Commissioner may dispose of the goods in such manner and within such period as he considers appropriate.

(9) The purchaser of any property for sale under this section shall be deemed to have acquired it free from all encumbrances and to have acquired a legal title to the property without any further assurance.

(10) Any surplus resulting from the sale after deduction of the amount of debt due and all costs and charges shall be paid or returned to the owner of the property sold.

(11) Where after the attachment but before the issue of the notice of sale of the property the debtor pays in full or pays no less than two-thirds of the debt due as specified in the notice under sub-section (2) the Commissioner may release the attached property.

#### Section 280—Garnishment.

(1) Where the Commissioner has knowledge or suspects that a person is indebted or liable to make any payment to another person who is liable to make a payment under this Law or any other enactment administered by the Commissioner, in this section referred to as the "tax debtor", the Commissioner may by registered letter or by a letter served personally on that person require him where the whole amount to the tax debtor is due and immediately payable, to pay immediately to the Commissioner on account the liability of the tax debtor and in any other case to pay to the Commissioner on account the liability of the tax debtor as and when it becomes due and payable.

(2) Without limiting the generality of sub-section (1), where the Commissioner has knowledge or suspects that—

(a) a bank, credit union, trust company, or other similar body (in this section referred to as "the institution") will within 90 days grant a loan or advance monies to, or make a payment in respect of a negotiable instrument issued by the tax debtor who is indebted to the institution and has granted security in respect of his indebtedness; or

(b) a person, other than an institution, will within 90 days grant a loan or advance monies to, or make payment on behalf of, a tax debtor who the Commission knows, or suspects is, or, is about to be employed by, or is about to be engaged in providing services or property to that person, then the Commissioner may by letter served personally on the institution or person concerned, require the institution or person to pay in whole or in part to the Commissioner on account the liability of the tax debtor under this Law or any other enactment administered by the Commissioner the monies that would otherwise be loaned, advanced or paid, as the case may be, to the tax debtor.

(3) The receipt by the Commissioner of monies paid as required under this section is a good and sufficient discharge of the original liability of the institution or person to the extent of the payment.

(4) Where the Commissioner requires an institution or person under this section to pay to him on account the liability of a tax debtor under this Law or any other enactment administered by him from monies otherwise payable by that institution or person to the tax debtor as interest, rent, remuneration, dividend, annuity or other periodic payment, the Commissioner may by registered

letter or a letter personally served on that institution or person require payment to him out of the payment to be made by that institution or person of such amount as may be stipulated by the Commissioner in the letter until the liability of the tax debtor is fully satisfied.

(5) Any institution or person which fails to comply with a requirement under sub-section (1), (2) or (4) shall be liable to pay to the Commissioner a penalty of ₦200,000 for each day that such person or institution fails to comply with the requirement. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002, (Act 614), s.6.]

(6) Where a person who is indebted or liable to the tax debtor carries on business under a name or style other than his own name, the registered or other letter issued under subsection (1) may be addressed to the name or style under which the person carries on the business and in the case of personal service that person shall be deemed to have been properly served if it is left with an adult person employed at the place of business of the addressee or an adult inmate at his place of abode.

Section 281—Directors and Members of Governing Bodies to be Jointly and Severally Liable.

(1) Where a company, corporation, partnership or any institution liable for the payment of excise duty and or sales tax fails or defaults in the payment on demand by the Commissioner, the directors of the company, corporation, partnership or institution as the case may be, at the time of the default shall be jointly and severally liable together with the company, corporation, partnership or institution to pay that amount and any interest or penalty relating to it.

(2) A director or any member of the governing body of a company, corporation, partnership or any institution shall not be liable under sub-section (1) if he exercised the degree of care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent the default proof of which, however, shall lie on him.

(3) Notwithstanding sub-sections (1) and (2) of this section, the directors and members of the governing body of a company, corporation, partnership or institution shall be jointly and severally liable under section 279 of this law for the recovery of the amount due but unpaid and any interest or penalties on it.

(4) No action or proceedings to recover any amount payable by a director or member of the governing body of the company, corporation, partnership or other institution under subsection (1) shall be commenced five years after he has ceased to be a director or member of the governing body of that company, corporation, partnership or institution.

Section 282—Failure to Bring to.

If any aircraft or ship liable to seizure or examination under the Law does not bring to when required to do so and fails to remain for such period as the boarding officer requires, her master shall incur a penalty of not less than ₦5,000,000. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614) s.6.]

Section 283—Interfering with Customs Gear.

A person who cuts away, casts adrift, removes, alters, defaces, sinks or destroys or in any other way damages or conceals any aircraft, ship, buoy, anchor, chain, rope or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use of the customs, shall incur a penalty of not less than ₦100,000.00 and is liable to the full costs of the repairs.

Section 284—Interfering with Goods Found Floating.

A person, other than an officer, who interferes with or takes up any uncustomed goods or any goods whose importation or exportation is prohibited or restricted, being in packages found floating upon or sunk into the sea, shall incur a penalty of 50 per cent the value of the goods, and the goods shall be forfeited.

Section 285—Abetment.

A person who abets a contravention of any provision of this Law which is enforceable by civil proceedings shall be civilly liable in respect of that contravention in the same manner and degree as the principal is civilly liable in respect of that contravention.

Section 286—Saving for Public Officer.

The penal provisions of this Law, whether the penalties provided are civil or criminal, shall not apply to acts or omissions done or made by any public officer acting in good faith in the performance or intended performance of his official functions.

#### PART XVIII—PROCEDURE

Section 287—General Provisions as to Forfeiture.

- (1) Subject to section 273 all things (including aircraft, ships and vehicles) made use of in the importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods, or any goods which may be forfeited under this Law, shall be liable to forfeiture.
- (2) An officer may seize anything liable to forfeiture under this Law at any place either upon land or water, and shall immediately deliver it into the care of the Commissioner.
- (3) The forfeiture of an aircraft, ship or vehicle shall be deemed to include its tackle, equipment and furniture and the forfeiture of any goods shall include the package in which they are found and all its contents, unless the Commissioner otherwise directs.
- (4) Anything which has been seized and forfeited to the Republic under this Law shall be disposed of in such manner as the Commissioner may direct.

Section 288—Procedure on Seizure.

- (1) Where anything liable to forfeiture is seized unless in the possession of or in the presence of the offender, master or owner), the seizing officer shall give written notice of seizure and of the reasons for it to the master or owner of the thing seized, either by delivering it to him personally or by letter addressed to him and sent by post to or delivered at his usual or last known address or in the case of a body corporate, at its registered or principal office.
- (2) Where the person to whom notice should be sent has no address in Ghana, or his address is unknown, notice of seizure may be given by publication in the Gazette and in at least one national newspaper.
- (3) Any person claiming that anything seized as liable to forfeiture is not liable shall, within thirty days from the date of the notice of seizure or, if no notice has been given to him or published as aforesaid, within thirty days from the date of the seizure, give written notice of his claim to the Commissioner.
- (4) If on the expiration of the relevant period no notice of claim has been given to the Commissioner, the thing in question shall be forfeited to the Republic.
- (5) Where notice of claim is given within the relevant period, the Commissioner shall take court proceedings for forfeiture, and if the court finds that the thing was at the time of seizure liable to forfeiture, the court shall order it to be forfeited to the Republic.
- (6) Notwithstanding sub-section (5), where motor vehicles, animals or perishable goods have been seized, the Commissioner may at any time direct that they be sold by public auction and the proceeds retained to abide the result of any claim in respect of them.
- (7) Where proceedings are taken under sub-section (5), the court may order delivery of the thing seized on security being given for the payment of its value to the Commissioner in the event of forfeiture.

Section 289—Restoration of Seizure, Etc.

Where any seizure has been made or any fine or penalty incurred or inflicted, or any person committed to prison for a contravention of this Law, the PNDC may restore the seizure whether forfeiture has taken place or not, or waive proceedings, or reduce or remit the fine or penalty or release the person from prison either before or after any proceedings, on such terms and conditions as he may determine.

Section 290—Claims to Seizure to be in name of Owner.

- (1) A claim for the restoration of anything seized under this Law shall be made by or in the real name of its owner, and shall state his place of residence and occupation.
- (2) If the claimant resides in Ghana, he shall make a statutory declaration that the thing seized was his property at the time of seizure.



(3) If the claimant resides outside Ghana, his agent by whom the claim or appearance is entered shall state on oath that he has full authority from the claimant to make or enter it, and that to the best of his knowledge and belief the thing seized was at the time of seizure the bona fide property of the claimant.

(4) On failure to make such proof of ownership the thing seized shall be forfeited as if no claim or appearance had been made.

(5) If the thing seized is at the time of a seizure the property of more than five owners, it shall not be necessary for more than two of them to enter the claim or appearance on the part of themselves and their co-owners, or to make the oath.

(6) If the thing seized is at the time of seizure the property of a limited company registered under the Companies Code, 1963 (Act 179), the claim and appearance may be entered by oath made by the Secretary or a director of the company.

#### Section 291—Civil Proceedings.

(1) All penalties and forfeitures incurred under this Law and the liabilities of forfeiture of any article seized under the authority of this Law, and all rents, fees, charges, expenses and duties and all other sums of money payable under this Law may be sued for, determined, enforced and recovered by civil proceedings in a magistrate's court or a tribunal, which is hereby invested with the necessary jurisdiction for the purpose, in the name of the Commissioner as nominal plaintiff.

(2) Except as otherwise herein provided in this Law, the ordinary civil procedure of Ghana shall apply to all civil proceedings under this Law.

(3) Whenever a person is adjudged to pay a penalty or costs in respect of a contravention of this Law, the court may order him in default of payment to be committed to prison for any term not exceeding one year until the judgment debt is paid; and in such a case the amount of costs, if any awarded to be paid by the person as well as the penalty adjudged shall be stated in the judgment and also in the warrant of commitment.

(4) The fact that any duties have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any proceedings under this Law.

(5) In civil proceedings by the Commissioner under this Law the same rules as to costs shall apply as in proceedings between private persons.

(6) Proceedings to recover a penalty incurred under this Law shall not relieve any person from liability to criminal proceedings where a contravention of this Law is also a criminal offence under any law.

#### Section 292—Summary Power to Impose Penalty.

Where a contravention of this Law has occurred in respect of which the master of any aircraft or ship is liable to some fine, penalty or forfeiture, and it appears to the Commissioner that he would be adequately penalised by a penalty not exceeding ₵500,000.00, the Commissioner may, instead of taking any other proceedings provided under this Law in respect of the contravention, summarily and of his own authority impose a penalty on the master not exceeding £500,000.00; and if the penalty imposed is not paid immediately, resort shall be had to other proceedings.

#### Section 293—Lesser Forfeiture and Mitigation of Penalty.

Notwithstanding any provision contained in this Law for the recovery of specified penalties or goods the Commissioner may—

(a) sue for some lesser penalty or forfeiture, or both; or

(b) consent to judgment for some penalty or forfeiture, or both, less than that actually sued for; or

(c) mitigate or remit any penalty or restore anything seized under this Law at any time before the commencement of proceedings in any court against any person for a contravention of this Law or for the forfeiture of any goods.

#### Section 294—Certificate of Probable Cause.

(1) When in proceedings relating to the seizure of anything pursuant to an act done by any officer in the execution or intended execution of his duty under this Law, it appears to the court or tribunal before whom the proceedings are heard that there was probable cause for the seizure or act, the court or tribunal shall certify on the record that there was probable cause, and the person who made

the seizure or performed the act shall not be liable to any action, suit or prosecution on account of the seizure or act.

(2) A copy of the certificate verified by the signature of the registrar of the court or tribunal shall be given to the officer concerned at his request and shall for all purposes be sufficient evidence of the certificate.

(3) Where a verdict is given against an officer in any prosecution or civil proceeding brought against him on account of any seizure or act, and he does not produce to the court or tribunal a certificate of probable cause for the seizure or act, if the court or tribunal is satisfied that there was probable cause for the seizure or act, the plaintiff shall recover any things seized or their value but, in the case of a prosecution, no conviction shall be recorded against the defendant.

Section 295—Arrest of Defendant in Proceedings.

(1) Where the Commissioner takes civil proceedings against any person for a contravention of this Law, and it appears to the court or tribunal that the person is likely to abscond before the case can be heard, the court or tribunal may, instead of issuing a writ of summons for his appearance, issue a warrant to arrest him and bring him before the court or tribunal.

(2) When the person is brought before the court or tribunal on a warrant, the court or tribunal shall require him to give by recognisance or deposit of money security to the satisfaction of the court or tribunal to appear before it any time when called upon while the case is pending and until execution or satisfaction of the order that may be made against him.

(3) The surety or sureties shall undertake in default of appearance of the defendant to pay any sum that may be adjudged against him in the case, and in default of the security the court or tribunal may commit the defendant to prison: except that a person committed shall be entitled to be released on giving the required security at any time during the proceedings against him.

Section 296—Court or Tribunal may Order Detention or Bail.

(1) A person brought before a court or tribunal for an offence against this Law in respect of which the court or tribunal is not empowered to proceed summarily may, by order of the court or tribunal, be detained in the custody of the police for a reasonable time to enable the instructions of the Commissioner to be obtained and for the preparation of the necessary process and warrant of commitment, and at the expiration of the time he shall be brought before the court or tribunal for the hearing and determination of the matter; or, if he has been charged with any offence, and it appears to the court or tribunal that he is likely to abscond, the court or tribunal may, instead of issuing a summons for his appearance, issue a warrant to bring him before the court or tribunal at a time and place to be named in the warrant for the hearing of the case.

(2) The person may be released on giving security to the satisfaction of the court or tribunal in such sum as the court or tribunal thinks fit, to appear at any time and place appointed by the court or tribunal for hearing the case.

Section 297—Procedure Modified in Small Cases.

When a person is brought before a court or tribunal in the exercise of its civil jurisdiction for any offence under this Law in respect of which the duty-paid value of the goods liable to forfeiture and sought to be forfeited does not exceed ₵500,000.00, the court or tribunal, at the request of the Commissioner, may hear and determine the cause or matter summarily and without a writ of summons or other formal process, but otherwise in accordance with the provisions of this Law ordinarily applicable to that offence, both in respect of forfeiture and otherwise:

Provided that in such case the penalty sued for shall not exceed ₵500,000.00.

Section 298—Criminal Proceedings.

Where any provision of this Law is enforceable by fine or imprisonment, it shall be enforceable by the ordinary criminal procedure of Ghana.

Section 299—Place of Offence.

Every offence under this Law shall be deemed to have been committed and every cause of action to have arisen either in the place in which it actually was committed or arose, or in any place or and where the offender or person sued may be or be brought.

Section 300—Time Limit for Criminal Proceedings.

No criminal proceedings shall be instituted under this Law in respect of any offence after four years from the date of the offence.

**Section 301—Penalties Joint and Several.**

(1) When by this Law a civil penalty is jointly and severally incurred by a number of persons, they may be proceeded against jointly by one writ of summons or severally by separate writs of summons.

(2) Where the persons are proceeded against jointly by one writ of summons for recovery of the penalties severally incurred by each, the penalties shall be recoverable against each, notwithstanding that any of the persons jointly proceeded against, may have allowed judgment to go by confession or default, or that the penalty adjudged to be paid by any of the defendants jointly sued may be for a different amount from that which any other of the several persons may be adjudged to pay, or that any of the several persons jointly sued may obtain judgment in his favour.

(3) No judgment in the proceedings shall be reversed on the ground that it was obtained by confession or default of any of the persons, or on account of any difference in the amount of the penalty which any one or more of the persons may be adjudged to pay, or because any of the persons obtained judgment in his favour; but every judgment shall be valid and effectual against any or all of the several persons so jointly proceeded against, and for the full amount of the penalty.

**Section 302—Service of Summons.**

Every civil process issued by a court under this Law to bring any person before it as a defendant or witness, in Ghana, shall be considered to be served if an officer of the court, proper officer or other duly authorised person delivers it to the party summoned personally, or to his solicitor, or if it is left at his last known place of abode or business in Ghana or on board any ship to which he may belong or may have lately belonged.

**Section 303—Civil Proceedings to have Priority.**

Civil proceedings instituted under this Law (including appeal proceedings) shall, in respect of the right to priority of hearing by the court, be given precedence over all other civil proceedings other than those which are part heard.

**Section 304—Construction of Provisions and Procedures.**

(1) Except where otherwise expressly provided, the provisions or procedures of or under the Law shall be independent of and additional to and not in substitution for any provision or procedure in any other enactment.

(2) The special provisions of this Law in respect of civil procedure are additional to and not to derogate from the ordinary civil procedure of Ghana.

(3) Nothing in this section shall permit the punishment of any person more than once in respect of the same act or omission.

**Section 305—Officer may Prosecute.**

Any officer of the Legal and Investigations Department may prosecute and conduct any prosecution or other proceedings, whether criminal or civil, under this Law in respect of any offence or penalty.

**Section 306—Payment of Moneys Received.**

All penalties received by the Commissioner under this Law shall be paid into the Consolidated Fund.

**Section 307—Rewards.**

The Commissioner may reward from the general revenue any person who informs him of any offence against this Law or assists in the recovery of any penalty.

**Section 308—Onus of Proof.**

(1) In any proceedings under this Law, the following proofs shall lie on the person who asserts the fact—

(a) concerning the place from which any goods have been brought;

(b) that the proper duties have been paid on any goods;

(c) that any goods have been lawfully made, imported, removed, delivered or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from one aircraft or ship to another;

(d) that any goods have been illegally seized.

(2) The following averments shall be deemed sufficient unless the defendant proves to the contrary—

(a) that the Commissioner has directed or requested that any proceedings under this Law shall be instituted, or that any particular penalty should be sued for or recovered;

(b) that any goods thrown overboard, staved or destroyed were so dealt with to prevent seizure;

(c) that any person is an officer;

(d) that any person was employed for the prevention of smuggling;

(e) that the offence was committed, or that any act was done, within the limits of any port, or in or over Ghana, or where the offence is committed in any port or place in Ghana, the naming of that port or place in any proceedings.

(3) Where in any proceedings under this Law it is alleged that any prohibited or restricted goods were dealt with for the purpose of importation or exportation contrary to the prohibition or restriction, the burden of proof that they were not dealt with for that purpose shall be on the defendant.

(4) On the hearing or trial of any cause or matter under this Law, it shall not be necessary to prove guilty knowledge unless otherwise expressly required but the burden of disproving it shall be on the defendant.

Section 309—Evidence of Officers.

If in proceedings under this Law a question arises whether any person is an officer, his own evidence in so far as it relates to his employment in the Customs, Excise and Preventive or membership of the Police Service shall be conclusive.

Section 310—Valuation for Penalty.

(1) In any proceedings before a court where a penalty is to be determined by the value of the goods the value shall, be estimated and taken according to the rate and price for which similar goods of the best quality upon which customs or excise duties or sales tax or other taxes have been paid were sold at or about the time of the offence, or according to the rate and price for which, similar goods were sold in bond at or about the time of the offence with the duties and taxes due on it added to the rate or price in bond.

(2) No goods shall be considered to be of less value because they have been damaged in the course of an attempt to destroy or make away with them by any person who contravenes or attempts to contravene this Law.

(3) A certificate as to the value of goods under the hand of the Commissioner or an officer authorised by him as to the value of the goods shall be accepted by the court or tribunal as prima facie evidence of the value stated therein.

Section 311—Government Chemist's Certificate.

In proceedings under this Law, the production of a certificate signed by the Government Chemist or a person authorised by the Government Chemist shall be prima facie evidence of all the matters stated on it.

Section 312—Admissibility of Copies of Documents.

Where any book or document, is required under this Law to be used as evidence in any court or tribunal as to the transactions to which it refers, copies certified by the proper officer shall be admissible for that purpose without production of the original.

Section 313—Proof of Orders.

If in proceedings under this Law it is necessary to give proof of an order or letter of authority issued by the Secretary, Commissioner or any person in the employment of the Government, the order or letter of authority or any letter or instructions shall be admitted and taken as prima facie evidence of the order or letter of authority, if the document purports to be signed by the person or appears to have been officially printed or issued.

Section 314—Certificate of Forfeiture.

Forfeiture by any court or tribunal under this Law may be proved in any court or before any competent tribunal by the production of a certificate of the forfeiture signed by the registrar of the court.

## PART XIX—SUPPLEMENTARY

### Section 315—Time of Importation, Arrival and Exportation.

- (1) The time when goods are imported shall be the time at which they came within the boundaries of Ghana.
- (2) If a question arises upon the arrival of an aircraft or ship at a port or place in Ghana in respect of any charge or allowance for the aircraft or ship, exclusive of cargo, the time of arrival shall be the time at which the aircraft or ship was first boarded at that port or place by any person in the employment of the Government.
- (3) The time when goods are exported shall be the time when they are put on board the exporting aircraft or ship unless they are goods prohibited to be exported, in which case it shall be the actual time at which the aircraft or ship departed from its final position, anchorage or berth within Ghana, except that in the case of goods exported overland or by inland waters the time of exportation shall be the time at which they pass across the boundaries of Ghana.

### Section 316—Goods in Transit.

- (1) The provisions of this Law relating to the importation, prohibition, entry, examination, landing, warehousing and the exportation and clearance of goods so far as they are applicable, and subject to any regulations made under this Law relating to goods in transit, shall apply to goods declared in transit to a destination beyond Ghana.
- (2) The Commissioner shall from time to time prescribe routes which may be used for particular goods in transit as he considers appropriate.

### Section 317—Validity of Bonds, Etc.

Any bond or other security taken for the purposes of this Law—

- (a) shall be taken on behalf of the Republic;
- (b) shall be valid notwithstanding that it may be given by a person under 21 years of age;
- (c) shall be valid notwithstanding that it is not sealed or not signed or delivered in the presence of any witness; and
- (d) may be cancelled at any time by order of the Commissioner.

### Section 318—Sureties.

- (1) Without prejudice to any right of a surety under any bond or other security taken for the purposes of this Law against the person for whom he is a surety, a surety shall be deemed a principal debtor and not merely a surety, and accordingly shall not be discharged nor shall his liability be affected by time given for payment or by any omission to enforce the bond or other security, or by any other act or omission or means whereby the liability of the surety would not have been discharged if he has been a principal debtor.
- (2) Where a person under a bond or other security required by this Law pays the whole or any part of the sum for which he is bound or, being a surety—
  - (a) dies; or
  - (b) becomes a bankrupt or enters into any arrangement or composition with or for the benefit of his creditors; or
  - (c) departs from Ghana without leaving sufficient property there to satisfy the whole amount for which he is bound; or
  - (d) for any other reason is in the opinion of the Commissioner unable or likely to be unable to satisfy the bond or other security if called upon,the Commissioner may if he thinks fit require a new bond or other security to be executed.

### Section 319—Forms of Documents.

- (1) Every document submitted to the Commissioner or his officers for the purposes of this Law shall be in such form as may be prescribed, if any, and shall contain the particulars, required by the form or indicated in it.
- (2) Subject to this Law and regulations made under it, the Commissioner may prescribe forms required for the purposes of this Law.

### Section 320—Production of Documents.

- (1) An importer, exporter or any person concerned in the importation or exportation of any goods shall, on the request of any officer made within 5 years of the date of importation or exportation, or of the date of delivery to the proper officer of an entry for the goods, if they have been entered,
- (a) produce for his inspection the invoices, books of account and any other documents of whatever nature relating to the goods which the officer may require;
  - (b) answer all questions put to him by the officer and sign all declarations required of him regarding the weight, measure, strength, value, cost, selling price, origin and destination of the goods, and the name of the place where any imported goods were consigned or transferred from one aircraft or ship to another;
  - (c) produce such evidence as the officer may consider necessary in support of any information given.
- (2) If the importer, exporter or other person concerned neglects or refuses to comply with any provision of subsection (1), he shall incur a penalty of not less than ₵100,000 and not more than ₵500,000 and the Commissioner may, on the neglect or refusal, refuse entry or delivery or prevent shipment of the goods, or may allow entry, delivery or shipment of the goods upon such terms and conditions, and upon deposit of such sum, pending the production of the proper documents and declarations, as he shall see fit to impose or require. [As amended by Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614) s.6.]
- (3) The deposit made in accordance with subsection (2) shall be forfeited unless within three months of the time of deposit, or such further time as the Commissioner may allow, the person making the deposit produces the required documents or declarations to the Commissioner.

#### Section 321—Copies of Documents.

- (1) Where a person is required to submit any report, entry declaration or other form for the purpose of this Law, the Commissioner may require him to submit as many copies as he considers necessary.
- (2) Where the Commissioner requires invoices or certificates or originals, or both, to be produced for any goods imported or exported, he may require them to be submitted in duplicate, and may retain the duplicates; or, if they are not submitted in duplicate he may retain the originals.

#### Section 322—Translation into English.

Where a document required for the purposes of this Law contains any words not in the English Language, the person required to produce it shall produce with it a correct translation in English.

#### Section 323—Samples.

Any officer may on the entry of any goods, or at any time afterwards, take samples of them for any purpose the Commissioner considers necessary, and the samples shall be disposed of and accounted for in such manner as the Commissioner may direct.

#### Section 324—Agent to Produce Authority.

- (1) Where a person applies to any officer to transact business relating to customs or excise or any matter under this Law, on behalf of any other person, the officer may require the applicant to produce a written authority from the person on whose behalf the application is made, and in default of the production of the authority may refuse to transact the business; and any document required by this Law to be signed by any person shall be deemed to be so if signed by any person so authorised on behalf of the person required to sign it; except that the Commissioner may refuse to allow the application.
- (2) Where a document or declaration is required under this Law to be signed in the presence of the Commissioner or any particular officer, it shall, if signed in the presence of a witness whose signature is known to and is approved by the Commissioner or the officer who receives it, be as valid as if it had been signed in the presence of the Commissioner or the officer in whose presence it is required to be signed.

#### Section 325—Master to Attend before Commissioner.

Where under this Law the master of agent of any aircraft or ship is required to answer questions put to him by the Commissioner or any officer, and the aircraft or ship is within Ghana and has not left her final position, anchorage or berth preparatory to leaving Ghana the Commissioner or the officer

may require the master to attend before them at their office and the master should attend; but the master, with the consent of the Commissioner or the officer, may depute a senior officer of the aircraft or ship to attend for the purpose of answering the questions, and in that case the replies of the senior officer shall be deemed to be the replies of the person required by this Law to answer the questions.

#### Section 326—Special Packages Deemed Separate Articles.

All packages and coverings in which goods are imported or exported and which in the opinion of the Commissioner—

(a) are not the usual or proper packages or coverings for the goods, or

(b) are designed for separate use, other than the packages or coverings for the same or similar goods, subsequent to importation or exportation,

shall for all purposes of this Law be deemed to be separate articles, except in cases where a contract provision is made.

#### Section 327—Accommodation of Officer.

(1) If the master of a ship on board which an officer is stationed, neglects or refuses to provide him with proper and sufficient goods and suitable accommodation under the deck, he shall incur a penalty of a sum equal to state hotel rates.

(2) With the approval of the Commissioner and subject to such conditions as he sees fit to impose, a master may instead of providing the services, compound by a money payment at the current chargeable commercial rate.

#### Section 328—Receipts.

(1) Any person requiring a receipt for duties payable under this Law or for any other monies which are brought to account in accordance with the directions of the Commissioner on a bill of entry may have it upon giving to the proper officer an additional copy of the bill of entry, typed or written in red ink to distinguish it from the warrant.

(2) The additional copy of the bill of entry, after having been compared with the original warrant and signed by the proper officer, shall be delivered as a receipt to the person requiring it.

#### Section 329—Auctioned Goods.

(1) When the duty on any goods sold at a customs sale is chargeable ad valorem, their value for duty shall be the price realised at the sale, or the value estimated by the proper officer, whichever is the greater.

(2) The Auction Sales Law, 1989 (PNDCL 230) shall not apply to sales under this Law when conducted by an officer, and an authorised officer may conduct the sales.

#### Section 330—Discretionary Powers of Commissioner.

The Commissioner may in any special circumstances permit the entry, unloading, removal, loading and delivery of goods, and the report and clearance of aircraft and ships, in such form and manner as he may direct to meet the needs of any case to which the relevant provisions of this Law may not be conveniently applicable.

#### Section 331—Existing Ports Warehouses, Etc, to Continue.

All ports, warehouses, sufferance wharves and boarding stations approved immediately before the commencement of this Law shall continue to be approved, and all duly appointed wharves shall be deemed to be approved places of loading and unloading until their appointment is revoked or varied under this Law.

#### Section 332—Application to Land Frontiers and Inland Waters.

This Law shall apply to the importation or exportation of goods and to the arrival and departure of persons overland or by inland waters as it applies to the importation or exportation of goods and to the arrival, landing and departure of persons by, from and on board aircraft or ships arriving from or proceeding overseas, and for the purpose this Law may be construed with such verbal alterations, not affecting the substance, as may render it applicable.

#### Section 333—Acts of the Commissioner.

(1) Anything required by this Law to be done by or before the Commissioner may be done by or before any officer appointed by him for the purpose.

(2) Every person employed on any duty or service by order or with the concurrence of the Commissioner (whether previously or subsequently expressed) shall be deemed to be the officer for that duty or service.

(3) Every act required by law to be done by, with, to or before any particular officer nominated for that purpose may be done, by, with, to or before any person appointed by the Commissioner to act for that officer.

(4) Every act required by law to be done at a particular place shall be deemed to be so done if done at any place appointed by the Commissioner for that purpose.

#### Section 334—Liability of Government.

No action shall be brought against the Government or any of its officers:

(a) for any loss or damage sustained by any goods while in a warehouse or customs area or in the course of being received into or delivered from there;

(b) for any loss or damage sustained by a warehouse or customs area or any of their contents; or

(c) for any wrong or improper delivery from a warehouse or customs area, except where the loss or damage or wrong or improper delivery occurs as the result of the wilful act or negligence of Government or of an officer.

#### Section 335—Regulations.

(1) The Secretary may, by legislative instrument, make regulations providing for any matter which under this Law is to be provided for by regulations or is to be prescribed, and generally for carrying into effect the provisions of this Law.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made under this Law may prescribe the class or description of goods which may be manufactured in a warehouse and the conditions subject to which and the manner in which they may be manufactured.

#### Section 336—Rules by Commissioner.

The Commissioner may issue instructions for any of the following matters—

(a) the management and working of the Customs, Excise and Preventive Service;

(b) the guidance and control of the public dealing with the Customs, Excise and Preventive Service; and

(c) any matter or things not covered by this Law which may be prescribed by the Commissioner.

#### Section 337—Hours of Attendance.

(1) The Commissioner may give notice in the Gazette or in the national dailies—

(a) prescribing the hours between which officers of Customs, Excise and Preventive Service are to be open or officers are to be available for the performance of particular duties; and

(b) directing the form and manner in which a request for an extension of the hours so prescribed shall be made to the proper officer and the fees payable for any extension granted.

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

#### Section 338—Doubts Concerning Drugs.

(1) Where any doubt arises, for the purpose of this Law, as to whether or not any substance is a drug, that doubt may be resolved by the Director of Medical Services.

(2) For the purposes of this section and in particular for the purposes of any proceedings under this Law, a certificate signed by the Director of Medical Services or his representative shall be conclusive evidence of all the matters stated in it.

(3) In this section "drug" has the meaning assigned to it by section 62 of the Pharmacy and Drugs Act, 1961 (Act 64).

#### Section 339—Wine and Beer.

For the purpose of customs duties—

(a) no liquor containing more than 24.5 per cent of pure alcohol by volume shall be considered as wine; and no liquor containing more than ten per cent of pure alcohol by volume shall be considered as ale, beer, cider, perry or stout;

(b) all liquor containing more than 24.5 per cent of pure alcohol by volume, all liquor, other than wine, containing more than 10 per cent of pure alcohol by volume, and all liquor other than wine,



ale, beer, cider, perry or stout containing more than one per cent of pure alcohol by volume shall be considered as spirits.

#### Section 340—Interpretation.

In this Law unless the context otherwise requires

"agent", in relation to the master or owner of an aircraft or ship, includes any person who notifies the Commissioner in writing that he intends to act as the agent, and who or on whose behalf any person authorised by him signs any document required or permitted by this Law to be signed by an agent:

Provided that the owner of any aircraft or ship if resident or represented in Ghana shall, either himself or through his representative, be the agent of the master for all the purposes of this Law, if such agent is appointed;

"aircraft" means any apparatus, whether or not mechanically propelled, which is used for the transport by air of human beings or property;

"approved" means approved by the Commissioner or the proper officer;

"approved place of unloading" and "approved place of loading" mean any quay, jetty, wharf or other place, including any part of an aerodrome, appointed by the Secretary by notice in the Gazette or in the national dailies to be a place where coastwise or imported goods or goods about to be carried coastwise or exported may be unloaded or loaded;

"board" means the Customs, Excise and Preventive Service Board;

"boarding station" means any station or place appointed by the Secretary by notice in the Gazette or in the national dailies to be a station or place for aircraft or ships arriving at or departing from any port or place to bring to for the boarding or setting down of officers;

"burden" means net registered tonnage or tonnage calculated in the manner prescribed by law for ascertaining net registered tonnage;

"Secretary" means the Secretary responsible for Customs, Excise and Preventive Service;

"Compound" means to mix an ingredient or material with spirits, but does not include the mixing of ethyl alcohol or other substances with spirits to render them unfit for use as a beverage;

"Commercial vehicle" includes buses, coaches, trucks, lorries, tippers, vans, vehicles generally falling under H.S. Codes 87.02 and 87.04. [As Inserted by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552) s.3(b).]

"Commissioner" means the person for the time being having charge of the Customs, Excise and Preventive Service;

"Council" means the Provisional National Defence Council;

"customs area" means any place appointed by the Commissioner by notice in writing under his hand for the deposit of uncustomed goods;

"customs surveillance zone" means any area within a distance of the frontier or coast line delimited by the Board to be an area where intensive customs surveillance may be maintained for the purpose of preventing smuggling and any other customs and excise offences;

"customs value of imported goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;

"A Harmonised Commodity Description and Coding System" means the Nomenclature comprising the headings and sub-headings and their related numerical codes, the section, chapter and Sub-heading Notes and the General Rules for the interpretation of the Harmonised System contained in the text of the International Convention on the Harmonised Commodity Description and Coding System approved by the Customs Co-operational Council on 14th June, 1983.

"country of importation" means country or customs territory of importation;

"produced" includes grown, manufactured and mined;

"identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences appearance would not or preclude goods otherwise conforming to the definition from being regarded as identical;

"similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially

interchangeable. The quality of the goods, their reputation and the existence of a trade mark are among the factors to be considered in determining whether goods are similar;

"identical goods" and "similar goods" do not include as the case may be, goods which incorporate or reflect engineering, development, art work, design work and plans and sketches for which no adjustment has been made under Section 35(1)(b)(iv);

Goods shall be regarded as "identical goods" or similar goods" unless they were produced in the country as the goods being valued;

Goods produced by a different person shall be taken into account only when there are not identical goods or similar goods as the case may be, produced by the same person as the goods being valued;

"goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and include identical or similar goods;

For the purposes of Section 29, persons shall be deemed to be related only if:

(a) they are officers or directors of one another's businesses;

(b) they are legally recognized partners in business;

(c) they are employer and employee;

(d) any person directly or indirectly owns controls or hold 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) together they directly or indirectly control a third person or;

(h) they are members of the same family;

"retail trader" means a person whose business is the supplying or sale of any article to consumers principally for their consumption and not for resale.

"transaction" in relation to any article, means the sale, gift, transfer or exchange of such article.

"wholesale dealer" means a person whose business is the supply or sale of any article to any other person for resale and includes a manufacturer or importer, having a transaction with a retail trader;

"motor vehicle" means a mechanically propelled vehicle intended or adopted for use on roads other than cycles, motor cycles, side-cars and other similar vehicles;

"commercial vehicle" means any lorry bus, tipper, low-loader, delivery van, pick-up, landrover, range-rover or jeep used for the carriage of passengers or goods or both for hire or reward;

"drawback" means a refund of all or part of any duty of customs or excise or tax authorised by law in respect of goods exported or used in a manner or for a purpose prescribed as a condition of drawback;

"entered" in relation to goods imported, warehoused, put on board an aircraft or ship as stores of exported, means the acceptance and signature by the proper officer of an entry, specification, or shipping bill, and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the Government in respect of the goods, and in the case of dutiable goods (except on the entry for warehousing of imported goods), the payment by the importer or exporter to the proper officer of the full duties due thereon or else, where permitted, the deposit of a sum of money or giving security for the duties, as provided by law, or, in the case of goods for which security by bond is required on exportation, putting on board an aircraft or ship as stores or removal of such goods, the giving of such security;

"excise duty" means any duty other than an export duty of customs imposed on any goods manufactured or produced in Ghana;

"excisable goods" means goods of a description liable to excise duty if delivered for consumption in Ghana and include spirits rectified or compounded in Ghana;

"export" means to take or cause to be taken out of Ghana;

"exporter" includes any person by whom goods (including goods transferred from an importing aircraft or ship) are exported from Ghana, or supplied for use as aircraft's or ship's stores, and also the owner or any person acting on his behalf, and any person who for customs purposes signs any

document relating to goods exported or intended for exportation, or supplied or intended for supply as aircraft or ship's stores;

"factory" means any premises (including any cartilage thereof) or place used for the manufacture of excisable goods;

"fents" means remnants of cloth of irregular lengths being under six yards;

"Ghana" includes the territorial waters of Ghana;

"goods" includes all kinds of articles, currency, merchandise and livestock;

"Government Warehouse" means any building or place the property of the Government approved by the Secretary by notice in the Gazette or in the national dailies to be a place where goods to be warehoused may be lodged, kept and secured;

"hydrocarbon oils" means petroleum oils, coalter, and oils produced from coal, chalk, peat, or any other, bituminous substance and all liquid hydrocarbons, but does not include such hydrocarbons or bituminous or asphaltic substances as are solid or semi-solid at 60 degrees F;

"importer" includes the owner or the person for the time being possessed of or beneficially interested in any goods at and from the time of their importation until they are duly delivered out of the charge of the proper officer, and also any person who signs any document relating to any imported goods required by this Law to be signed by an importer;

"manufacturer" means any person who by any means makes or produces or causes to be made or produced any excisable goods; and "manufacture" has a corresponding meaning;

"master" includes any person having or taking charge or command of any aircraft or ship;

"materials" includes any goods from which excisable goods are capable of being manufactured and any residue from any process of manufacture;

"name" includes the registered mark of an aircraft;

"occupier" includes any person who signs as principal any bond in respect of any building or place used for the deposit of goods for the security thereof or of the duties due thereon under this Law;

"Officer" means any person employed in the Customs, Excise and Preventive Service, as well as any person acting in the aid of any such person; and any person acting in the aid of an officer acting in the execution of his duty shall be deemed to be an officer acting in the execution of his duty;

"over Ghana" means above the area contained within the imaginary lines bounding Ghana; and if any person, goods or things descend or fall, or are dropped or thrown, from any aircraft within such area, such person, goods or things shall be deemed to have descended or fallen, or to have been dropped or thrown from an aircraft over Ghana;

"owner of goods" includes any person who is for the time being entitled either as owner or agent for the owner to the possession of the goods and in relation to a ship, includes the charterer, operator or hirer;

"package" includes any parcel, container, bundle, box, cask or other receptacle;

"port" means any place, whether on the coast or elsewhere, appointed by the Secretary by notice published in the Gazette or in the national dailies, subject to any conditions of limitations specified in such notice, to be a port for the purposes of this Law; and any customs aerodrome, whether within a port or not, shall be deemed to be a port for aircraft;

"postal article" means a postal article as defined in the Posts and Telecommunications Decree, 1975 (NRCD 311) as amended;

"pre-entry" means the entry of goods prior to their importation into Ghana;

"prescribed" means prescribed by regulations made under section 336;

"private warehouse" means any building or place appointed by the Commissioner and licensed to be a place where goods to be warehoused may be loaded, kept and secured;

"prohibited goods" means goods whose importation or exportation is prohibited by law;

"proper officer" means any officer whose right or duty it may be to exact the performance of or to perform the act referred to;

"rectify" means to re-distil spirits;

"refinery" means any premises approved and licensed by the Commissioner for the treatment of hydrocarbon to produce refined hydrocarbon oils or by-products thereof;

"regulations" means regulations made under section 336;

"removal articles" include movable personal belongings or effects, domestic appliances, household provisions normally kept in stock, collectors' pieces, pet animals and also any equipment (other than agricultural, commercial or industrial plant) necessary for the exercise of the calling, trade or profession of any person referred to in Section 197 (1) of this Law, but does not include arms and ammunition;

"restricted goods" means goods whose importation or exportation is restricted by law;

"ship" means floating craft of every description, but does not include aircraft;

"spirits" means spirits of any description and includes all liquors mixed with spirits and all mixtures, compounds or preparations made with spirits;

"State warehouse" means any place approved by the Commissioner for the deposit of unentered, unexamined, detained or seized goods for the security thereof or of the duties due thereon;

"sufferance wharf" means any place other than an approved place of loading or unloading at which the Commissioner in his discretion, and at such conditions and in such manner as he may direct, either generally, or in any particular case, allow any goods to be loaded or unloaded;

"Tax Clearance Certificate" means a certificate issued by the Commissioner stating that no Excise Duty or Sales Tax is due under this Law or any other enactment administered by him from the person or company to whom the certificate relates in respect of the periods stated in the certificate or that, that person or company has made arrangements satisfactory to the Commissioner for the payment of the Excise Duty or Sales Tax due from him or the company;

"transit shed" means any building in a customs area, appointed by the Commissioner by notice in writing for the deposit of uncustomed goods;

"uncustomed goods" includes goods liable to duty on which the full duties due have not been paid and any goods, whether liable to duty or not, which are imported or exported or in any way dealt with contrary to the provision of this Law relating to custom; partially customed goods shall be deemed as wholly "uncustomed" for the purposes of this Law;

"vehicle" means every kind of conveyance for the transport by land of persons or property;

"warehouse", in the provisions of this law relating to excise, means any place appointed by the Commissioner to be a warehouse for the security of any excisable goods and of the duty due thereon;

"warehoused" means deposited in a Government, State or private warehouse or in a warehouse with the authority of the officer in charge of the warehouse;

"warehouse keeper" means the occupier of a private warehouse or the owner or occupier of a warehouse, as the case may be;

"wholesale dealer" means a person whose business is the supply or sale of any article to any other person for resale and includes a manufacturer or importer having a transaction with a retail trader.

Section 341—Repeals and Savings.

(1) The following enactments as subsequently amended are hereby repealed—

Sales Tax Act, 1965 (Act 257)

Customs and Excise Decree, 1972 (NRCD 114)

Removal Articles (Exemptions) Decree, 1974 (NRCD 280)

Vehicle Purchase Tax Decree, 1978 (SMCD 184)

Motor Vehicles (Importation) Law, 1985 (PNDCL 121)

Customs, Excise and Preventive Service Law, 1986 (PNDCL 144)

Motor Vehicle Importation (Amendment) Law, 1987 (PNDCL 167).

Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552); and

Customs and Excise (Concession on overage vehicle) Act, 2001 (Act 598). [Repealed by the

Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634), s. 4]

Savings.

(2) Any reference in any enactment to the Comptroller of Customs and Excise or the Comptroller or the Customs and Excise Department shall be construed as references to the Commissioner and the Service respectively.

Savings.

(3) Notwithstanding the repeal of the enactments specified in subsection (1), every statutory instrument and all notices, orders and rules made under those enactments and in force immediately before the commencement of this Law shall, until altered, revoked or modified under this Law, continue in force as if made under the corresponding provisions of this Law.

**FIRST SCHEDULE**

**FORM OF WARRANT OF DISTRESS**

To.....

I ..... Commissioner of Customs, Excise, and Preventive Service, by virtue of the powers vested in me by section 76 of the Customs, Excise and Preventive Service (Management) Law, 1993 (PNDCL 330) do hereby authorise you to collect and recover the sum of ..... due for excise duty, sales tax and/or penalties from ..... CEPS debtor of ..... and having his factory at .....; and for the recovery of this sum I authorise you, with the aid if necessary of your assistants to levy this sum forthwith by distress together with the costs and charges of an incident to the keeping of the distress on all distrainable things specified under S.76 the property of and belonging to the said debtor wherever they may be found and on all such distrainable things as specified under the said S.76 used within Ghana in the manufacture, sale or distribution of excisable or sales taxable goods which you may find in any premises or on any lands in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

For the purposes of levying the distress you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the day time.

Given under my hand at ..... this ..... day of .....19 .....

**COMMISSIONER OF CUSTOMS, EXCISE AND PREVENTIVE SERVICE**

Made this 5th day of January, 1993.

**JERRY JOHN RAWLINGS**

Chairman of the Provisional National Defence Council

Date of Gazette Notification: 11th Jun