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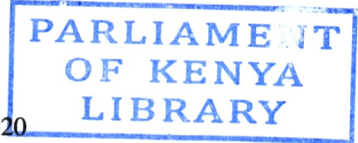
LEGAL NOTICE No. 113

THE EXCISE DUTY ACT, 2015

(No. 23 of 2015)

THE EXCISE DUTY REGULATIONS, 2020

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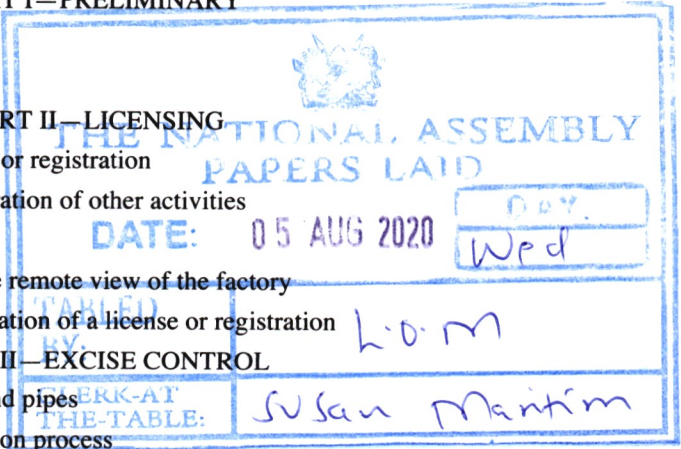
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THE EXCISE DUTY ACT, 2015

(No. 23 of 2015)

THE EXCISE DUTY REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 45 of Excise Duty Act, 2015, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE EXCISE DUTY REGULATIONS, 2020

PART I—PRELIMINARY

1. These Regulations may be cited as the Excise Duty Regulations, 2020. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“Act” means the Excise Duty Act, 2015

“alcoholic beverage” includes beer, opaque beer, powdered beer wine, spirits and spirituous beverages and mead;

“customs control” has the meaning assigned to it under the East African Community Customs Management Act, 2004;

“denaturer” means a person licenced under the Act to denature spirits;

“feints” means spirits conveyed into a receiver in a distillery entered under these regulations as a feints receiver;

“tobacco” or “tobacco products” includes cigarettes, cigars, cigarillos, electronic cigarettes, other manufactured tobacco and manufactured tobacco substitutes or essences;

“wash” means the fermented liquor from which spirits are produced by distillation; and

“worts” means the liquid obtained by dissolving sugar or molasses in water or by extracting the soluble portion of malt or other cereal in the process of brewing and any primary or colouring solution.

PART II—LICENSING

3. (1) Where a person makes an application to be licensed or registered under section 16, the application shall be accompanied by— Application for license or registration.

(a) the documents that the Commissioner may require;

(b) a written description of the manufacturing processes used by the applicant;

- (c) a plan of each building, room or place to which the application for a license relates;
- (d) details of the installed production capacity of each production line;
- (e) the prescribed license application fees; and
- (f) proof of the installation of devices, equipment, systems or other similar requirements prescribed under these Regulations or the Act.

(2) For the purposes of paragraph (1) (e), the fees for the activities specified in Section 15 (1) (a) and (b) shall be—

- (a) in case of manufacturers or importers of alcoholic beverages, one hundred thousand shillings;
- (b) in case of manufacturers or importers of tobacco and tobacco products, one hundred thousand shillings; and
- (c) in any other case, fifty thousand shillings.

(3) The applicant shall furnish security for activities specified in section 15 (1) (a) and for any other activity as the Commissioner may specify.

(4) A licensed distiller who intends to compound spirits shall apply to the Commissioner for a separate licence in accordance with paragraph (1).

4. (1) A person shall not undertake the following activities unless that person is registered by the Commissioner—

Registration of
other activities.

- (a) the importation of cigarette paper or cigarette packaging materials;
- (b) the importation of raw or unprocessed tobacco;
- (c) the local purchase or importation of ethanol; and
- (d) the denaturing of spirits.

(2) Only agents of licensed manufacturers of tobacco products shall be registered by the Commissioner as importers of cigarette paper, cigarette packaging materials, or raw or unprocessed tobacco.

(3) A person shall not import or purchase locally produced ethanol unless that person is registered by the Commissioner as a manufacturer of alcoholic beverages or a user of spirits used for the manufacture of unexcisable goods.

5. The Commissioner shall inspect premises and processes in respect of an application under regulation 3, 4 and 32. Inspection of premises.
6. (1) A licensee shall install systems to enable the remote viewing of the operations of that person's factory by the Commissioner. Remote viewing of factories.
- (2) The Commissioner shall prescribe the specifications of the system required under paragraph (1) which shall include the capability of storing and transmitting real-time digital images and similar data through a secure platform.
- (3) The licensee shall grant the Commissioner unrestricted access to the system contemplated in paragraph (1).
7. The Commissioner may, in addition to the circumstances specified in section 20, suspend a licence issued under these Regulations if— Suspension or cancellation of license or registration.
- (a) the licensee has been found in possession of unexcised goods;
 - (b) the licensee has been found engaging in activities not specified in the license or registration;
 - (c) the activity to which the license issued under these Regulations relates becomes prohibited under any law; or
 - (d) the premises to which the license relates or the equipment therein have been altered without the approval of the Commissioner.

PART III—EXCISE CONTROL

8. (1) A licensee shall— Marking of premises and pipes.
- (a) at the principal entrance of the premises to which the license relates and such other prominent place in the premises as the Commissioner may require, mark in official language—
 - (i) in the case of manufacturers and importers of excisable goods, the words "EXCISE CONTROL PREMISES" and the excise license number allocated to the premises; and
 - (ii) in any other case, the name of the licensee and the license number allocated to the premises;
 - (b) ensure that the pipes in the production process are joined permanently and easily examined along the length of the pipes;

- (c) ensure that the pipes and vessels conform to the standards specified for that industry;
- (d) mark and maintain in different colours each item of plant used in the manufacture, preparation for sale, or storage of materials or excisable goods;
- (e) to the satisfaction of the Commissioner, place and keep each vessel and utensil in a convenient situation easy to access for examination and account, and so fixed as to admit of the content thereof being accurately gauged or metered;
- (f) provide all such fittings as may be required by the Commissioner for securing by way of locking or sealing the factory and plant for purposes of the Act and these Regulations;
- (g) for purposes of paragraph (1) (d), a distiller shall paint on the full length or in bands of suitable intervals on pipes for the conveyance of—
 - (i) spirits in red;
 - (ii) wash or worts in blue;
 - (iii) molasses in green;
 - (iv) low wines of feints in brown;
 - (v) water in yellow; and
 - (vi) fuel oil in black; and
- (h) not vary any process or add to, alter, or move the vessels, utensils, pipes or fittings in the factory without the Commissioner's approval of the variations alterations, movements or additions.

(2) Premises to which a license relates shall have separate office accommodation, production area, raw materials storage and finished goods storage areas.

(3) For the purposes of paragraph (2), the areas shall be secured and isolated from each other, and fitted in a manner to allow for the securing of the areas by way of locking or sealing for excise control

(4) Where a person has been issued with a license for the manufacture of excisable goods and importation of excisable goods, that person shall provide separate premises or storage rooms approved by the Commissioner for storage of the imported goods.

9. The Commissioner may, with respect to specific industries, require premises to which a license relates to have an automated production process at every stage of manufacturing.

Automation of
production.

10. (1) The Commissioner shall, by notice in the *Gazette*, specify the requirements of a measuring or metering device and such other equipment for a production system as may be required under these Regulations.

Metering and measuring devices.

(2) The production system shall include such measuring and metering devices approved by the Commissioner that allow for the full accounting of raw materials, intermediate goods and the finished products used or produced in the production facility

(3) Raw materials and finished products storage tanks shall be fitted with tank-gauging systems to allow for the proper accounting of the contents of the tanks.

(4) Metering and measuring devices required under these Regulations shall be installed in such places in the production line as the Commissioner may specify with respect to each production facility.

(5) A licensee shall—

- (a) install and regularly maintain accurately calibrated, metered and gauged tanks and vessels to enable easy examination and accounting of the content therein by the Commissioner; and
- (b) keep maintenance logs for metering and measuring devices required under these Regulations and ensure that the devices are calibrated at least once every year.

11. (1) Packages of excisable goods including those meant for duty free shops, diplomatic shops or exportation, and other excisable goods shall bear distinct markings to enable the goods to be trackable and traceable.

Marking of products, containers and packages.

(2) Despite the generality of paragraph (1), each package or container and material wrapping the package for wholesale purposes shall have printed on it—

- (a) in the case of excisable goods for exportation, “FOR EXPORT”;
- (b) in the case of excisable goods for sale to duty-free shops or diplomatic shops, “DUTY FREE”; and
- (c) in the case of alcoholic and non-alcoholic beverages for consumption by the Kenya Defence Forces, “KENYA DEFENCE FORCES”.

(3) The Commissioner may specify markings for other excisable goods that may be exempt from excise duty.

12. (1) A licensee shall keep the raw materials used for the manufacture of excisable goods in a secure room or storage facility which allows for the accounting of the materials in the room or facility.

Control of raw materials.

(2) A person shall not remove any raw materials for a purpose other than for manufacturing in the licensed premise without the approval of the Commissioner.

(3) A distiller shall not store any compounded spirits in the licensed premises.

13. (1) Excisable goods shall, after the process of manufacture has been completed, be transferred to a room clearly marked as "EXCISE STOCK ROOM".

Storage and delivery of excisable goods after manufacture.

(2) Excisable goods shall only be removed from an excise stock room in accordance with these Regulations.

(3) Excisable goods in an excise stock room shall be stored in such a manner as to facilitate the accounting of the goods therein.

(4) Goods manufactured for export or exempt from excise duty shall be stored separately in an excise stock room.

(5) A licensee shall provide a separate room for the storing of excisable goods that have been returned to the factory.

(6) A person shall not transfer or transport any excisable goods to another person or premises for bottling or filling without the prior written approval of the Commissioner:

Provided that a licensed manufacturer may transfer excisable goods within that manufacture's licensed premises.

14. (1) A licensee shall, in addition to the payment of any other taxes or penalties imposed under any other tax laws, pay the excise duty on excisable goods—

Excisable goods for export exemption, etc.

(a) manufactured for export which have been diverted into or offered for sale in Kenya; and

(b) used in a manner that is inconsistent with the conditions of exemption, remission or refund under the Act.

(2) A licensee shall be responsible for declaration and transportation of excisable goods destined for export or under remission, exemption or refund.

15. (1) A person issued with a license under these Regulations shall keep records that will enable the Commissioner to ascertain the tax liability of that person including—

Records.

(a) in relation to locally manufactured excisable goods—

(i) detailed records relating to the purchase or import of inputs used in the manufacture of the goods;

- (ii) raw materials stock and usage;
 - (iii) production records at every stage of the manufacturing process;
 - (iv) packaging records;
 - (v) details of goods removed from the factory;
 - (vi) periodic readings of measuring and metering devices for each tax period;
 - (vii) records of calibration of measuring and metering devices as required under these Regulations;
 - (viii) sales records; and
 - (ix) any other relevant record that the Commissioner may require;
- (b) in relation to imported excisable goods—
- (i) commercial invoices, copies of customs entries, receipts for the payment of customs duty and other relevant taxes; and
 - (ii) such other relevant documents as may be required under the East African Community Customs Management Act, 2004;
- (c) in relation to supply of excisable services—
- (i) details of each supply of services; and
 - (ii) any other record that the Commissioner may require;
- (d) in relation to the denaturing of spirits—
- (i) daily accounts in the approved form of all spirits and denatured spirits received or manufactured and their disposal thereof;
 - (ii) details of approved denaturants including available stocks, any records of receipt and usage; and
 - (iii) any other relevant records that the Commissioner may require; and
- (e) in relation to the use of spirits, kerosene or denatured spirits to manufacture unexcisable products—

- (i) the quantities of spirits, kerosene or denatured spirits used;
- (ii) the production records including records of quantities of the unexcisable goods manufactured;
- (iii) sales records;
- (iv) evidence of payment of taxes on the inputs; and
- (v) any other relevant record that the Commissioner may require.

(2) Records kept under these Regulations shall be maintained in such a form as to facilitate the easy examination of the records in respect of each tax period.

16. (1) A licensee shall not bottle or otherwise pack any excisable goods for sale if the manufacturing of such good has not been approved by the Commissioner.

Declaration of brands.

(2) Despite paragraph (1), the Commissioner may, upon application, in writing authorise a person to conduct experimental operations.

(3) The Commissioner may impose such conditions as may be necessary on a person authorised to conduct experimental operations under paragraph (2).

17. The Commissioner may, for the purpose of ensuring proper excise control, require a licensee to provide suitable office accommodation and equipment in a factory for the authorised officer responsible for excise control at the factory.

Provision of office accommodation.

PART IV—PRODUCT ACCOUNTING

18. (1) The Commissioner may require a manufacturer or importer of excisable goods to facilitate the installation of a product accounting system in the premises where the excisable goods are manufactured.

Product accounting system.

(2) A product accounting system shall comprise of—

- (a) product authentication and validation equipment; and
- (b) devices for the control, registration, recording and transmission of data on quantities of excisable goods that have been manufactured or imported by the manufacturer or importer.

(3) The product accounting system shall—

- (a) be installed on all production lines at the manufacture's premises corresponding to each packaging machine or labelling machine; and
- (b) with respect to imports, be installed in the manner specified by the Commissioner.

(4) Where a new or modified system is required, the Commissioner shall notify the manufacturers or importers of excisable goods in writing at least thirty days before the installation and integration of the new or modified system.

(5) The notice under paragraph (4) shall state—

- (a) the requirements for the equipment to facilitate use of the system;
- (b) the adaptive features required on each production line; and
- (c) the connectivity features and operating environment for the installation and operation of computers and other equipment.

(6) A manufacturer who has installed a product accounting system shall notify the Commissioner in writing of any non-operational or inoperative production line—

- (a) within twenty-four hours of the production line becoming non-operational or inoperative; or
- (b) where the manufacturer does not intend to produce, twenty-four hours after the last production.

(7) The Commissioner may secure production lines by sealing if—

- (a) a manufacturer reports non-operational or inoperative lines under paragraph (6); or
- (b) the installed production capacity of the production lines remains underutilised.

(8) Where the Commissioner secures production lines in accordance with paragraph (7), the manufacturer shall provide the Commissioner with a production schedule indicating the dates and times when the manufacturer intends to restart production in order to facilitate the unsealing of the production lines.

PART V—SECURITY OF EXCISE DUTY

19. (1) The Commissioner shall require a licensee to provide security for the purpose of securing excise duty payable on excisable goods or compliance with any requirements under the Act.

Bond security.

(2) The licensee may give the security in any of the following forms—

- (a) by bond, in such sum and subject to such conditions and with such sureties as the Commissioner may require;
- (b) by cash deposit; or
- (c) partly by bond and partly by cash deposit.

(3) Where security is required to be given under the Act for any particular purpose, then the security may, with the approval of the Commissioner, be allowed to cover any other transaction for a specified period.

(4) Where security is given by way of a bond, the bond shall take the form of the Excise Bond Security Form set out in the First Schedule.

(5) Any bond given under the Act shall be framed such that the person giving the bond, and any surety thereto, is bound to the Commissioner by that person's name for the due performance of the conditions of the bond.

(6) A bond may be discharged by the Commissioner on the expiration of three years from the date it was issued unless it is otherwise discharged due to the performance of the conditions imposed on the bond.

(7) Where a bond given under the Act is discharged, then the Commissioner shall cause the bond to be cancelled and an endorsement to that effect made thereon.

(8) In determining the bond amount required under the Act, the Commissioner shall use—

- (a) the projected annual excise duty that would be payable by the licensee; and
- (b) the risk profile of the industry to which the licensee belongs.

20. (1) Without prejudice to the rights of a surety to a bond given under the Act with respect to the giver of a bond, the surety shall, for all the purposes of the bond, be deemed to be the principal debtor. Sureties.

(2) The surety shall not be discharged, nor the surety's liability affected, by the giving of time for payment, or by the omission to enforce the bond for a breach of any conditions thereof, or by any other act or omission which would not have discharged the bond if the surety had been the principal debtor.

(3) The Commissioner may require the person giving a bond to enter into a fresh surety if the first surety—

- (a) dies;
- (b) becomes bankrupt or enters into an arrangement or composition with, or for the benefit of, his creditors; or
- (c) departs from Kenya without leaving sufficient property therein to satisfy the whole amount of the bond.

21. (1) Where the conditions of a bond have not been complied with, the Commissioner may, by notice in writing, require the person who has given security to pay to the Commissioner the amount of the security within such period as specified in the notice.

Enforcement of bonds.

(2) Where a person fails to comply with the notice under paragraph (1), the Commissioner may enforce payment of the security as though it were excise duty due and unpaid.

22. (1) The Commissioner may cancel a bond if—

Cancellation of bonds.

- (a) the licensee ceases to carry on the activity for which the licensee was issued with a license;
- (b) the purpose for which the bond was given has been accomplished;
- (c) the circumstances provided in regulation 20 (3) apply to a surety; or
- (d) the bond expires.

(2) A licensee may apply in writing to the Commissioner for the cancellation of a bond and the application shall be accompanied by evidence that the licensee has complied with the provisions of the Act that necessitated the giving of security.

PART VI—MANUFACTURE OF WINES, FORTIFIED WINES, SPIRITS AND SPIRITOUS BEVERAGES

23. (1) Subject to such conditions and limitations as the Commissioner may prescribe, a wine manufacturer may—

Manufacture, mixing and fortification of wines.

- (a) mix in the licensed premises, spirits with wine manufactured by the manufacturer in a proportion not exceeding ten litres of proof spirit to one hundred litres of wine:

Provided that the mixture shall not thereby be raised to a greater strength than fifty degrees of proof; or

- (b) during the process of manufacture, mix wine made by the manufacturer with imported wine on which the full taxes and custom duties have been paid.

(2) Where any wine contains any imported wine which has been mixed therewith, the manufacturer shall declare on the main label of each bottle or other immediate container the quantity of imported wine expressed as a percentage of the total quantity of wine in each bottle or other immediate container.

24. (1) Prior to making any sale, a licensed distiller shall confirm eligibility—

Purchase and sale of spirits.

- (a) of a person to procure spirits for use in Kenya; and
- (b) of a regional importer to use spirits for lawful purposes in the country of importation.

(2) A licensed distiller shall provide to the Commissioner at least once in each month or at such other intervals as the Commissioner may direct the details of any person who purchases ethanol.

25. (1) A person shall not transfer or transport any spirit to another person or premises for manufacture, bottling or filling without the prior written approval of the Commissioner:

Removal and transportation of spirits.

Provided that a distiller may transfer spirits within the distiller's licensed premises.

(2) Except as permitted by the Commissioner, spirits transported or transferred under paragraph (1) shall be accompanied by an approved removal permit issued by the Commissioner and subject to such limitations and conditions as may be specified in the permit.

(3) Spirits transported and transferred under this regulation shall be packaged in casks or containers marked and printed on the containers' main labels—

- (a) the name and address of the manufacturer;
- (b) the place and date of the manufacture of the product;
- (c) the batch number of the product;
- (d) the bar code assigned to the product; and
- (e) any other markings that link the product to the manufacturer.

(4) Notwithstanding paragraph (3), the Commissioner may approve the transportation or transfer of spirits by other means which shall be secured in such a manner as the Commissioner may approve.

Distillation and denaturing of spirits

26. (1) If a distiller who is also a rectifier or denaturer wishes to rectify or denature spirits manufactured by the distiller, either in the

Distiller who is denaturer or compounder.

factory in which the spirits were distilled or in another factory adjacent thereto, that distiller shall—

- (a) make such structural alterations to any of those premises;
- (b) provide such additional equipment as the Commissioner shall consider necessary for the exercise of proper excise control; and
- (c) provide secure storage for denaturants that is satisfactory and accessible to the Commissioner.

(2) An authorised officer may access and examine the denaturants at any time.

(3) Subject to Regulation 3 (4) and any conditions that the Commissioner may impose, a licensed distiller may compound spirits manufactured in the distillery.

27. (1) A person other than a licensed distiller shall not denature spirits.

Denaturing of spirits.

(2) A licensed distiller who denatures spirits—

- (a) shall denature spirits under the supervision of the Commissioner; and
- (b) shall not release denatured spirits without approval of the Commissioner.

(3) A person shall not import denatured spirits without the written approval of the Commissioner.

28. Spirits shall be denatured only by mixing the spirit with the substances specified in the Second Schedule.

Substances and formulae for denaturing spirits. Denaturants to conform to conditions.

29. (1) The substances used in denaturing spirits shall conform to the conditions specified in the Third Schedule.

(2) Despite paragraph (1), the Commissioner may authorise in writing a licensee to use any other substance that does not conform to the conditions specified in the Third Schedule to denature spirits.

30. (1) A denaturer shall, with the written approval of the Commissioner, provide, in convenient proximity to the denaturing plant but separate from the mixing room, a storeroom or compartment that shall be used exclusively for the storage of denaturants and marked as being used for that purpose.

Mixing and storage rooms for denaturants.

(2) Subject to such conditions as the Commissioner may impose, spirits intended to be denatured shall be conveyed to the premises where they are to be denatured through a pipeline.

(3) A metering device shall be installed on the pipeline conveying spirits intended to be denatured under paragraph (2).

(4) A denaturer shall mix spirits with the denaturants in a mixing room approved by the Commissioner in writing and in accordance with the formula specified in the Second Schedule.

(5) A person shall not take into or keep in the mixing room approved under paragraph (4) any substance, other than the spirits intended to be denatured, denatured spirits, denaturants or water for use in denaturing, without the written approval of the Commissioner.

31. (1) Subject to such conditions as the Commissioner may impose, a distiller may keep receivers or vats in any approved place on the licensed premises for the storage of spirits which are subsequently to be delivered through metering devices for—

Receivers or vats used for storage of certain spirits.

- (a) rectification or compounding;
- (b) denaturing;
- (c) home use; or
- (d) exportation.

(2) Spirits that are stored in the receivers or vats in accordance with paragraph (1) shall be deemed to be in the distiller's excise stock room.

32. (1) An application under section 26 for permission to keep or use a still shall be made to the Commissioner in the approved form, and the Commissioner may grant the application subject to such conditions as he sees fit.

Permission to keep or use stills.

(2) A person who applies for permission to keep or use a still under section 26 shall provide particulars of—

- (a) the still, including technical drawings thereof;
- (b) the premises on which the still shall be kept;
- (c) the purpose for which the still shall be kept or used; and
- (d) such other particulars as the Commissioner may require.

33. A person permitted to keep or use a still shall not dispose of the still except in accordance with the directions of the Commissioner.

Disposal of stills.

34. Regulations 32 and 33 shall not apply to apparatus which, in the opinion of the Commissioner, are of a kind intended to be used solely for ordinary laboratory processes.

Exemption for laboratory apparatus.

Ascertainment of strength of spirits

35. (1) The strength of spirits may be ascertained by means of—

Ascertainment of strength of spirits.

- (a) alcohol hydrometer, thermometer and associated practical alcohol tables; or
- (b) automatic alcohol density meter at twenty degrees centigrade.

(2) In ascertaining the strength of spirits which contain added substances other than water, the Commissioner shall remove from the spirits such substances by either distillation or such other process as the Commissioner may determine, and add water to replace the volume so removed.

36. (1) The volume of spirits contained in any container may be ascertained for any purpose by weight, measure or gauge as the Commissioner may direct.

Ascertainment by weight, measure or gauge.

(2) Where the Commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated—

- (a) by means of alcohol hydrometer and the associated practical alcohol table; or
- (b) by use of an automated density meter at twenty degrees centigrade.

37. The original gravity of worts shall be determined in accordance with the Fourth Schedule.

Determination of gravity of worts.

PART VII—OFFSETS, REFUNDS AND EXEMPTIONS OF EXCISE DUTY

38. (1) Subject to Section 29, where—

Refunds of excise duty.

- (a) the purchaser of any goods wishes to return the goods to the seller, the purchaser shall notify the Commissioner accordingly and submit such evidence as the Commissioner may require that the goods were not in accordance with the contract of sale or that the goods were damaged before they were delivered out of the factory;
- (b) a person makes a claim for the refund of excise duty in respect of damaged or destroyed goods, the person shall retain for examination by an authorised officer any residue or damaged portion of the goods in respect of which a claim is made:

Provided that where goods are destroyed or pillaged, that person has notified the Commissioner within twenty-four hours of the occurrence; and

- (c) a person makes a claim for refund of excise duty in respect of goods that have been stolen, that person shall provide such evidence as the Commissioner may require.

(2) Where a person has applied for a refund of excise duty in accordance with section 29 (1) (a) (iii), the refund shall not be allowed unless the Commissioner is satisfied that—

(a) the goods were delivered under a contract of sale and the description, quality, state or condition of the goods was not in accordance with the contract; and

(b) the goods are re-exported within twelve months from the date of the payment of excise duty and in the manner that the Commissioner shall specify in writing.

(3) An application for the refund of excise duty in respect of spirit or illuminating kerosene used to manufacture unexcisable goods shall only be allowed if—

(a) the spirit was purchased from a licensed distiller or imported by the licensee; or

(b) the illuminating kerosene was purchased from an oil marketing company licensed by the authorised regulator.

39. A person shall not offset excise duty on the raw materials under Section 14 where the raw materials—

Offset of excise duty.

(a) remain unused while in the factory;

(b) are used to manufacture goods which are under excise control; or

(c) are used to manufacture exempt goods.

40. (1) Excisable goods that have been lost or destroyed shall not be exempted from excise duty under section 7 (1) unless the person whose goods have been lost or destroyed—

Exemption from excise duty.

(a) notifies the Commissioner in writing while the destruction of the goods is taking place or within twenty-four hours following the destruction, or such further period as the Commissioner may allow:

Provided that the person furnishes the Commissioner in writing with the particulars of the excisable goods which were destroyed within such period as the Commissioner may allow;

(b) retains for examination by the Commissioner any remaining evidence of damage or destruction and any residue or damaged portion of the excisable goods;

(c) where excisable goods have been lost, has notified the Commissioner within twenty-four hours of the loss and provided such evidence as the Commissioner may require.

(2) Excisable goods that are exported or supplied in accordance with section 7 and paragraphs (1), (2) and (3) of the Second Schedule to the Act shall be exported or supplied under customs control.

(3) A bond executed for purposes of this regulation shall be discharged upon proof to the satisfaction of the Commissioner that the goods have been received by the exempt person or duly exported.

PART VIII—SEIZURES

41. (1) The Commissioner may seize goods, equipment, vehicles, plants, vessels or any other thing where—

Seizure of goods, vehicles, equipment, premises or plants.

- (a) excisable goods have been manufactured or imported contrary to these Regulations or the Act;
- (b) the vehicles, premises, plants, vessels or any other thing—
 - (i) are used in the storage, concealment or transportation of excisable goods that have not met the requirements of these Regulations or the Act; or
 - (ii) are used in a manner that is inconsistent with these Regulations or the Act.

(2) Excisable goods, motor vehicles, equipment and plants which are seized under these Regulations may be liable to forfeiture and may be disposed of in the manner that the Commissioner may consider fit.

42. A notice of seizure issued under this part shall be in the prescribed form as specified by the Tax Procedures Act, 2015.

Notice of seizure.

43. Goods, equipment, plants, vehicles, premises, vessels or any other thing seized under these Regulations shall be dealt with in accordance with the provisions of the Tax Procedures Act, 2015.

Procedure of seizure.

PART IX—GENERAL PROVISIONS

44. (1) A person who fails to comply with the provisions of these Regulations commits an offence.

General offence.

(2) Where a person commits an offence under these Regulations, that person shall be liable to the relevant sanctions under the Act.

45. The Commissioner may recommend to the relevant authority the withdrawal, cancellation or suspension of the business or trading license or permit issued to a person convicted of repeatedly committing an offence under these Regulations.

Recommendation of withdrawal of trading license.

46. Any person who was registered or licensed prior to the coming into effect of these Regulations shall—

Transitional provisions.

- (a) be deemed to be registered or licensed under these Regulations;
- (b) comply with any additional requirements under these Regulations within a period of one year from the date of commencement of these regulations; or
- (c) where the person is unable to comply with the additional requirements introduced under these Regulations within the period specified under paragraph (b), the person shall apply

to the Commissioner for additional time which shall not exceed twelve months:

Provided that an application for additional time shall be made at least thirty days before the expiry of the period specified in paragraph (b).

47. (1) Subject to section 46 of the Act, the Customs and Excise Regulations are revoked. Revocation.

(2) Despite paragraph (1), the Regulations relating to management of petroleum oils, under the revoked Regulations, shall remain in force until regulations with respect to the same matter are made.

FIRST SCHEDULE

(r. 19 (4))

EXCISE BOND SECURITY FORM
BOND FOR PROTECTION OF EXCISE DUTIES

I/We.....
Of (Address)
and (Guarantor)
of (Address).....

Hereby acknowledge that I/we am/are bound to the Commissioner of Domestic Taxes in the sum of.....shillings to be paid to the Commissioner of Domestic Taxes for which payment I/we bind myself/ourselves jointly and severally and also my/our heirs, executors, administrators and assigns and each of them in respect of

Dated thisday of....., 20.....

WHEREAS the above named

.....has/have been granted a licence to manufacture excisable goods and whereas the above named.....is/are required to pay the excise duty thereon in accordance with the provisions of the Excise Duty laws not later than the twentieth day of the month next succeeding that in which the duty becomes due or within such other time as may be determined by the Commissioner.

Now the condition of this obligation is such that if the above named shall pay the full duties due or charged within that time then this obligation shall be void but otherwise shall be and remain in full force.

Signed, sealed and delivered by

The above named.....

In the presence of.....(name)
.....(designation)
of.....(address)

Signed, sealed and delivered by

The above named.....

In the presence of.....(name)
.....(designation)
of.....(address)

Approved

.....
Commissioner

SECOND SCHEDULE

(r. 28)

SUBSTANCES TO BE MIXED WITH SPIRITS FOR THE PURPOSE OF MANUFACTURING DENATURED SPIRITS

Completely Denatured Spirits (CDS)

- (i) In the case of completely denatured spirits (CDS-1), to every 90 parts by volume of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 10 parts by volume of methyl alcohol and one-half of one part by volume of crude pyridine and to each 1000 litres of the mixture of which is added 3.75 litres kerosene petroleum oil and not less than 1.5 grams of powdered methyl violet dye.
- (ii) In the case if completely denatured spirits (CDS-2) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 2 litres of methyl ethyl ketone, 3 litres of methyl isobutyl ketone, 1 gram of denatonium benzoate and not less than 0.2 grams of powdered methylene blue dye.
- (iii) In the case of completely denatured spirits for export (CDS-E) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added denaturants in accordance with the regulations prescribed by the Government of a foreign country to which the denatured spirits will be exported.

Specially Denatured Spirits (SDS)

- (iv) In the case of specially denatured spirits (SDS-1) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 4 litres of methyl alcohol and not less than 1 gram of denatonium benzoate.
- (v) In the case of specially denatured spirits (SDS-2), to every to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 4 litres of methyl alcohol and not less than 250 grams of sucrose octaacetate.
- (vi) In the case of specially denatured spirits (SDS-3), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 3 litres of isopropyl alcohol and not less than 2 grams of denatonium benzoate.
- (vii) In the case of specially denatured spirits (SDS-4), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added two and one-half litres of diethyl phthalate and not less than 125 millilitres of tert-butyl alcohol.
- (viii) In the case of specially denatured spirits (SDS-5), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 250 grams of sucrose octaacetate and not less than 100 millilitres of tert-butyl alcohol.
- (ix) In the case of specially denatured spirits (SDS-6), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there

shall be added 1 gram of denatonium benzoate and not less than 100 millilitres of tert-butyl alcohol.

- (x) In the case of specially denatured spirits for export (SDS-E), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added denaturants in accordance with the regulations prescribed by the Government of a foreign country to which the denatured spirits will be exported.

Power Alcohol

- (xi) In the case of power alcohol for use in motor spirit, to every one hundred parts by volume of anhydrous ethanol add one part by volume of motor spirit (gasoline) regular.

THIRD SCHEDULE

r. 29

CONDITIONS TO WHICH DENATURANTS MUST CONFORM

1. Methyl alcohol

- (i) Methyl alcohol shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of methanol, CH_3OH .
- (ii) The density of the material at 20°C shall be not lower than 0.791 g/mL and not higher than 0.794 g/mL .
- (iii) When the material is distilled, the distillation range at 1013 millibars pressure shall not exceed 1.0°C and shall include the value 64.6°C .
- (iv) The residue on evaporation of the material shall not exceed 0.001% (m/m).
- (v) The material shall not be alkaline to phenolphthalein and shall not contain more than 0.003% (m/m) of acid, calculated as formic acid (HCOOH).
- (vi) The material shall not contain more than 0.005% (m/m) of aldehydes and ketones, calculated as acetone (CH_3COCH_3).
- (vii) The material shall not contain more than 0.1% (m/m) of water.
- (viii) The material shall contain methyl alcohol purity of not less than 99.85% v/v

2. Isopropyl alcohol

- (i) Isopropyl alcohol shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of propan-2-ol, $(\text{CH}_3)_2\text{CHOH}$.
- (ii) The density of the material at 20°C shall be not lower than 0.785 g/mL and not higher than 0.787 g/mL .
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 81.5°C and the dry point at 1013 millibars pressure shall be not higher than 83.0°C .
- (iv) The residue on evaporation of the material shall not exceed 0.002% (m/m).
- (v) The material shall not contain more than 0.50% (m/m) of water.
- (vi) The material shall not be alkaline to phenolphthalein and shall not contain more than 0.002% (m/m) of acid, calculated as acetic acid (CH_3COOH).
- (vii) The material shall not contain more than 0.10% (m/m) of aldehydes and ketones, calculated as acetone (CH_3COCH_3).
- (viii) The material shall contain isopropyl alcohol purity of not less than 95% v/v.

3. Tertiary-Butyl alcohol

- (i) Tertiary-Butyl alcohol shall be clear colorless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 2-methyl-2-propanol, $(\text{CH}_3)_3\text{COH}$.
- (ii) Freezing point (first needle) above 20°C .
- (iii) Specific gravity at $25^\circ\text{C}/25^\circ\text{C}$. 0.780 to 0.786 .

- (iv) When 100 ml of tertiary butyl alcohol is distilled, none shall distil below 78°C and none above 85°C at 1013 millibars pressure. More than 95 percent shall distil between 81°C and 83°C.
- (v) Acidity (as acetic acid). 0.003 percent by weight maximum.
- (vi) Identification test. Place five drops of a solution containing approximately 0.1 percent tertiary butyl alcohol in ethyl alcohol in a test tube. Add 2 ml of Denige's reagent (dissolve 5 grams of red mercuric oxide in 20 ml of concentrated sulphuric acid; add this to 80 mL of distilled water, and filter when cool). Heat the mixture just to the boiling point and remove from the flame. A yellow precipitate forms within a few seconds.
- (vii) The material shall contain Tertiary-Butyl alcohol purity of not less than 95%v/v.

4. Methyl ethyl ketone

- (i) Methyl ethyl ketone shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 2-butanone (ethyl methyl ketone), $\text{CH}_3\text{COCH}_2\text{CH}_3$.
- (ii) The density of the material at 20°C shall be not lower than 0.803 g/mL and not higher than 0.805 g/ml.
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 79.0°C and the dry point at 1013 millibars pressure shall be not higher than 81.0°C.
- (iv) The residue on evaporation of the material shall not exceed 0.002 % (m/m).
- (v) The material shall not contain more than 0.15% (m/m) of water.
- (vi) The acidity of the material, calculated as acetic acid (CH_3COOH), shall not exceed 0.004 % m/m.
- (vii) The material shall contain not more than 0.70 % (m/m) of alcoholic impurities, calculated as butanol ($\text{C}_4\text{H}_9\text{OH}$).
- (viii) The material shall contain methyl ethyl ketone purity of not less than 95%v/v

5. Methyl isobutyl ketone

- (i) Methyl isobutyl ketone shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 4-methylpentan-2-one, $\text{CH}_3\text{COCH}_2\text{CH}(\text{CH}_3)_2$.
- (ii) The density of the material at 20°C shall be, not lower than 0.799 g/mL and not higher than 0.802 g/mL.
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 114.0°C and the dry point at 1013 millibars pressure shall be not higher than 117.0°C.
- (iv) The residue on evaporation of the material shall not exceed 0.002 % (m/m).
- (v) The material shall contain not more than 0.10% (m/m) of water. The acidity of the material, calculated as acetic acid (CH_3COOH).
- (vi) The material shall contain not more than 0.30% (m/m) of alcoholic impurities, calculated as hexanol ($\text{C}_6\text{H}_{13}\text{OH}$).

- (vii) The material shall contain methyl isobutyl ketone purity of not less than 95% v/v

6. Sucrose octaacetate

- (i) Sucrose octaacetate shall be white or cream-coloured powder, as assessed by visual inspection, and shall consist essentially of sucrose octaacetate, $C_{28}H_{38}O_{19}$.
- (ii) Melting point not less than 78.0°C.
- (iii) Free acid (as acetic acid). Maximum percentage 0.15 by weight when determined by the following procedure: Dissolve 1.0 gram of sample in 50 ml of neutralized ethyl alcohol and titrate with 0.1N sodium hydroxide using phenolphthalein indicator.

Percent acid as acetic acid = ml NaOH used x 0.6/weight of sample.

- (iv) Purity. Sucrose octaacetate 98 percent minimum by weight, when determined by the following procedure: Transfer a weighed 1.50 grams sample to a 500 ml Erlenmeyer flask containing 100 ml of neutral ethyl alcohol and 50.0 ml of 0.5 N sodium hydroxide. Reflux for 1 hour on a steam bath, cool and titrate the excess sodium hydroxide with 0.5 N sulphuric acid using phenolphthalein indicator.

Percent sucrose octaacetate = (ml NaOH — ml H_2SO_4) x 4.2412/weight of sample

7. Diethyl phthalate

- (i) Diethyl phthalate shall be clear colourless liquid as assessed by visual inspection, and shall consist essentially of ethyl benzene-1, 2- dicarboxylate, $C_{12}H_{14}O_4$.
- (ii) Specific gravity at 25°C/25°C. 1.115 to 1.118.
- (iii) Refractive index at 25°C. 1.497 to 1.502.
- (iv) Ester content (as diethyl phthalate). Not less than 99 percent by weight.

Note. The sample taken for ester determination should be approximately 0.8 gram. The number of ml of 0.5 N potassium hydroxide used in saponification multiplied by 0.05555 indicates the number of grams of ester in the sample taken for assay.

8. Denatonium benzoate

- (i) Denatonium benzoate shall be white powder as assessed by visual inspection, and shall consist essentially of benzyldiethyl [(2, 6- xylylcarbonyl) methyl] ammonium benzoate, $C_{28}H_{34}N_2O_3$.
- (ii) Melting point: Not less than 163°C and not more than 170°C, on a dried specimen.
- (iii) Identification
- (a) Dissolve about 150 mg in 10 ml of water, and add 15 ml of trinitrophenol: a yellow precipitate is formed.
- (b) Dissolve about 100 mg in 10 mL of water, and add 20 mL of 2N sulphuric acid and 15 mL of ammonium reineckate (shake about 500 mg of ammonium reineckate with 20 mL of water frequently during 1 hour, and

filter. Use within 2 days). Mix, filter through a sintered-glass crucible using gentle suction, and wash thoroughly with water. Remove as much water as possible with suction, and then dry in an oven at 105°C for 1 hour: the denatonium reineckate so obtained melts at about 170°C.

- (iv) Assay. Contains not less than 99 percent by weight benzyldiethyl [(2,6-xylylcarbamoyl) methyl] ammonium benzoate when assayed by the following method: Dissolve about 900 mg of denatonium benzoate, previously dried and accurately weighed, in 50 ml of glacial acetic acid, add 1 drop of crystal violet (dissolve 100 mg of crystal violet in 10 mL of glacial acetic acid), and titrate with 0.1N perchloric acid to a green end-point. Perform a blank determination, and make any necessary correction. Each mL of 0.1N perchloric acid is equivalent to 44.66 mg of denatonium benzoate, $C_{28}H_{34}N_2O_3$.

9. Crude Pyridine

- (i) Crude pyridine must consist of pyridine bases and must not be more deeply coloured than a mixture of 2 millilitres of 0.05 molar iodine with one litre of water.
- (ii) It must mix readily and completely with alcohol of a strength of not less than 95 per cent alcohol by volume and must give a clear or only slightly opalescent solution when mixed with twice its volume of water.
- (iii) 10 millilitres of a 1 per cent solution in water must produce immediately a distinct crystalline precipitate on vigorous shaking after the addition of 5 millilitres of an aqueous solution of cadmium chloride containing 5 grammes of the anhydrous fused salt in 100 millilitres, and produce an abundant separation of crystals within 10 minutes.
- (iv) A white precipitate must be formed when 10 millilitres of a 1 per cent solution in water are mixed with 5 millilitres of Nessler's reagent.
- (v) 1 millilitre of crude pyridine dissolved in 10 millilitres of distilled water must require not less than 9.5 millilitres of 0.5 molar sulphuric acid for neutralisation using screened methyl orange as an indicator.
- (vi) 100 millilitres distilled in accordance with Determination of distillation characteristics of volatile organic liquids (IP 195/98(2004)) (BS 2000-195:1998) must give a distillate of at least 50 millilitres at a temperature of 140°C and of 90 millilitres at 160°C.

10. Kerosene petroleum oil

Kerosene petroleum oil (mineral naphtha) must be of a specific gravity of not less than 0.800 at a temperature of 15.5°C and must possess the characteristic odour and taste of commercial paraffin oil used for burning purposes.

11. Methyl violet (Crystal violet) dye (Colour Index No. 42555)

- (i) Methyl violet dye (methylosaniline chloride, $C_{25}H_{30}N_3Cl$) must be in the form of small crystals readily and completely soluble in alcohol of strength of not less than 95 per cent alcohol by volume.
- (ii) Identification test. Sprinkle about 1 mg of sample on 1 ml of sulphuric acid; it dissolves in the acid with an orange or brown-red colour.

When this solution is diluted cautiously with water, the colour changes to brown, then to green, and finally to blue.

12. Methylene blue dye (Colour Index No.52015)

- (i) Methylene blue dye shall be dark green powder as assessed by visual inspection, and shall consist essentially of methylthionine chloride, $C_{16}H_{18}ClN_3S$.
- (ii) Identification test. Mix 10 ml of a 0.01% solution with 1 ml of acetic acid and 100 mg of zinc powder and warm; the solution is decolourised. Filter and expose the filtrate to air; the blue colour returns.

FOURTH SCHEDULE

(r. 37)

TABLE FOR DETERMINING THE ORIGINAL GRAVITY OF WORTS

Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity
0	00	4.1	17.75	8.2	36.58	12.3	56.38
1	42	4.2	18.21	8.3	37.94	12.4	56.89
2	85	4.3	18.66	8.4	37.51	12.5	57.40
3	1.27	4.4	19.12	8.5	37.97	16.6	57.91
4	1.70	4.5	19.57	8.6	38.44	12.7	58.42
5	2.12	4.6	20.03	8.7	38.90	12.8	58.93
6	2.55	4.7	20.48	8.8	39.37	12.9	59.44
7	2.97	4.8	20.94	8.9	39.83	13.0	59.95
8	3.40	4.9	21.39	9.0	40.30	13.1	60.46
9	3.82	5.0	21.85	9.1	40.77	13.2	60.97
1.0	4.25	5.1	22.30	9.2	41.24	13.3	61.48
1.1	4.67	5.2	22.76	9.3	41.71	13.4	61.99
1.2	5.10	5.3	23.21	9.4	42.18	13.5	62.51
1.3	5.52	5.4	23.67	9.5	42.65	13.6	63.01
1.4	5.95	5.5	24.12	9.6	43.12	13.7	63.52
1.3	5.52	5.4	23.67	9.5	42.65	13.8	64.03
1.4	5.95	5.5	24.12	9.6	43.12	13.9	64.54
1.5	6.37	5.6	24.58	9.7	43.59	14.0	65.10

Fourth Schedule (Cont.)

Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity	Spirit Indication	Degrees of Original Gravity
16	6.80	5.7	25.03	9.8	44.06	14.1	65.62
17	7.22	5.8	25.49	9.9	44.53	14.2	66.14
18	7.65	5.9	25.94	10.0	45.00	14.3	66.66
19	8.07	6.0	26.40	10.1	45.48	14.4	67.18
20	8.50	6.1	26.86	10.2	45.97	14.5	67.70
21	8.94	6.2	27.32	10.3	46.45	14.6	68.22
22	9.38	6.3	27.78	10.4	46.94	14.7	68.74
23	9.82	6.4	28.24	10.5	47.42	14.8	69.26
24	10.26	6.5	28.70	10.6	47.91	14.9	69.78
25	10.70	6.6	29.16	10.7	48.39	15.0	70.30
26	11.14	6.7	29.62	10.8	48.88	15.1	70.83
28	11.58	6.8	30.08	10.9	49.36	15.2	71.35
28	12.02	6.9	30.54	11.0	49.85	15.3	71.89
29	12.46	7.0	31.00	11.1	50.35	15.3	72.42
30	12.90	7.1	31.46	11.2	50.85	15.5	72.95
31	13.34	7.2	31.93	11.3	51.35	15.6	73.48
32	13.78	7.3	32.39	11.4	51.85	15.7	74.01
33	14.22	7.4	32.86	11.5	52.35	15.8	74.54
34	14.66	7.5	33.32	11.6	52.85	15.9	75.07
35	15.10	7.6	33.79	11.7	53.35	16.0	75.60
36	15.54	7.7	34.25	11.8	53.85	—	—
37	15.98	7.8	34.72	11.9	54.35	—	—
38	16.42	7.9	35.18	12.0	54.85	—	—
40	17.30	8.1	36.11	12.2	55.87	—	—

Dated the 17th June, 2020

UKUR YATTANI,
Cabinet Secretary for the National Treasury and Planning.



