

P.N.D.C.L. 330
CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT)
ACT, 1993

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P.N.D.C.L. 330
CUSTOMS, EXCISE AND PREVENTIVE SERVICE (MANAGEMENT) ACT, 1993(1)

PART ONE

Customs, Excise and Preventive Service

1. Customs, Excise and Preventive Service continued in existence

In conformity with article 190 of the Constitution, the Customs, Excise and Preventive Service in existence immediately before the commencement of this Act is hereby continued in existence subject to the provisions of this Act.2(2)

2. Object and function of the Service

The object and function of the Customs, Excise and Preventive Service is to collect and account for the duties, taxes, revenue and penalties payable under this Act.

3. Membership of the Service

The Service consists of

- (a) the personnel of the Customs, Excise and Preventive Service existing immediately before the commencement of this Act,
- (b) any other public officers and public institutions that may be transferred or seconded to the Service, and
- (c) any other persons employed by the Service.

4. The Board

- (1) The governing body of the Service is the Revenue Agencies Governing Board.³⁽³⁾
- (2) The Board consists of
 - (a) the chairman,
 - (b) the Governor of the Bank of Ghana,
 - (c) the executive secretary of the Board appointed under section 8,
 - (d) the Commissioner of the Customs, Excise and Preventive Service,
 - (e) the Commissioner of the Internal Revenue Service,
 - (f) the Commissioner of the Value Added Tax Service,
 - (g) one representative of the Ministry of Finance not below the rank of a Director, and
 - (h) four other persons, at least two of whom are women.
- (3) The members of the Board shall be appointed in accordance with article 70 of the Constitution.

(4) The President shall, in appointing the chairman and the other members of the Board consider the integrity, knowledge, expertise and experience of those persons and in particular their knowledge in matters relevant to the functions of the Board.

5. Tenure of office of Board Members

(1) Members of the Board, other than the Governor, Bank of Ghana, the Commissioners, the Executive Secretary and the representative of the Ministry of Finance, shall hold office for a period of three years and are eligible for re-appointment except that a member shall not be on the Board for more than three terms in succession.

(2) Members of the Board may be paid the allowances determined by the Minister.⁴⁽⁴⁾

6. Functions of the Board

The functions of the Board are

- (a) to ensure supervision and co-ordination of the activities of
 - (i) the Internal Revenue Service,
 - (ii) the Customs, Excise and Preventive Service, and
 - (iii) the Value Added Tax Service,in the performance of their functions under the Internal Revenue Service Act, 1986⁵⁽⁵⁾, the Customs, Excise and Preventive Service (Management) Act, 1993⁶⁽⁶⁾ and the Value Added Tax Act, 1998 (Act 546) respectively and under any other enactment;
- (b) to prepare plans for developing and maintaining an effective, fair and efficient revenue collection system and to ensure that the plans are implemented;
- (c) to effect the restructuring of any of the revenue agencies when necessary;
- (d) to ensure the effective, efficient and optimum collection of the taxes, penalties and interest due to the Republic under the enactments specified in paragraph (a) and under any other law;
- (e) to direct generally the revenue agencies on revenue related policies;

- (f) to monitor the performance of the revenue agencies in performing their functions;
- (g) to ensure that the amounts collected by the revenue agencies are paid into the Consolidated Fund unless otherwise provided by any other enactment;
- (h) to recommend to the Minister measures for effective collection of taxes and non-tax revenue;
- (i) to delimit customs and surveillance zones, approve routes for customs purposes and build and manage government warehouses for the purposes of revenue collection;
- (j) to develop and maintain systems, whether by computer or other means, for coordinating, and supervising the collection, storage and retrieval of information;
- (k) to arrange for the training and manpower development programmes for employees of the revenue agencies;
- (l) to establish a system for the exchange of information among the revenue agencies;
- (m) to initiate and sustain programmes for public education on tax payment;
- (n) to establish and maintain a financial and accounting system in accordance with prescribed Government accounting practice;
- (o) to draw up a scheme of service for the staff of the revenue agencies;
- (p) to perform any other functions in relation to revenue directed by the Minister or as may be conferred on it by any other enactment.⁷⁽⁷⁾

7. Meetings of the Board

(1) The Board shall meet at least once every three months at the times and places determined by the chairman.

(2) A special meeting of the Board may be called by the chairman and shall be called by the chairman at the written request of any five members of the Board.

(3) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member of the Board elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is six members including the executive secretary.

(5) Matters before the Board shall be determined by a majority of the members present.

(6) The chairman or the person presiding at a meeting of the Board shall in the event of equality of votes have a casting vote.

(7) The Board may co-opt a person to act as an adviser at any of its meetings but a person co-opted is not entitled to vote on a matter for decision by the Board.

(8) The validity of the proceedings of the Board shall not be affected by a vacancy in its membership or by a defect in the appointment or qualification of a member.

(9) Subject to this section, the Board shall regulate its own procedures.

8. Disclosure of interest

(1) A member of the Board who is directly or indirectly interested in a matter being considered or dealt with by the Board shall disclose the nature of that interest at that meeting and shall not take part in the deliberations for the decision of the Board with respect to that matter.

(2) A member who fails to disclose interest under subsection (1) ceases to be a member of the Board.

9. Committees of the Board

(1) The Board may for the performance of its functions appoint committees of the Board comprising members or non-members or both and assign to a committee a function determined by the Board.

(2) A committee composed exclusively of non-members may only advise the Board.

10. The Commissioner

The head of the Service is the Commissioner of Customs, Excise and Preventive Service who shall be appointed by the President in accordance with article 195 of the Constitution.

11. Duty of the Commissioner

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

12. Deputy Commissioner

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

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

13. Co-operation with organisations

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

14. Staff of the Service

(1) The Board may engage the necessary staff for the proper and efficient performance of its functions.

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

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

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

15. 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 shall record and keep the minutes of the meetings of the Board.

16. Administrative expenses

The administrative expenses of the Service including the salaries, operational and any other allowances, gratuities and pensions payable in respect of persons employed by the Service shall be a charge on the Consolidated Fund.

17. Funds of the Service

(1) The Government shall provide to the Service moneys required for performing the functions of the Service and the sums that the Minister may after consultation with the Minister responsible for Finance agrees, being sums of money requested by the Service from the Government.

(2) The Service shall submit to the Minister at the times and in a form as the Minister may in consultation with the Minister responsible for Finance directs, detailed estimates of the Service's income and expenditure for the following financial year.

(3) Subject to an enactment, the expenditure of the Service shall be in accordance with the estimates as approved by the Minister acting in consultation with the Minister responsible for Finance.

18. Acquisition of property by the Service

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

19. Annual reports and estimates

The Board shall in each year submit to the Minister and the Minister 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.

20. Submission of returns and revised revenue estimates

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

21. 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 is responsible for the audit functions of the Service.

(3) Subject to this Act, the Chief Internal Auditor is responsible to the Commissioner for the performance of functions.

(4) 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 the Chief Internal Auditor during the period of three months immediately preceding the preparation of the report.

(5) Without prejudice to the general effect of subsection (4), the Chief Internal Auditor shall make in

each report observations as appear necessary as to the conduct of the affairs of the Service during the period to which the report relates.

(6) The Chief Internal Auditor shall send a copy of each report prepared under this section to each of the following:

- (a) the Minister,
- (b) the Auditor-General, and
- (c) the Chairperson of the Board.

(7) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict, that Act shall prevail.

22. Accounts

(1) The Service shall keep proper books of account and proper records in relation to it in the form approved by the Auditor-General.

(2) The financial year of the Service shall end on the 31st day of December in each year.

(3) The books and accounts of the Service shall be audited by the Auditor-General.

(4) The Auditor-General shall forward a copy of the report to the Minister 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 under section 17.

23. Transfer of assets and liabilities

(1) The 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 Act shall be vested in the Service.

(2) The liabilities and obligations subsisting against the Customs, Excise and Preventive Service immediately before the commencement of this Act shall after the commencement continue to subsist between the Service and the other party.

(3) The assets of the erstwhile Border Guards of the Ghana Armed Forces shall vest in the Service.

24. Regulations

(1) The Minister on the recommendation of the Board may, by legislative instrument, make Regulations to give full effect to this Act

(2) The Regulations shall in addition, 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 the goods may be manufactured;
- (d) the control and movement of goods in the 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 Act; and

- (e) the fees and charges to be paid to the Service for services rendered to or expenses incurred on behalf of other persons.

PART TWO

Taxes and Duties

25. Imposition of taxes and duties on goods

(1) The Regulations may provide for the imposition of taxes, duties and rates on those 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 the Regulations 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, and
- (b) export duties on goods exported from Ghana.

(4) The Regulations may provide

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

26. Goods admissible at concessionary duty rates

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

27. Exemptions, remission and refund

(1) Subject to article 174 of the Constitution, the Commissioner may, in accordance with the Ghana Investment Promotion Centre Act, 1994 (Act 478), or any other enactment grant exemptions from duties and taxes as specified in the Act or in that enactment in respect of an approved investment project or goods as defined in that Act or enactment.

(2) A provision of this Act, other than a provision which imposes an obligation to pay duty, shall not

in any way be affected by the granting of an exemption and in all other respects this Act shall apply as if there were no exemption from liability.

(3) Subject to article 174 of the Constitution, the Minister may by or under this Act exempt a statutory corporation, institution or individual from the payment of duties and taxes ordinarily payable under this Act.

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

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

(6) Instead of making a remission or refund the Commissioner 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.

28. Prohibited imports and exports

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

29. Harmonised Commodity Description and Coding System

Except as otherwise expressly specified in this Act or in any other enactment, customs tariff, taxes and rates provided to be imposed under this Act and statistical nomenclatures shall be in conformity with the “Harmonised Commodity Description and Coding System” also known as the “Harmonised System”, to the extent provided in it and as approved by the Customs Co-operation Council on 14th June, 1983.

30. 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 36 except

- (a) that the sale or price shall not be subject to a 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 a 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 36; 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 subsection (2) of this section.

(2) In determining whether the transaction value is acceptable for the purpose of subsection (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 that case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted if 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, the Commissioner shall communicate the 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 30 (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 33; or
- (c) the customs value of identical or similar goods as determined under section 34; 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 if 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 considered to be related only if

- (a) those persons are officers or directors of one another's businesses;
- (b) those persons are legally recognised partners in business;
- (c) those persons are employer and employee;
- (d) a person directly or indirectly owns, controls or holds five percent or more of the outstanding voting stock or shares or both of those persons;
- (e) one of those persons directly or indirectly controls the other;
- (f) both of those persons are directly or indirectly controlled by a third person;
- (g) together those persons directly or indirectly control a third person;
- (h) those persons are members of the same family.

31. Where value cannot be determined under section 30

(1) Where the customs value of the imported goods cannot be determined under section 30, 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 subsection (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 a sale is not 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, if 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 36 (2) are included in the transaction value, an adjustment shall be made to take account of significant differences in the 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 the value shall be used to determine the customs value of the imported goods.

32. Determination of value of goods under section 33

If the customs value of the imported goods cannot be determined under sections 30 and 31, the customs value shall be determined under section 33, or, where the customs value cannot be determined under that section, then under section 34 except that, at the request of the importer, the order of application of sections 33 and 34 may be reversed.

33. 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 the goods, subject to deduction for the following:

- (a) the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in the 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 36 (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 those goods, due allowance being made for the value added by the 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.

34. 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 other expenses necessary to reflect the valuation option under section 36 (2).

35. Commissioner's value

Where in the application of sections 30 to 34 or in the application of any other provisions of this Act

to determine the customs value of any imported goods

- (a) there is found to be 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.⁸⁽⁸⁾

36. Customs value

(1) In determining the customs value under section 30 (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 the 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 shall 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 a part of the proceeds of a 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) Additions shall not be made to the price actually paid or payable in determining the customs value except as provided in this section.

37. 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.

38. 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 any other costs, profits, charges and expenses and duties, accruing up to the point where the goods are deposited on board the exporting vessel, aircraft or vehicle at the place of departure from Ghana.

39. Definition of selling price

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 the manufacturer 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 the 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 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 the 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.

40. Adjustment of contract prices

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

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

41. Drawback

Regulations may prescribe that a drawback of the whole or a part of a duty or tax paid may be granted

on goods as may be prescribed, and the conditions under which the drawback may be allowed.

42. Claim for drawback and refund

(1) A sum of money due for drawback and the sum of money due on a 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 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, the owner 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 the goods exported before certifying the debenture.

(4) 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 over-paid as duty if the proper document for the over-payment is certified by the proper officer.

43. Drawback on goods lost or abandoned

(1) When it is proved to the satisfaction of the Commissioner that goods after being duly shipped for exportation or for use as stores have, 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, a drawback or allowance payable in respect of the goods shall be payable as if the goods had been actually exported or used as stores.

(2) Subsection (1) only applies 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 42 in a manner as the Commissioner may think necessary for adapting it to this section.

44. Duty short-levied or refunded in error

(1) Where duty is 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, on written request made to that person 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 measure to ensure that the person does not transact any business with the Service, and shall refuse entry of goods consigned to the person or prevent a shipment by that person 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.

45. Goods used contrary to authorised purpose

(1) If 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) the conditions are not observed,
- (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 the goods and a 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 hundred percent 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 an officer or otherwise account for them to the satisfaction of the Commissioner within the period of two years, and if the importer or person fails to produce or account for the goods the importer or person shall incur a penalty not exceeding hundred percent the duty payable.

PART THREE

Customs Duties

46. Time of entry to govern duty payable

(1) 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.

47. Duty on goods re-imported

(1) Where 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 a 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 a 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 on the increase in their value attributable to that process, and, where any sum is 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) 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 waives this condition in a case where in the Commissioner's opinion it may be unreasonable or impose hardship.

48. Goods imported for temporary use

(1) The Commissioner may give permission to import any goods without payment of duty if the Commissioner is satisfied that the goods 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 a proportion of the duty as may be specified.

(2) Goods shall not be imported under this section unless

- (a) the goods 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 determined by the Commissioner.

(3) The Commissioner may, on provision of additional security where the Commissioner requires, extend the period of three months where the Commissioner 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.

49. Transit goods

Goods entered for transshipment or in transit through Ghana in accordance with a regulation made under this Act shall be exempt from payment of import duties.

50. Export goods and stores

Subject to the observance by the exporter of this Act and the conditions of any bond, a duty shall not be charged on

- (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.

51. Re-export of transit goods and stores

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

(2) The re-exportation of goods specified in subsection (1) shall be made in a manner and by the 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 any enactment prohibiting the importation, carriage coastwise or exportation of goods.

52. Abatement of duty

(1) A claim for abatement of duty on goods imported into Ghana shall not 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 the goods were delivered out of customs control.

(2) Subject to section 53 the damage sustained by the goods shall be assessed by the Commissioner who may allow abatement of the duty in proportion to the damage.

(3) A claim for abatement of duty on account of damage shall not be allowed in respect of tobacco, cigars, wines and spirits.

53. Restrictions on abatement

(1) 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 the goods are damaged.

(2) A claim for abatement of duty on account of damage shall not 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 a proportion of the duty as the amount of the allowance made bears on the value of the goods undamaged, calculated in accordance with the regulations.

54. Remission for goods lost or destroyed

(1) Where goods are lost or destroyed by accident

- (a) on board an aircraft or a ship,
- (b) in a customs area or warehouse, or

- (c) in removing, loading the goods into, or delivering the goods from, the customs area or warehouse,

the Commissioner may remit or refund the duty due or paid on the goods, if satisfied that the goods have not been and will not be consumed in Ghana.

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

55. Remission or refund for pre-entered goods

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

- (a) if the Commissioner is satisfied that the goods will not be imported into Ghana by reason that the goods 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) Goods the duty on which is remitted or refunded under this section shall, after the remission or refund, be treated as if the goods had never been entered.

PART FOUR

Excise Duties and Sales Tax

56. Imposition of excise duty

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

57. Exemptions

(1) On an application to the Commissioner and subject to the conditions that the Commissioner may impose, an excise duty shall not be payable on 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 the manufacturer of the goods,

if the goods are shipped or exported in accordance with this Act and within seven days or any further period as the proper officer may by notice in writing allow from the date of the delivery of the goods from the factory or warehouse.

(2) An excise duty shall not 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,
- (b) goods delivered for exportation and duly shipped, or
- (c) goods permitted to be used free of duty and duly used.

58. 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 the manufacturer's factory or from a warehouse, if they are goods permitted by the Commissioner to be warehoused without payment of duties on the goods, or before the goods are used by the manufacturer in the 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 the terms as the Commissioner may allow, if the manufacturer gives the security by bond or otherwise as the Commissioner may require.

(3) Where payment of duty is deferred under subsection (2), in that case the duties which have become due within a 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.

(4) Except where other provision is made by law for periodical returns by manufacturers, a 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) materials in or received into the manufacturer's factory;
- (b) 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 the manufacturer,

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

59. Remission for goods lost or destroyed

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

- (a) before the goods have been delivered from a factory or warehouse,
- (b) in removing the goods from a factory or warehouse, or
- (c) in shipping the goods 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 the goods, if satisfied that the goods have not been used or consumed in Ghana.

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

60. Deficiency and excess in stock

(1) A manufacturer or warehouse keeper who fails to produce to a proper officer on the officer's request any excisable goods manufactured or warehoused and not delivered or used in accordance with this Act shall immediately pay to the Commissioner the duties due on the goods, except in respect of a 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 the manufacturer or

keeper 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 a 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 the manufacturer or keeper explains the excess to the satisfaction of the Commissioner.

61. Imposition of sales tax

(1) Sales tax shall be payable on 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.

62. Calculation of sales tax

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

63. When sales tax is payable

(1) Sales tax shall be payable on the sales price of 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 on 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 the goods, 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 the wholesaler to the time of delivery to the purchaser, and the tax shall be computed

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

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

64. Rates of sales tax and exemptions

Regulations made under this Act

- (a) shall specify the rate of sales tax payable on goods imported or produced or manufactured locally, and
- (b) may specify goods exempted from payment of sales tax.

65. Filing returns on locally manufactured goods

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

- (a) the description, quantity and sales price or value of an article sold, purchased, retained for use by the importer or wholesaler 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) any other matter as may be prescribed by regulation under this Act.

66. Receipts

(1) A manufacturer, producer or wholesale dealer shall give to a retail trader or other wholesale dealer in respect of each 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) A 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 that person during the month.

67. Registration of wholesale dealers and retail traders

(1) A wholesale dealer or retail trader shall not carry out a transaction under this Act unless the wholesale dealer or retail trader is registered by the Commissioner.

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

(3) Subject to section 69, the Commissioner may refuse to register a wholesale dealer or a retail trader.

68. Resolution of doubts

- (1) If there is a 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 the 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 Act applies,

the doubt shall be resolved by the Commissioner.

69. Appeal against decision of Commissioner

(1) Where a person is aggrieved by a decision of the Commissioner under section 68 the person 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, the Commissioner's decision is final.

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

70. Inspection of premises

- (1) For the purposes of this Act, the Commissioner may
 - (a) inspect the business premises or residence of a manufacturer, producer, retail trader, wholesale dealer or any other person and examine at the premises or residence 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 the Commissioner 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 the Commissioner.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding hundred thousand cedis or imprisonment for a term not exceeding six months or both.

Specific Offences and Penalties relating to Excise Duty and Sales Tax

71. Default in the submission of sales tax returns

(1) A person, an institution or an 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 a person, an institution or an 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 the penalties are paid.

72. Failure to pay excise duty and or sales tax on due dates

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

73. False and deceptive tax return

A person who makes, assents to or acquiesces in the making of a false or deceptive statement in a return commits an offence and whether or not prosecuted is liable to a penalty of hundred percent of the amount of the excise duty or sales tax that should have been paid in respect of the period covered by the return.

74. Excise duty and sales tax clearance certificate

(1) A manufacturer or persons liable to pay excise duty or sales tax or both shall not be admitted to transact a business with the Service unless the person or manufacturer produces a tax clearance certificate issued in respect of manufacturer or company or enterprise.

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

75. Failure to maintain proper records

(1) A manufacturer, wholesale dealer or person liable to the payment of excise duty or sales tax or both who fails to keep and maintain records to the satisfaction of the Commissioner commits an offence.

(2) A person who commits an offence under subsection (1) shall have that person's licence withdrawn and be barred from transacting business with the Service until the person pays the tax or duty and maintains the records to the satisfaction of the Commissioner.

76. Revocation of licence to manufacture

(1) Where an excise duty or a sales tax payable by a producer or a manufacturer or a 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 the manufacturer's or person's licensed premises, revoke a licence to manufacture issued to the manufacturer under this Act.

(2) If after the revocation the producer or manufacturer continues to produce or manufacture any goods liable to excise duty or sales tax, the producer or manufacturer and every person aiding or assisting the producer or manufacturer 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 percent the amount of excise duty and sales tax left unpaid under subsection (1).

77. Distraint for excise duty or sales tax or penalty imposed

(1) Where excise duty 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) on the manufactured goods, chattels and effects of the manufacturer, and
- (b) on the assets, property, buildings, factory, machinery, plant, tools, means of transport and communication, accessories, animals, and the 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 the manufacturer or of a person on the manufacturer's behalf of or in trust for the manufacturer.

(2) The authority to distrain 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) exclusive of all liabilities.

(4) For the purpose of levying the distress a 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 any police officer for assistance; and the police officer shall assist in the execution of the 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 or penalties and the cost and charges of and incidental to the distress are not 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 a 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 a 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 the 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 on all things as specified in subsection (1) belonging to the manufacturer wherever they may be found.

78. Liability to prosecution

A person, an institution or an enterprise on whom sanctions are imposed under sections 70, 71, 72, 73, 74 and 75 shall in addition be liable to imprisonment for a term of not less than six months and not exceeding two years.

PART FIVE

Importation of Vehicles

79. Taxes payable on imported vehicles

Vehicles imported into the country unless specifically exempted under this Act or any other enactment shall attract the following imposts:

- (a) vehicle purchase tax,

- (b) import duty, and
- (c) sales tax.

80. Exemptions

Regulations may provide for the exemption of all or some of the imports referred to in section 79 on specified vehicles.

81. Additional taxes

Despite section 79 regulations may provide for the imposition of special taxes on imported vehicles in addition to the imports referred to in section 79.

82. Purchase tax on vehicles

A 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 30 calculated at a rate to be specified in regulations from time to time.

83. Time for payment of purchase tax

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

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

84. Motor dealers, etc., to pay tax received

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

85. Motor dealers, etc., to specify purchase tax

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

86. Receipts to be issued

(1) A 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 the dealer or proprietor.

(2) The Commissioner shall in the case of a vehicle imported by a person for that person's 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 the Commissioner.

(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 Act, 1952 (No. 55 of 1952) the purchaser shall submit to the licensing authority, together with the application for registration one of the receipts issued under subsection (1) or (2).

(4) Where the seller of a vehicle referred to in subsection (1) applies to register that vehicle under the Road Traffic Act, 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 the seller.

87. Form of receipt

(1) A seller who issues a receipt for the purpose of section 86 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 86 the Commissioner shall specify in that receipt the full name and address of the owner of the vehicle.

88. Duties of licensing authority

(1) A licensing authority appointed under the Road Traffic Ordinance, 1952 shall not register a vehicle until the licensing authority receives the receipt referred to in section 86.

(2) A 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 the licensing authority during that month, indicating the registration number, engine and chassis numbers, the name and address of the owners, and
- (b) submit to the Commissioner the receipts received by the licensing authority during that month.

89. Purchase tax to be additional to other taxes

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

90. Prohibition of importation of over-age vehicles

(1) A motorcar or commercial vehicle of more than ten years old shall not be imported into the country.

(2) The master or agent of an aircraft or ship or carrier who contravenes subsection (1) shall incur a pecuniary penalty of twenty-five million cedis on each imported motorcar or commercial vehicle and the vehicle shall be forfeited to the State.

(3) An importer of a motorcar or commercial vehicle imported overland in contravention of subsection (1) shall incur the pecuniary penalty provided under subsection (2).

(4) A person shall not import a right-handed steering motor vehicle into the country.

(5) Despite the prohibition on the importation of over-age vehicles under subsection (1)

- (a) an over-age vehicle that has already been imported into the country before the coming into force of this Act but not cleared; and
- (b) an over-age vehicle that arrives in the country before 1st June, 1998,

is subject to the law on the rate of penalty on over-age vehicles in existence immediately before the coming into force of this Act.9(9)

91. Import value of used vehicles

(1) Despite an enactment, this section applies for the determination of the value for customs purposes of used motor vehicles imported under this Act.

(2) The value of a used motor vehicle shall be the price of the motor vehicle as assessed in accordance with this section together with freight, insurance commission and any 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 percent 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 percent 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 percent of the first purchase price; or
- (e) exceeds five years, the price shall be deemed to be fifty percent of the first purchase price.

(4) Where a person disputes the age of a used motor vehicle assessed by the Commissioner in accordance with 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 the Commissioner's satisfaction, prevail.

(6) For the purposes of converting the first purchase price of a 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 the "**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 that 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.

92. Forfeiture of vehicles

Without prejudice to sections 118 and 119 of this Act, a vehicle that remains unentered and uncleared within sixty days after discharge or in the case of overland vehicle, from the date it crossed the national border into Ghana shall be forfeited to the State.¹⁰⁽¹⁰⁾

93. Local dealers to furnish details of manufacture

(1) A local dealer in a motor vehicle the importation of which is permitted under this Act shall furnish the Commissioner with the following information:

- (a) the year of manufacture of the vehicle,
- (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) A local dealer who fails or refuses to furnish the Commissioner with the information required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five million cedis or to imprisonment not exceeding twelve months or to both, and without prejudice to any penalty imposed under this subsection is liable to an additional fine of thirty thousand cedis for each week during which the offence continues.

(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 suggest.10a(11)

(4) The price at which a forfeited vehicle is disposed of, whether by auction sale, allocation or any other method, shall include duties and taxes but exclude the penalties exigible on the vehicle.10b(12)

(5) Subsection (4) shall apply until 31st December, 2006.10c(13)

94. Disposal of forfeited vehicles

(1) Subject to subsections (1) and (2) a motor vehicle forfeited to the State under this Act shall be disposed of by the Commissioner in the manner as the Minister may direct.

(2) Where a vehicle of more than ten years old is forfeited to the State under this Act, the vehicle shall be sold by the Commissioner to the steel mills as scrap metal for recycling under the supervision of the Commissioner.11(14)

95. Forgery

A person who

- (a) makes or signs a declaration, certificate or instrument which is false in a material particular in relation to a motor vehicle imported under this Act,
- (b) forges or causes to be forged a document relating to the motor vehicle imported under this Act, or
- (c) furnishes or causes to be furnished any information relating to any other matter under this Act which the person knows to be false,

is liable to the sanctions specified under sections 251 and 252 whichever is appropriate.

PART SIX

Customs Arrival Report and Entry

96. Arrival

(1) An aircraft or a ship arriving in Ghana

- (a) shall come to a port, or any other place allowed by the Commissioner in special circumstances, without touching at any other place in Ghana; and
- (b) on arriving at that 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 a proper place, shall bring to at the station appointed for the boarding of

aircraft or ships.

(2) An aircraft or a 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;
- (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 Act.

(3) An aircraft or a ship after departing on a flight or voyage to a place outside Ghana shall not bring to within Ghana except in accordance with this Act 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 one million cedis and the aircraft or ship shall be detained until payment is made.

97. Mooring and unloading

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

98. Report

(1) The master of an aircraft or ship, whether laden or in ballast, or the master's 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 goods which are in transit, or which are to be transferred to another aircraft or ship for re-exportation, and shall state whether the 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 the goods remaining on board for exportation, and shall be made before bulk is broken.

99. Steamship report

The master of a steamship shall make a report of its stores and any packages for which a bill of lading has not been issued, before bulk is broken, unless the Commissioner otherwise allows.

100. Report when unloading at more than one port

(1) Despite this Act 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 the agent shall make report of the whole cargo at the first port or place, reporting separately the part of the cargo as may be intended for the first port or place, and unloading it there.

(2) After unloading the cargo, and on 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 the agent shall report that part of the cargo as may be intended for that particular port or place;

and the master or agent reporting and the persons concerned in unloading the cargo shall be subject to the provisions of this Act as are applicable.

101. Delivery of previous clearance

The master of an aircraft or ship or the 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.

102. Failure to make due report

If the master of an aircraft or ship or the agent fails to make due report, or if any of the particulars contained in the report are false, the master or the agent shall incur a penalty of not less than one hundred thousand cedis and the goods not duly reported are liable to forfeiture, unless the omission is explained to the satisfaction of the Commissioner.

103. Failure to account for package reported

- (1) If a package reported is not
 - (a) duly unloaded, removed and deposited in a customs area or any other place approved by the Commissioner, and entered and cleared from it in accordance with this Act, or
 - (b) produced to the proper officer for deposit or deposited in a State warehouse in accordance with section 116,

the master or the agent shall pay the duty on it, unless the master or the agent 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.

104. 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 the purposes be deemed to be the cargo of the aircraft or ship.

105. Master's duties

- (1) The master or the agent shall, in relation to the aircraft or ship, its cargo, stores, baggage, crew, passengers, and flight or voyage
 - (a) answer immediately questions the proper officer shall ask the master or agent; and
 - (b) produce the books and documents in the master's or the agent's custody or control that the proper officer may require.

(2) Before a person (unless permitted by the proper officer) disembarks, the master or the agent shall give to the officer who boards the aircraft or ship on arrival at a 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 the agent shall incur a penalty of two hundred and fifty thousand cedis.

106. Wrongly breaking bulk

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

- (a) bulk is broken contrary to section 98 or 99,
- (b) an alteration is made in the stowage of the cargo so as to facilitate the unloading of a part of the cargo before arrival at a proper place of unloading, or not being a steamship, or an aircraft or ship specially allowed to do so, before report of the aircraft or ship is made, or
- (c) goods are staved, destroyed or thrown overboard or a package opened,

the master or the agent shall incur a penalty of one million cedis unless cause is shown to the satisfaction of the Commissioner.

107. Unloading of cargo

(1) Except in accordance with any regulation made under this Act, or with the permission of the proper officer or subject to conditions the officer may in a particular case impose

- (a) a cargo shall not be unloaded from an aircraft or ship arriving from outside Ghana unless the proper officer has authorised its unloading, or from any ship unless the cargo has first been duly entered;
- (b) a cargo shall not be unloaded or removed from an aircraft or a ship arriving from outside Ghana except between 7 a.m. and 6 p.m. or on Sundays or public holidays;
- (c) a cargo shall not be transferred from an aircraft or ship arriving from outside Ghana into any vessel at a 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) a cargo (except cargo unloaded in a vessel to be landed in accordance with section 108) shall not 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 a cargo is unloaded contrary to this section or to the terms and conditions contained in any written permission from the Commissioner, it is liable to forfeiture.

108. Removal of cargo

(1) Except in accordance with the Regulations, or with written permission of the proper officer or subject to any conditions the officer may in a particular case impose,

- (a) the vessel into which a cargo is put after being unloaded from a ship shall be a ship licensed under section 276;
- (b) a cargo which has been unloaded from an aircraft or ship arriving from outside Ghana into any vessel to be loaded shall not 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 is liable to forfeiture.

109. Deposit of cargo

(1) Cargo when unloaded at an approved place of unloading or sufferance wharf approved for the purpose, and the cargo which has been put into a vessel to be landed in accordance with section 108 shall immediately on 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 State warehouse if the proper officer so requires.

(2) Cargo which the proper officer may consider unsuitable for storage in a transit shed or State warehouse shall be deposited in a place as the officer 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 116.

(3) Except in accordance with the Regulations, or with the written permission of the proper officer or subject to the conditions that the officer may in any particular case impose, a cargo shall not be removed from a 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.

(4) The proper officer may, if the officer thinks the action necessary, require the agent of an aircraft or a 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, the agent shall incur a penalty of fifty thousand cedis and the proper officer may have the cargo removed to another place of security at the expense of the agent.

(5) Cargo entered to be warehoused shall be removed by the importer by ways, in a manner and within a period that 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.

(6) The importer shall first enter into a bond for the due warehousing of the cargo, if the proper officer so requires.

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

110. Liability of goods other than cargo, approved to forfeiture

(1) Goods whatsoever other than cargo duly reported as such shall not be taken out of an aircraft or a ship arriving from outside Ghana or delivered to a person aboard the aircraft or ship, other than for the consumption or use of its crew or passengers except under the conditions (which may vary the procedure as to reporting the aircraft or ship as required by this Act) as may be prescribed in the Regulations or as directed by the Commissioner in a particular case.

(2) For the purpose of this section, “**goods**” include passengers’ baggage, stores and any goods which may be taken on board an aircraft or a 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 the Regulations or to any directive of the Commissioner, the goods are liable to forfeiture.

111. Delivery of bullion or coin

Despite anything contained in 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, the importer shall incur a penalty of one million cedis.

112. Entry and pre-entry

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

(2) Subsection (1) does not apply in relation to a passenger's accompanied baggage unless the proper officer in any particular case so directs.

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

(4) With the permission of the Commissioner, and subject to the conditions and restrictions that the Commissioner may prescribe, goods may be entered under this section prior to importation; and the provisions of this Act relating to the entry of goods shall, with the necessary modifications, apply to the pre-entry of goods under this subsection.

(5) Except a contrary intention appears, wherever in this Act there is a reference to imported goods that reference shall, in relation to goods pre-entered or to be pre-entered, be deemed to include a reference also to goods not yet imported.

113. Entry in absence of documents

(1) If the importer of goods cannot give full particulars of the goods for want of documents or information concerning the goods, other than documents or information relating to their origin required by any provision of this Act, the importer 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

- (a) that their description for tariff and statistical purposes is correct, and
- (b) in the case of goods liable to duty ad valorem that the value declared on the entry is approximately correct, and
- (c) 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 a period up to their final entry as the officer shall require, and shall make an inventory of the goods.

(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 the sum of money that 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 a 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 is necessary shall be brought to account as duty, and the balance returned to the person who deposited it.

114. Goods not entered after declaration

If the importer, having made a declaration in accordance with section 113, does not make entry as provided in that section, or that 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 108.

115. Power to waive production of documents

(1) Despite anything provided before in this Act, if the Commissioner is satisfied, whether before or after the deposit in a State warehouse under section 118 goods liable to duty ad valorem that it is impossible for the importer to obtain satisfactory documentary evidence of their value, or if in a case the documentary evidence relating to the goods, 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 the goods to be entered according to the value which two officers appointed by the Commissioner 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 a document under this section, the Commissioner may require the person entering the goods to deposit with the Commissioner an additional sum of money that the Commissioner shall require, not exceeding one-half of the duty paid upon the goods.

(3) A 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 that person explains that person's failure to the satisfaction of the Commissioner.

116. Goods deemed to be in State warehouse

(1) Where under this Act goods are required to be deposited in a State warehouse, and for a reason the proper officer decides that it is undesirable or inconvenient to deposit the goods in a State warehouse, the goods shall for all purposes be deemed to be deposited in a State warehouse as from the time the goods are required to be so deposited and shall in addition to the rent and other charges payable under section 117 be chargeable with the expenses for securing, watching and guarding and of removing the goods from the original to some other place of deposit as the proper officer considers reasonable.

(2) An officer is not liable to make good the damage or losses which goods may sustain by reason of the goods being deposited and dealt with as provided in subsection (1).

117. Uncleared goods

(1) Where goods imported in an aircraft or a 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 a further period as the proper officer may in special circumstances allow, the proper officer may deposit the goods in a State warehouse or direct the agent of the aircraft or ship to deposit the goods immediately in a specified State warehouse.

(2) Goods so deposited are subject to the Regulations in regard to rent and other charges as may be prescribed.

(3) An officer who has custody of any goods under this Act, other than goods which have been warehoused in pursuance of an entry for warehousing, may refuse delivery of the goods from a State warehouse or other place of deposit until proof is given to the officer's satisfaction that the freight and

any other charges due on the goods have been paid.

118. 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 goods, other than goods of a 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 the goods are not entered for warehousing or delivery from the State warehouse within fourteen days after deposit, or any further period as the proper officer may allow, and the charges paid for removal, freight, rent and any other expenses incurred in respect of the goods.

(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 119 (3), the balance, if any, shall be paid to the owner of the goods if the owner applies for it within one hundred and eighty days from the time of the sale, but otherwise shall be paid into the Consolidated Fund.

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

(5) This section applies despite any law to the contrary.

119. Disposal of goods suspected to be uncustomed

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

(2) Goods delivered into the custody of the Commissioner in accordance with subsection (1) shall be deposited in a State warehouse and

(a) where the goods are of a perishable nature, the proper officer may sell the goods by public auction,

(b) where the goods are not of a perishable nature, the proper officer may sell the goods by public auction after a fourteen day notice by publication in the *Gazette* or in the national newspapers,

and the proceeds of the sale shall be disposed of as provided in section 118 (3).

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

(a) the proceeds of the sale of the goods shall be retained until the determination of the case; and

(b) if the owner is convicted of the offence in respect of those goods, a part of the proceeds of the sale of the goods which would otherwise have been payable to the owner in accordance with section 118 (3) shall be deemed to be forfeited to the Republic and shall be paid into the Consolidated Fund.

(4) This section applies despite any law to the contrary.

120. Examination of goods in State warehouse

The proper officer may cause goods required to be removed under this Act to a State warehouse to be opened and may require the owner of the goods to have opened for examination at the owner's own expense.

121. Ship owner may enter goods

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

- (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 a time for delivery of the goods is not 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 the goods the owner shall be allowed to do so, and the owner's entry shall in that case be preferred to an 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 a quarantine to which the goods may have been subjected.

122. Detention of aircraft or ship till goods landed

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

(2) A charge not exceeding fifty US dollars or its equivalent in cedis per day shall also be paid in respect of a 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 an officer in charge, either on board or otherwise, for the protection of the revenue, so long as the officer remains.

123. Restriction on persons disembarking

A person, whether a passenger or not, shall not disembark or go ashore from or go on board an aircraft or ship that has arrived within Ghana, except at times and by the means and ways as may be described in any regulations made under this Act, or otherwise as the Commissioner may allow.

PART SEVEN

Customs: Warehouse and Customs Areas

124. Conditions of warehousing

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

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

(3) If any prescribed rent or other charges are not paid to the proper officer when due and payable on goods in a Government warehouse, those goods may, without prejudice to any other lawful method of recovery, be sold or otherwise dealt with and the proceeds applied as if they were goods which might be sold or otherwise dealt with under sections 145 and 146.

125. Licence for private warehouses

(1) A building or place shall not be used as private bonded warehouse unless

- (a) it is duly licensed by the Commissioner, and
- (b) the warehouse keeper gives a bond in the sum as the Commissioner may require, with one or more sufficient sureties, conditioned on the due payment of the duties and the due observance of this Act.

(2) A licence shall be in the approved form and shall be issued by the Commissioner on payment of twenty thousand cedis or the sum as the Minister may by legislative instrument prescribe.

(3) A licence is valid for a period of one year from date of issue.

(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 considers that it is unreasonable or may impose hardship.

126. Owner not to enter his warehouse without permission

A warehouse keeper or an employee of the keeper shall not open or gain access to the keeper's warehouse except in the presence or with the knowledge and consent of an officer acting in the execution of the officer's duty.

127. Owner to provide facilities

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

128. Revocation of appointment

(1) The Commissioner may revoke the appointment of a private warehouse, and on revocation the duties on 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 the persons interested in the goods.

(3) Goods not duly exported or removed in accordance with subsection (1) shall be taken to a State warehouse by the proper officer, and may be sold or otherwise dealt with, under section 118.

129. Procedure for warehousing

(1) The officer in charge of a warehouse shall, on the delivery into the officer's care 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 the goods, 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, the officer shall certify at the foot of the account that the entry and warehousing of the goods is complete, and the goods shall from that time be considered duly warehoused.

130. Goods to be warehoused in original packages

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

131. Interfering with storage

If in the case of goods warehoused in a private warehouse

- (a) an alteration is made afterwards in the goods or packages deposited, or in the packaging of the goods 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 the goods were deposited in the absence and without the consent of the proper officer,

the goods are liable to forfeiture.

132. Stowing of goods

(1) The proper officer may direct in what different parts or divisions of a warehouse or customs area and in what manner any goods shall be deposited, and if the 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 each package so deposited incur a penalty of five thousand cedis, together with a further penalty of one thousand cedis 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 each package, the occupier shall incur a penalty of five thousand cedis, together with a further penalty of one thousand cedis for each day during which the neglect continues.

133. Production of goods

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

134. Failure to warehouse

Where goods entered to be warehoused are not duly warehoused by the importer in pursuance of the entry, or if 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 a package or transferred

from one package to another; or otherwise for the purpose of illegal mixing, removal or concealment, the goods are liable to forfeiture.

135. Unlawful access

A person who clandestinely opens a warehouse or transit shed or, except in the presence of the proper officer acting in the execution of duty, gains access to the goods in it, shall incur a penalty of fifty thousand cedis.

136. Trespass

Any person who enters a warehouse or a 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 fifty thousand cedis.

137. Taking of un-entered goods

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

(2) A person taking out goods from a warehouse or customs area before goods are duly entered (except as stated) or who aids, assists, or is concerned in it, commits an offence and in addition to paying a penalty not exceeding three times the duties on the goods, is liable on conviction to imprisonment not exceeding five years.

138. Destruction and stealing of goods

A person who destroys or steals goods duly warehoused or deposited in a customs area commits an offence and is liable on conviction to a term of 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 any other charges due on it and the Service is not liable to legal action in respect of the goods.

139. 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 the reasonable acts as the officer considers necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for expenses so incurred; but an act shall not be done until the expiration of twenty-four hours after the owner of the goods is notified that the acts are required, unless the proper officer decides that immediate action is necessary for the proper custody or preservation of the goods.

(2) The importer or owner of goods shall pay the expenses incurred in respect of the goods under this section at those times and in the manner that the Commissioner shall generally or in a particular case direct, and if the expenses are not paid, the goods may be sold or otherwise dealt with and the proceeds applied as if they were goods which might be sold or otherwise dealt with under section 146.

140. Removal from one warehouse to another

The removal of warehoused goods from one warehouse to another shall be subject to regulations made

under this Act and to any other conditions directed by the Commissioner.

141. Procedure on delivery of goods removed

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

(2) The 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 the goods as provided in section 142, or unless the goods have been otherwise accounted for to the satisfaction of the Commissioner, or until the full duties due on any deficiency of the goods not so accounted for have been paid.

142. Removal subject to warehouse regulations

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

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

143. Removal subject to conditions

(1) If 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 Act and in a manner, by those persons and within the time and by roads or ways, as that officer shall permit or direct, the goods are 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 an exporting or removing aircraft, ship or vehicle, in or on which the goods have been put, the bond given in respect of the goods 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 the goods at the place of destination have not expired, the goods are liable to forfeiture.

144. Transfer from one warehouse to another

Despite anything mentioned before, the Commissioner may transfer goods at the cost of the Government from one Government warehouse to another in a manner considered reasonable by the Commissioner.

145. Re-warehousing

(1) 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 the goods were warehoused, or within any further time and in any cases as the Commissioner shall direct, unless the owner of the goods wishes to re-warehouse the goods.

(2) Where the owner wishes to re-warehouse the goods, the goods shall be examined by the proper officer, and the duties due on 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 allowances as are by law permitted in respect of the goods, 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 the owner of the goods in the same manner as on first importation.

(3) 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 is liable to make good the duty on any deficiency not allowed by law which may be discovered in the goods at the time of the delivery of the goods, or any earlier time.

146. 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 the previous entry of the goods and warehousing or within a further time as may be directed, the goods 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 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 the owner applies for it within one hundred and eighty days from the time of sale, but otherwise shall be paid into the Consolidated Fund.

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

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

147. 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 168, and if goods taken from a warehouse for use as stores are not duly put on board the aircraft or ship for which the goods are entered, or otherwise accounted for to the satisfaction of the Commissioner, or are dealt with in a way contrary to this Act, the goods are liable to forfeiture and in addition, the master or agent of the aircraft or ship is liable to a penalty not exceeding thrice the duties or taxes evaded.

148. 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 the 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, is chargeable on the quantity of goods ascertained by weight, measure, or strength, as the case may be, at the time of actual delivery, unless there is reason to suppose that a part or any deficiency has been caused by illegal abstraction.

149. Forfeiture of uncollected goods

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

150. Delivery in special circumstances

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

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

151. Taking of samples by owner

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

(2) Goods in a customs area or warehouse shall not be repacked into packages of a size in which those goods are prohibited to be imported or exported, except where otherwise expressly provided by the Regulations.

(3) Directions given under subsection (1), may include the manner and conditions under which an owner of goods may take samples of the goods from a customs area or warehouse.

152. Manufacture in a private warehouse

Goods shall not be manufactured in a private warehouse except in accordance with the Regulations.

153. Goods to be handled by owner

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

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

Customs: Loading and Exportation

154. Ships to be entered outwards

The master of a ship in which goods are to be exported, or the agent, shall before the goods are taken on board deliver to the proper officer at the port at which the ship first arrived an entry outwards of the ship, verified by the master's 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 the goods and stores as are specified in the entry outwards.

155. Certificate of rummage

(1) The master of a ship to which section 154 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 is unloaded, the master shall remove and stow the inward cargo remaining on board in the manner that the officer may direct in order to enable the officer to rummage the ship, and, after the ship has been rummaged, the master 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.

156. Restrictions on carriage coastwise

On arrival at a port or place in Ghana of a ship about to deliver cargo at more than one port or place in Ghana, or having on board goods duly reported for exportation in the same ship, it is lawful, subject to any regulations made under this Act, or to the 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 182 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.

157. Export of certain goods restricted

A 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,
- (b) enters or attempts to enter any of the goods for exportation in a 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 percent the value of the goods, and the goods are liable to forfeiture.

158. General provisions for loading and exportation

(1) Goods shall not be put on board an aircraft or a ship for exportation or use as stores, or be put into a 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 the hours determined by the Minister by Regulations,
- (b) from an approved place of loading, and
- (c) with the authority of the proper officer.

(2) Goods shall not 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) Goods shall not be so dealt with before the goods 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) Goods having been put into any vessel to be water-borne to an aircraft or a ship for exportation or use as stores shall not be put on board the exporting aircraft or ship outside the limits of a port.

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

159. Commissioner may relax conditions of shipment

(1) Despite section 158, the Commissioner may permit goods to be put on board an aircraft or a ship on the days, at the time, from or at a place, and under the conditions as the Commissioner may generally or in a 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 shall be entered within ninety-six hours of departure or a further time that the Commissioner may allow and if the goods are not so entered the exporter shall incur a penalty equal to five percent of the export value of the goods.

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

160. Vessels loading goods to proceed direct

(1) 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 the goods are to be exported or used as stores, and put on board immediately.

(2) A vessel in which goods are water-borne to a ship shall be a ship licensed in accordance with section 276 unless the Commissioner otherwise allows.

161. Permission to unload goods loaded

Goods having been put on board an aircraft or ship in accordance with section 170 or for exportation, or for use as stores, shall not be unloaded in any part of Ghana without the written permission of the proper officer, and except in accordance with the conditions as the Commissioner shall impose.

162. Forfeiture of goods

If a 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 158 to 161, the goods shall be forfeited.

163. Bonds

Before warehoused goods, or goods entitled to a drawback on being put on board an aircraft or ship for use as stores 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 a security by bond as the proper officer may require that the goods shall be duly put on board the aircraft or ship for which the goods are entered and shall be used as stores (if so entered) or else exported to and unloaded at the place for which the goods are entered within such time as the proper officer considers reasonable, or be otherwise accounted for to the satisfaction of the officer.

164. Offences with bonded goods

If goods for which a bond is required under section 163 or goods liable to export duties are put on board an 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,

the goods shall be forfeited and the exporter shall incur a penalty equal to a hundred percent of the value of the goods or one hundred thousand cedis whichever is the greater.

165. Failure to export

If goods for which a bond is required under section 163 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 161 or otherwise accounted for to the satisfaction of the Commissioner, the goods shall be forfeited and the master of the aircraft or ship shall incur a penalty equal to a hundred percent of their value or one hundred thousand cedis whichever is the greater.

166. Short-loading of bonded goods

If a person who had entered goods for which a bond is required under section 163 fails, in case the goods or any of the goods are not duly put on board the aircraft or ship for which the goods have been entered, to attend the proper officer within twenty-four hours of the time of clearance of the aircraft or ship, or a further time as the Commissioner may allow, and notify the officer of the short-loading of the goods, and re-warehouses or re-enters for exportation or uses as stores in some other aircraft or ship within the period of twenty-four hours the goods which have been removed from a warehouse for exportation or use as stores, any of the goods so entered shall be forfeited.

167. Short-loading of non-bonded goods

If an exporter who has entered goods, not being goods for which a bond is required for exportation in an aircraft or ship fails in case the goods or any of the goods are not duly put on board the aircraft or ship for which the goods 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, the exporter shall incur a penalty of fifty thousand cedis.

168. Shipment of stores

(1) Despite anything to the contrary contained in this Act, and subject to any regulations made under this Act, the proper officer may, on due request being made, permit the master of an aircraft or ship departing from a port in Ghana on 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, on payment of any export duty leviable on similar goods exported, and on any other terms and conditions as the Commissioner may direct, and in quantities as the proper officer may think reasonable.

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

(3) Stores shall not be put on board for the use of an aircraft or ship, nor shall any articles taken on board an aircraft or ship be deemed to be stores, except those as shall be or have been put on board in accordance with this section.

169. Drawback and transshipment goods

The provisions of this Act with reference to the importation and exportation of warehoused goods, so far as the provisions 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 the goods while remaining in a customs area are liable to any rent and other charges as may be prescribed.

170. Loading of goods other than cargo or stores

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

(2) If 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 an attempt is made to put the 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 Act, the goods shall be forfeited.

171. Export goods stored at risk of exporter

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 any rent and other charges as may be prescribed.

PART NINE

Customs: Departure and Clearance

172. Clearance of aircraft and ship

(1) An aircraft or a ship shall not leave a port or place in Ghana for a place outside Ghana until the master or the master's agent has satisfied the proper officer that this Act has been fulfilled, and unless the officer has decided to withhold clearance in accordance with any other law, the officer, shall deliver to the master or agent a clearance in the prescribed form, which shall authorise the departure of the aircraft or ship.

(2) If an aircraft or a ship departs from a port or place in Ghana to a place outside Ghana without a clearance given under this section, the master or agent shall incur a penalty of one hundred thousand cedis and after that the aircraft or ship shall be blacklisted.

173. Master to deliver content

(1) The master of an aircraft or a ship, or the master's agent, shall, immediately before its departure from a 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 known to the master or agent, and shall make and sign the declaration in the presence of the officer, and shall answer questions the officer may ask concerning the aircraft or ship, the cargo, stores, baggage, officers, crew, passengers, and the flight or voyage.

(2) If the master or 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 one hundred and fifty thousand cedis.

174. Clearance in ballast

(1) If a ship departs in ballast from Ghana to a place outside Ghana, not having goods on board except stores duly shipped as stores, or goods reported inwards for exportation in that ship, the Commissioner shall, on the application of the master or the master's agent, clear the ship in ballast and the master of the ship or agent shall comply with this Act 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 the passenger's baggage on board, in addition to stores, shall be deemed to be in ballast.

175. Clearance to be produced on demand

An officer may go on board an aircraft or ship within Ghana and demand its clearance, and if the master does not produce it the master shall incur a penalty of one hundred thousand cedis and the aircraft or ship shall be detained until clearance is obtained.

176. Goods not contained in content forfeited

If there are goods or stores on board an aircraft or ship which may have been boarded by an officer within Ghana, not contained in the content, the goods or stores 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.

177. Failure to produce goods

If an officer, having boarded an aircraft or ship within Ghana after clearance, discovers that 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 the goods have been unloaded

in Ghana with the permission of the proper officer as provided in section 161 the master shall incur a penalty equal to hundred percent the value of the goods or ten thousand cedis for each package of the goods not on board, whichever is greater.

178. Deficiency in stores

(1) Where an officer boards an aircraft or ship within Ghana after clearance and discovers that 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 the officer discovers any deficiency in the stores which in the officer's 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 twenty thousand cedis.

179. 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 Act, or departs on a flight or voyage with any officer on board without the officer's assent, the master shall incur a penalty of two hundred thousand cedis.

PART TEN

Customs: Coasting Trade

180. Definitions

Except as provided in section 181, trade by air or by sea from one part of Ghana to another part of Ghana shall be deemed to be coasting trade, and the aircraft and ships while employed in that way shall be deemed to be coasting aircraft and coasting ships, and if a doubt arises as to whether an aircraft or ship is involved in a coastal trade, the Minister shall determine.

181. Aircraft and ships outside Ghana

(1) Despite any provision in this Act 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 a 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 Act.

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

182. Permission required for coasting trade

(1) An aircraft or ship shall not trade coastwise without the written permission of the Commissioner.

(2) An aircraft or ship trading contrary to this section shall incur a penalty equal to ten percent 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.

183. Coastwise ship to display name

(1) A 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 one hundred thousand cedis and the ship may be seized by an officer and detained until the penalty is paid.

184. Coastwise cargo only to be carried

Goods shall not be carried in a coasting aircraft or ship except those loaded to be carried coastwise at some port or place in Ghana.

185. 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 the goods so taken on board into his care, the master shall incur a penalty equal to the value of goods or five percent of the value of the aircraft or ship whichever is higher and the aircraft or ship may be seized by an officer and detained until the penalty is paid.

186. Restrictions on dealing with coastwise cargo

Where without written permission of the proper officer, goods are

- (a) unloaded from an aircraft or ship arriving coastwise, or from a vessel into which the goods 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 Sundays 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 five percent 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.

187. Prohibited goods

If a person

- (a) puts on board a coasting aircraft or ship, or

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

goods prohibited to be carried coastwise, or 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, that person shall incur a penalty of one hundred thousand cedis and all the goods shall be forfeited and the carrier of the goods may be seized by the officer and detained until the penalty is paid.

188. Coastwise passengers

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

189. Master to deliver account of cargo before departure

(1) Before a coasting aircraft or ship departs from a port or place, the master or agent shall deliver to the proper officer an account in triplicate in the prescribed form of the 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 an officer and detained until the penalty is paid.

190. 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 the goods are unloaded, the master shall produce to the proper officer the transire and if 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 an officer and detained until the penalty is paid.

191. Forfeiture of goods unlawfully loaded or unloaded

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

192. Commissioner may vary procedure

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

193. Power of search

An officer may go on board a coasting aircraft or ship in a port or place in Ghana or on a coasting ship at a period of her voyage, and section 246 applies accordingly.

194. Entry outwards

The Commissioner may, subject to conditions as the Commissioner 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 the goods.

PART ELEVEN

Postal and Removal Articles

195. Application to postal articles

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

(2) This Part is in addition to and not in derogation from the relevant legislation relating to posts and telecommunications.

196. Regulations for postal articles

(1) The Regulations may

- (a) prescribe what descriptions of postal articles may or may not contain goods or other articles of any description, and the conditions under which the descriptions may contain the goods or articles;
- (b) modify or exempt the application of this Act to postal articles;
- (c) secure the observance of this Act in the case of postal articles;
- (d) enable officers of the Post Office to discharge for the purposes of this Act and otherwise the duties of the importer and exporter;
- (e) be made to carry into effect an 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 Act or otherwise under the regulations in respect of any postal article as the Director-General would have if the sum so paid were a rate of postage.

(3) A contravention of regulations made in respect of postal articles is a contravention of this Act and it attracts the same punishment of offenders and the same forfeiture of goods.

197. Detention and examination of postal article

(1) An officer of the Post Office may detain an incoming postal article which the officer suspects to contain a 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 the person's accredited representative, or
- (b) in the absence of that person, if after written notice from the officer requiring the person's attendance left at or forwarded by post to the address on the article (if any) that person's accredited representative fails to attend.

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

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

198. Removal articles may be exempted from duty

(1) The removal articles of a 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 this Act, be exempted from duty.

(2) An exemption from duty shall not be granted under this Act in respect of a motor vehicle.

199. Persons claiming exemption to apply

(1) A person who claims exemption under this Act shall submit an application in writing to the Commissioner or an officer authorised by the Commissioner before or after the person's arrival in Ghana.

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

200. Commissioner to grant exemption

Subject to article 174 of the Constitution, the Commissioner shall not exempt a person from payment of a duty under this Act in respect of removal articles unless the Commissioner 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 the person's 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 the person's return to Ghana.

201. Persons above eighteen years may import certain articles duty free

A person who is above the age of eighteen and entitled to exemption from duty under section 198 is 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 0.4536 kilogram (kg.) weight.

PART TWELVE

Excise: Warehouse

202. Bond by warehouse keeper

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

203. Duty not payable on goods warehoused

Subject to this Act, the Commissioner may permit a manufacturer to remove excisable goods from the manufacturer's factory to a warehouse and a duty shall not be payable on any of the goods while in the warehouse, unless a contrary provision is made by law.

204. Further conditions

Excisable goods while in a warehouse are subject to the Regulations, and to the payment by the warehouse keeper to the Commissioner at the prescribed times of fees and charges for supervising and taking account of them, as may be prescribed.

205. Restrictions on removal

If excisable goods are removed to a warehouse otherwise than in accordance with the Regulations or except by the ways, means and persons or at the times and within the hours that the Commissioner may direct, the goods are liable to forfeiture.

206. Removal to and from warehouse

(1) Goods warehoused under this Part may be removed to another warehouse or, with the written permission of the Commissioner returned to the factory of the manufacturer subject to the same Regulations and provisions as govern the removal of excisable goods from a factory to a warehouse, so far as the Regulations and provisions are or can be made applicable.

(2) Excisable goods, with the same permission, may be removed in the same way and subject to the same conditions from one factory to another.

(3) Despite the removal to a warehouse or factory, the manufacturer of the excisable goods so removed is liable to pay the duty on it when it becomes due unless provision is made by law to the contrary.

207. Revocation of appointment of warehouse

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

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

(3) If within three months from the date of a notice of revocation excisable goods in the warehouse have not been removed to another warehouse or returned to the factory of the 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 the goods.

PART THIRTEEN

Excise: Removal

208. Goods loaded deemed delivered

For the purpose of this part 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 Act the defendant proves, that the goods were not put on to the vehicle with intent to deliver the goods from the factory or warehouse.

209. Certificates

(1) Except in accordance with regulations made under this Act or with the written permission of the Commissioner, excisable goods shall not 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 any other particulars as may be prescribed and unless a duplicate of the certificate is made.

(2) Each duplicate of the certificate shall be kept on the premises from which the goods were delivered and shall be produced by the manufacturer or warehouse keeper to an officer on demand made at anytime within one year of the date.

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

(4) If a manufacturer or warehouse keeper

- (a) delivers the 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 the premises and produce the duplicate of the certificate to an officer as indicated; or
- (d) contravenes subsection (3),

the manufacturer or keeper 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 the goods delivered or used in contravention of this section shall be forfeited.

210. Illegal removal

(1) A person who takes out excisable goods which are required to be accompanied by a certificate

from a 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 the goods shall be forfeited.

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

211. Receiving without certificates

(1) If a person

- (a) receives 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 the person and required to be accompanied by a certificate, on 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 a person a certificate as having been received with any excisable goods other than the goods described in it,

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

(2) If a person knowingly buys or receives or has in possession or under that person's control in a manner or in a place 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, that person shall incur a penalty not exceeding treble the duty payable on the goods and may be prosecuted.

212. Goods to be handled by owner

(1) The removal and shipment of excisable goods and bringing the goods to the proper place for examination and weighing, putting the goods into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where the operations are necessary or permitted and removing to and placing the goods 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 those goods in the manner as the proper officer may require to enable the officer to examine or take account of the goods.

(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 the owner of the goods may take samples of the goods.

PART FOURTEEN

Excise: Manufacturers and Warehouse Keepers

213. Licences to manufacture

(1) A person shall not manufacture or commence to manufacture goods unless that person first obtains a licence to do so.

(2) A person shall not distribute, sell or dispose of a still or of an apparatus suitable for the distillation

of alcohol or the rectification of spirits unless that person 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 an amount to be determined by the Commissioner and a licence issued under subsection (2) shall be issued without payment.

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

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

214. Failure to obtain licence

(1) A person who manufactures or commences to manufacture excisable goods without licence to do so, shall incur a penalty of not less than twenty thousand cedis, and the goods in respect of which an act is committed and also the vessels, utensils and materials in that person's possession, which in the opinion of the Commissioner are capable of being used in the manufacture of any excisable goods, shall be forfeited.

(2) A person who distributes, sells or disposes of a still or an apparatus suitable for the distillation of alcohol or the rectification of spirits in contravention of section 213, shall incur a penalty of not less than twenty thousand cedis and the still or apparatus shall be forfeited.

215. Licence applies to one premises only

(1) A licence to manufacture excisable goods shall only authorise the licensee 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 shall be adjoining and held together for the same purpose.

(2) A licence does not extend to a part of the premises not described in the written description and plans required by section 223.

216. Publication of licences granted

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

(2) Production of a copy of the *Gazette* containing a return is prima facie evidence as to any licence specified.

217. Disqualification for licence

A licence shall not be granted or transferred

- (a) except with the approval of the Commissioner, to a person who is convicted of an offence under this Act; or
- (b) to a person under the age of eighteen years; or
- (c) to a person whose licence is cancelled under this Act, or, during the person's life to the person's wife or a member of the person's family resident with the person.

218. Transfer of licence

(1) On the death of a licensed person, the licence may, subject to section 217, 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 the 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 217 with the consent of the parties, be transferred by endorsement by and at the discretion of the Commissioner.

(3) For a transfer under this section there shall be paid a fee of ten thousand cedis.

(4) A penalty under this Act shall not be incurred by the executors or administrators or the widow or child of a licensed person who dies before the expiration of the licence, or whose affairs are liquidated by arrangement before the expiration of the licence, in respect of the manufacture of 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 the person's affairs by arrangement.

(5) The Commissioner may, on reasonable cause being shown, extend the period of twenty-eight days by notification in writing.

219. 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 grant the transfer by licence endorsement on payment of a fee of ten thousand cedis and the licence shall then be deemed to authorise manufacture on the premises substituted, and no longer authorise manufacture on the premises originally licensed.

220. Books to be kept

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

(2) Entries shall be made legible in ink and an entry shall not be altered in any manner; but the 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 the officers and the manufacturer or warehouse keeper shall allow the officer to take an abstract from the books at any time.

(4) If a manufacturer or warehouse keeper

- (a) fails to keep the books or to produce the books when required by the officer to do so,
- (b) fails to make in the books legibly in ink at the approved times and in the approved manner an entry required to be made in it, or
- (c) fraudulently or in any manner contrary to the requirements of this Act makes an entry, obliteration, alteration or erasure in the books,

the manufacturer or keeper commits an offence and is liable to prosecution.

(5) Where the result of an 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.

221. Information to be given

(1) In addition to complying with section 220, a manufacturer shall, if so required by the Commissioner,

- (a) produce for inspection invoices and any other books or documents in the manufacturer's possession relating to any excisable goods manufactured during the preceding twelve months as the Commissioner shall require;
- (b) answer questions as may be asked 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 Act or any regulations made under it;
- (c) produce any 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 under subsection (1) the manufacturer shall incur a penalty of not less than fifty thousands cedis.

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

- (a) the Commissioner,
- (b) a 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 approval of the Minister, may authorise for that purpose.

222. Certificate of audit

(1) The Commissioner may require a 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 the books and records required by or under this Act to be kept by the manufacturer, and in addition shall be in respect of any matter referred to in subsection (1) (*b*) of section 221 as the Commissioner may require.

(3) A manufacturer who without reasonable excuse fails to submit a certificate of audit in accordance with this section shall incur a penalty of fifty thousand cedis and shall not be issued with a tax clearance certificate in respect of the year subsequent to the default.

223. Description of premises, machines, to be given

(1) A manufacturer shall, before commencing to manufacture and also at any later time on request of

the Commissioner deliver to the Commissioner a written description and plans of the manufacturer's factory and of every machine, apparatus, utensil or vessel as the Commissioner may require.

- (2) If a 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 the request in writing made by the Commissioner and addressed to the manufacturer at the manufacturer's factory,

the manufacturer shall incur a penalty of one hundred thousand cedis and the licence to manufacture shall be withdrawn until the written description and plans are delivered to the Commissioner.

(3) On receipt of a written description and plans of a factory the Commissioner may, by notice in writing addressed to the manufacturer at the manufacturer's factory require the manufacturer to make the 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.

(4) If a manufacturer fails to comply with a requirement contained in the notice under subsection (3) within a reasonable time after the receipt of the notice, the manufacturer shall incur a penalty of ten thousand cedis for each subsequent day of default.

- (5) If a manufacturer
 - (a) makes an alteration in the structure of the factory or in a disposition of the factory, or
 - (b) uses a new or substantially alters an existing machine, apparatus, utensil or vessel,

without delivering to the Commissioner within fourteen days notice of it in writing, the manufacturer shall incur a penalty of ten thousand cedis.

(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 excisable goods or class of excisable goods is unreasonable or imposes hardship on the manufacturer, the Commissioner 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.

224. Prescribed standards and necessary apparatus

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

(3) A 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 an officer may be hindered or prevented from taking a just and true measure or account, shall incur a penalty of one hundred thousand cedis and the false and unjust apparatus and instrument shall be forfeited.

225. Commissioner may station officer in factory

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

(2) A manufacturer who fails to provide the accommodation to the satisfaction of the Commissioner shall incur a penalty of fifty thousand cedis on each day of default.

226. Assistance to be given to officers

(1) On demand by an officer

- (a) safe and convenient ladders of sufficient length to enable the officer to ascend to and examine a 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 a 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) A manufacturer or warehouse keeper in whose factory or warehouse a contravention of this section has occurred shall incur a penalty of ten thousand cedis on each occasion that the contravention occurs.

PART FIFTEEN

Folded Woven Goods

227. Prohibited sales

(1) Folded woven goods, whether imported into Ghana or manufactured in Ghana, shall not be sold or form the subject of a contract of sale unless the goods are folded and marked in accordance with section 228.

(2) This section applies to the classes of goods specified in section 228 (5).

228. Prohibited imports

(1) Folded woven goods, other than those specified in subsection (5) of this section, shall not 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 those goods is regulated by law, unless the goods 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) The mark shall be stamped on the fabric of each piece.

(3) Words, figures, marks or abbreviations of the words "metres" and "centimetres" 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 the marking.

(4) A piece shall not be made on it so as to show more folds than the full number of metres it actually contains, a portion of a metre (over the number of metres) not to be shown as a fold.

(5) This section does not apply to and this Part does not affect, the importation, folding or marking of any of the following classes of goods:

- (a) Indian bafts,
- (b) cashmeres,
- (c) serges,
- (d) alpaca,
- (e) silesia,
- (f) fents,
- (g) abourettes,
- (h) gold and silver cloths,
- (i) tinsel woven cloths,
- (j) damasks,
- (k) flannels,
- (l) silks,
- (m) silk velvets,
- (n) tweeds,
- (o) handkerchief cloth,
- (p) broad cloth, and
- (q) worsted cloth.

229. Penalties

(1) A person who contravenes section 227 or 228 commits an offence and is 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.

(2) A prosecution or proceedings shall not lie or be taken under this Act against an importer or holder of folded woven goods

- (a) where the goods are shorter than indicated by the mark on the goods by not more than
 - 10.26 centimetres in a piece marked 9.144 metres or under,
 - 12.70 centimetres in a piece marked above 9.144 metres and up to 21.03 metres,
 - 17.78 centimetres in a piece marked above 21.03 metres and up to 32.92 metres,
 - 22.86 centimetres in a piece marked above 32.92 metres and up to 42.98 metres,
 - 47.72 centimetres in a piece marked above 42.98 metres; or

- (b) where the contents of a piece is properly marked as total length but the final fold only is less

than thirty-six inches.

230. Search warrants

When a court or tribunal is satisfied with information on oath that there is reasonable cause to suspect that goods, in respect of which an offence against section 227 or section 228 has been committed, are in a house or premises, the Court or tribunal may issue a warrant authorising an officer named or included in the warrant to enter the house or premises at a reasonable time by day, and to search therefor and seize and take away the goods.

231. Power to demand invoices and inspect packages

(1) The proper officer may require the importer of a package supposed to contain folded woven goods, other than those specified in section 228 (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.

232. Warranty by vendor

On the sale or contract for the sale of goods to which this part applies, the vendor shall be deemed to warrant, within the limits provided by section 229 that the material bears on its face the true and correct number of metres or centimetres actually contained in the folded woven goods on which the number appears.

233. Savings

(1) This Part does not exempt a person from a suit or other proceeding which might, but for the provisions of this Part, be brought against that person.

(2) This Part does not affect 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.

234. Regulations

The Regulations may

- (a) exempt from the operation of this Part goods or classes of goods not specified in subsection 228 (5);
- (b) increase or reduce the allowance for shrinkages specified in section 229.

PART SIXTEEN

Powers of Officers

235. Officers to have powers of police

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

236. Power to search persons

(1) An officer may search a person the officer has reason to suspect is carrying or has uncustomed or prohibited goods or excisable goods the duties on which have not been paid on the person or in that person's possession or in that person's baggage.

(2) If that person on being asked by an officer whether that person has any of the goods as specified under subsection (1) and that person refuses to answer or denies having them, and any of the goods are discovered to be or to have been on that person or in that person's possession or baggage, the goods are liable to forfeiture.

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

(4) If that 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 the goods or secured as required by law, that person shall incur a penalty not exceeding three times the amount of duties payable on the goods.

237. Restrictions on search of persons

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

(2) A female shall not be searched except by a female.

(3) An officer is not liable to prosecution, an action or a suit on account of a search made in good faith and in accordance with the provisions of this Act.

238. Power of arrest and detention

(1) An officer may arrest and detain a person whom the officer reasonably suspects to be committing, or to have committed, or to be or to have been concerned in the commission of an evasion of or offence under this Act.

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

239. Power to patrol freely

(1) An officer when on duty may patrol on and pass freely along and over a part of Ghana and is not liable to prosecution, action or suit for doing so.

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

240. Power to enter factory

(1) An officer may at any time, during night or day enter a part of a factory or warehouse and gauge, measure and take an 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 samples of those goods or materials as required by the officer.

(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 fifty thousand cedis.

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

241. Power to examine stock

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

(2) If a person selling or offering for sale excisable and sales taxable goods on any premises fails to assist the officer to the utmost of the person's power in measuring and taking an account of the excisable goods in or on the premises, that person shall incur a penalty of not more than one thousand cedis.

242. Power to seal off premises, buildings

An officer so authorised by the Commissioner may seal off, lock up or in a physical manner prevent a person from entering or gaining access to an 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 the Act.

243. Writ of assistance

(1) The Tax Tribunal or a court of competent jurisdiction may issue writs of assistance under this section to have effect throughout Ghana or in a 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) An officer or a person acting under the direction of the Commissioner who has a writ of assistance may by day or night enter into and search a house, shop, cellar warehouse, room or any other place, and in case of resistance may break open doors, chests, trunks and other packages, and seize and bring away an uncustomed, restricted or prohibited goods and deposit the goods in a State warehouse or in any other place approved by the Commissioner.

244. Power to search premises

(1) When the Commissioner is satisfied by information that there is reasonable cause to suspect that an 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, the Commissioner may issue a written order signed by the Commissioner authorising an 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 a person in whose possession and under whose control the goods are found and bring that person before a competent court or tribunal, and
- (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.

245. Power to stop ships, aircraft or vehicle

(1) An officer may on reasonable suspicion stop and examine a ship, aircraft or vehicle to ascertain whether an 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 the officer, the person or driver shall incur a penalty of not less than fifty thousand cedis or on conviction to a term of imprisonment not exceeding one year or both.

(4) If the officer finds any of the goods, or if the officer finds any goods which the officer 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 a person found in or accompanying the ship, aircraft or vehicle at the time of the stoppage and take that person before a competent court or tribunal.

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

246. Power to board ship or aircraft

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

- (a) to search the aircraft or ship;
- (b) to demand books or any other documents which ought to be on board;
- (c) to require all or any of the books or other documents to be brought to the officer for inspection;
- (d) to examine goods on board, and goods then being loaded or unloaded;
- (e) to secure a part by means as considered necessary by the officer;
- (f) to require the goods to be unloaded and removed for examination or for security, or to unload and remove the goods at the expense of the master or owner or the agent of either; and
- (g) to lock up, seal, mark or otherwise secure the goods on board.

(2) If an officer so acting finds that there is no free access to a place or to a box or chest, or if the keys of the place, box or chest which is locked are withheld, the officer may open it in any manner and is not liable to prosecution, action or suit for so doing, and if the goods are found concealed on board the goods shall be forfeited.

(3) If a lock, mark or seal placed on goods or stores on board an aircraft or ship, or on any place or package in which the goods 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 the goods are not unloaded and removed for examination or for the security of the goods as required by the officer, the master of the aircraft or ship shall incur a penalty of not less than fifty thousand cedis.

(4) The master shall answer all questions the officer may ask 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 the books or documents to the officer when required, or to answer a question put to the master by the officer the master shall incur a penalty of not less than fifty thousand cedis, and the aircraft or ship may be seized by the officer and detained until the penalty is paid.

247. Power to seize abandoned ship or aircraft

An aircraft or ship found abandoned within Ghana may be seized by an 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 Act have been complied with.

PART SEVENTEEN

General Penal Provisions

248. General penalty

(1) Except as otherwise provided in section 249, a person who does an act or makes an omission which constitutes a contravention of this Act for which a specific punishment or penalty is not provided or is concerned in the doing or making of any of the acts or omission, or who does an act or makes an omission with intent to facilitate the evasion by that person or by any other person of a provision of this Act, shall pay a reparation as determined by the Commissioner.

(2) The reparation where quantifiable shall not be less than three times the duty or revenue that would have been lost.

249. Penalty on forfeiture

Where anything is forfeited or becomes liable to forfeiture under this Act, a 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 a penalty is not provided, shall incur a penalty in a sum equal to double the tax or duty payable on the thing seized or forfeited.

250. False declarations

(1) If a person knowingly or recklessly

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

(b) makes a statement in answer to a question put to that person by an officer, acting in the

execution of duty, being a document or statement produced or made for a purpose or an assigned matter,

which is untrue in a material particular, commits an offence under this subsection and may be detained; and the goods in relation to which the document or statement was made shall be forfeited.

(2) If a person in a matter relating to this Act

(a) makes and signs or causes to be made and signed a false declaration or a declaration certificate or any other instrument required to be verified by signature only, which is false in any material particular, or

(b) refuses to answer a question put to that person by an officer acting in the execution of duty,

commits an offence under this subsection and may be detained, and the 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 a duty payable is not paid, the offending person

(a) shall incur a penalty not exceeding three times the amount not paid in addition to the forfeiture of the goods, or

(b) the offending person is liable on conviction, to a term of imprisonment not exceeding one year or both the penalty and the imprisonment.

251. Falsifications, alterations

(1) If a person

(a) counterfeits, falsifies or wilfully uses when counterfeited or falsified a certificate or any other document required by this Act or by or under the directions of the Commissioner or an instrument used in the transaction of a business or matter relating to customs or excise, or

(b) alters the document or instrument relating to customs or excise after it is officially issued, or counterfeits the seal, signature, initials or other mark of or used by an officer for the verification of the 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 Act, or

(c) on the document or instrument required for the purposes of this Act counterfeits or imitates the seal, signature, initials or other mark of or made use of by any other person, whether with or without the consent of that person, or

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

(e) forges or causes to be forged a document relating to a motor vehicle imported under this Act, or

(f) furnishes or causes to be furnished any information relating to a matter under this Act which that person knows to be false,

commits an offence under this subsection and may be detained, and the goods in respect of which the offence was committed shall be forfeited.

(2) Where because of the offence specified in subsection (1) the full amount of a duty payable is not paid, 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 the offending person is liable on conviction to a term of

imprisonment not exceeding one year or to both the fine and the imprisonment.

252. Smuggling and other evasions

- (1) If a person
 - (a) imports or is concerned in importing prohibited or restricted goods contrary to the prohibition or restriction, whether the goods 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 prohibited or restricted goods contrary to the prohibition or restriction, or
 - (d) with intent to defraud the Republic of a duty, harbours, keeps or conceals or permits or suffers or causes or procures to be harboured, kept or concealed prohibited, restricted, uncustomed or excisable goods, or
 - (e) with intent to defraud the Republic of a duty, acquires possession of or is in a way concerned in the carrying, removing, depositing or concealing the prohibited, restricted, uncustomed or excisable goods, or
 - (f) is in any way concerned in a fraudulent evasion or attempt at evasion of any customs or excise duties or sales tax under this Act,

that person commits an offence and is liable on conviction to a fine not exceeding three times the duty tax evaded or to a term of imprisonment of not less than five years and not exceeding ten years or to both the fine and the imprisonment, and the goods in respect of which the offence was committed shall be forfeited.

(2) A person who does any of the acts referred to in subsection (1) shall, whether or not that person is prosecuted under that subsection, incur a penalty not exceeding treble the duty or tax evaded and the goods in respect of which the offence was committed shall be forfeited.

(3) A penalty shall not be exacted where a fine imposed under subsection (1) equals or exceeds three times the value of the goods in respect of which the offence was committed.

253. Procuring another to assist evasion

A person who by any means procures or hires, or disposes or authorises any other person to procure or hire a person to assist in an evasion of this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding five years.

254. Prohibition of conveyance of certain goods

(1) The Regulations may provide that the conveyance of specified goods on specified roads or across specified rivers or in specified directions on or across those roads and rivers is an attempt at exportation of uncustomed goods and an attempted evasion of the export duty payable on those goods.

(2) In the Regulations, the inclusion of a place under the designation of a road is conclusive evidence that the place is a road.

(3) Despite this section, the Minister may authorise in writing the terms and conditions as the Minister thinks fit the conveyance of goods on or across any specified road or river.

255. Prohibition of road construction near boundary

(1) The Minister may by legislative instrument prohibit, except with the written permission of the Minister, the construction of a road and the making of a metro track which leads to a point within a specified distance of a specified part of the boundary of Ghana.

(2) A person who contravenes an instrument made under this section commits an offence and is liable on conviction to a fine not exceeding five hundred thousand cedis or to a term of imprisonment not exceeding two years or to both.

256. Shooting of aircraft or ship

A person who maliciously shoots at an aircraft or ship in the service of the Customs, Excise and Preventive Service commits an offence and is liable on conviction to a term of imprisonment not exceeding twenty years.

257. Shooting at officer

A person who maliciously shoots at, maims or wounds an officer acting in the execution of duty commits an offence and is liable on conviction to a term of imprisonment not exceeding twenty years.

258. Offender going armed

(1) A person who is or has been engaged in the commission of an offence against this Act and who is armed with a firearm or any other offensive weapon commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

(2) A person who is armed with a firearm or any other offensive weapon and who is found with goods liable to forfeiture under this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

259. Offender going disguised

(1) A person who is or has been engaged in the commission of an offence against this Act and who is disguised in any way commits an offence and is liable on conviction to a term of imprisonment not exceeding five years.

(2) A person who is disguised in any way and who is found with goods which may be forfeited under this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding five years.

260. Interference with seizure

(1) A person who staves, breaks or destroys goods to prevent the seizure of the goods by an officer or any other person authorised to seize the goods or to prevent the goods being secured after the seizure of the goods commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

(2) A person who receives goods seized by an officer or any other person authorised to seize the goods commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

261. Rescue of offender

A person who rescues a person arrested for an offence punishable under this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

262. Prevention of arrest

A person who prevents the arrest of a person sought for an offence under this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

263. Obstruction of officer

A person who obstructs an officer in the execution of duty commits an offence and is liable on conviction to a term of imprisonment not exceeding twelve months or to a fine not exceeding fifty thousand cedis or to both.

264. Impersonation of officer

A person who impersonates an officer in any way commits an offence and is liable on conviction to a term of imprisonment not exceeding three years.

265. Assembling to run goods

Any three or more persons who assemble for the purpose of evading a provision of this Act, or who having so assembled evade the provision, each one of the persons commit an offence and is liable on summary conviction to a term of imprisonment not exceeding ten years.

266. Signalling to offender

(1) A person who with intent to frustrate an officer in the execution of duty warns, or attempts to warn, or causes to be warned a person engaged in a contravention or attempted contravention of a provision of this Act, whether a person is within distance to take advantage of the warning or not, commits an offence and is liable on conviction to a term of imprisonment not exceeding five years.

(2) In prosecution under this section, the burden of proof that anything done by the defendant was not done with the expressed intent is on that defendant.

(3) A person may prevent a warning being given and may go on a land for that purpose without being liable to any prosecution, action or suit for so doing.

267. Offering goods for sale under pretence

(1) If a person offers for sale goods under the pretence that the duty due on the goods have been paid, the goods are liable to forfeiture.

(2) Where a person offers prohibited goods for sale the goods shall be forfeited and in addition the person shall on conviction be sentenced to imprisonment for a term not exceeding five years.

268. Marking of seized goods

(1) Goods prescribed by the Minister responsible for Finance by executive instrument which are seized as uncustomed goods in accordance with an enactment shall immediately be marked in a manner as the Commissioner may direct, to indicate that the goods have been seized.

(2) The mark shall in each case be readily identifiable, and where circumstances permit it shall be

indelible or otherwise permanent.

(3) A person who, without lawful excuse, the proof of which shall be on the person, has in possession uncustomed goods of a class prescribed under this section which do not bear a mark as required by this section is liable on conviction to a fine not exceeding hundred percent of the value of the goods, and all the unmarked goods shall be forfeited.

269. Concealment of goods

(1) If a person imports or exports, or attempts to import or export, or causes to be imported or exported goods concealed in any way, or packed in a package (whether there are other goods in the package or not) in a manner calculated to deceive the officers of customs, or a package containing goods not corresponding with its entry, the package and the 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) A vehicle on which is constructed a false compartment or structure or which has a secret or disguised place in which are concealed 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 may in addition be prosecuted, and the vehicle shall be forfeited.

(3) Despite subsection (2), the owner of the goods shall whether or not prosecuted incur a penalty in a sum not exceeding three times the duty payable on the goods shall be forfeited.

(4) For the purposes of this section, “goods” include “currency” and “precious metals”.

270. Detention and purchase of goods incorrectly valued

(1) Where on the examination of imported goods which are liable to payment of duty, it appears to the Commissioner that the value of the goods 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 the Commissioner’s own values.

(2) The Commissioner shall personally give a written notice of the values to the importer or send it by post addressed to the importer at the importer’s 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 the charges incurred as a result of the sale, the surplus shall be paid into the Consolidated Fund.

271. Bribery, extortion, by officer

(1) An officer who

- (a) demands or takes a bribe, gratuity, recompense or reward for the neglect or non-performance of duty, or
- (b) demands or takes an 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 a person for the purpose of committing an offence against this Act,

shall, on proof of any of the acts above to the satisfaction of the Board, be summarily dismissed from office.

(2) An officer who does any of the acts referred to in subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred percent of the total loss that would have occasioned the officer's neglect or non-performance of the offence or to a fine not exceeding three hundred thousand penalty units or to a term of imprisonment not exceeding ten years.

272. Offering of bribes

A person who

- (a) gives, offers, or agrees to give or procure to be given, a bribe, gratuity, recompense or reward to an officer, or
- (b) gives, offers, or agrees to give an unauthorised fee, perquisite or reward to an officer, or
- (c) induces or attempts to induce an officer to connive at any evasion of this Act or otherwise to neglect duty,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred percent of the total loss that would have occasioned the offence or to a fine not exceeding five hundred thousand cedis whichever is higher or to a term of imprisonment not exceeding ten years or both the fine and the imprisonment.

273. Smuggling aircraft

(1) If a ship or an aircraft is found or discovered to have been within or over Ghana

- (a) which has a secret or disguised place adapted for concealing goods or a 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 Act, or
- (c) a part of whose contents is thrown overboard to prevent seizure, or
- (d) on board which goods have been staved or destroyed to prevent seizure,

each 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 two hundred percent of the value of the goods or an amount equal to fifty percent of the current market value of the ship or aircraft whichever is higher.

(2) Goods in respect of which a contravention of this section is committed shall be forfeited.

(3) A ship of less than two hundred and fifty tons burden on board which or in respect of which a contravention of this section is committed is liable to forfeiture.

274. Officer of ship or aircraft implicated in smuggling

(1) An aircraft, or a ship of two hundred and fifty tons burden or more, which is used in the removal or conveyance of goods which may be forfeited under this Act or on board or in respect of which a contravention of section 273 is committed, shall not be forfeited, but

- (a) the Commissioner may, subject to appeal to the Minister, impose a penalty in respect of the aircraft or ship in a sum equal to two hundred percent of the value of the goods or an amount equal to five percent of the current value of the aircraft or ship whichever is higher where in the Commissioner's opinion a responsible officer of the aircraft or ship is implicated actually or by neglect;

- (b) to cover the penalty, the Commissioner may require a deposit with the Commissioner, at the port or place where the aircraft or ship is, of a sum as the Commissioner thinks fit, but not exceeding two hundred percent of the value of the goods or an amount equal to ten percent 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) a claim shall not be made against the Commissioner for damages in respect of the payment of deposit or the detention of an aircraft or ship under this section.

(2) For the purpose of this section,

“**neglect**” includes cases where goods unowned by any of the crew are discovered in a place in which the goods 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;

“**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.

275. Regulations for small ships

(1) The Regulations may prescribe for ships not exceeding one hundred tons burden, with reference to the ships’ tonnage, build or general description, the limits within which the ships may be used or employed, the mode of navigation, the manner in which the ships are used or employed, the number and description of arms and the quantity of ammunition which the ships may carry, and any other terms, particulars, conditions and restrictions that the Minister thinks fit.

(2) A ship used or employed contrary to the Regulations is liable to forfeiture together with everything contained in it unless it is licensed by the Commissioner under section 276 to be so used or employed.

276. Licences for small ships

(1) The Commissioner may grant licences for a ship not exceeding one hundred tons burden on terms and conditions in the licences, despite any regulations referred to in section 275.

(2) A 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, is liable to forfeiture.

(3) The Commissioner may revoke, alter or vary the licence.

277. Control of small ships

(1) If on 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 a way contrary to this Act, the officer may arrest and detain the master and take the master 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 Act, the master shall incur a penalty equal to one hundred percent of the duty, payable on the goods and the goods shall be forfeited.

278. Goods unlawfully unloaded

If an officer boards an aircraft or a ship and finds goods on it, and after leaving the aircraft or ship the officer or any other officer boards the aircraft or ship and finds any part of the goods to be no longer on board and the master is unable to give a due account of the lawful unloading of the goods, the master shall incur a penalty not exceeding the value of the goods.

279. Ship forfeited for offence during chase

If a ship within Ghana does not bring to upon the proper signal made by a vessel or boat in the service of the Republic and it is chased, and a person on board the ship, whether during chase or before the ship brings to or is brought to, throws overboard a part of the content or staves or destroys any part of them to prevent seizure, the ship is liable to forfeiture.

280. Taxes, duties and penalties to be recovered by attachment

(1) Despite anything to the contrary in this Act a tax, duty or penalty payable under this Act but which remains unpaid on due dates or on demand is 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 a property that belongs to the debtor to recover the debt.

(3) Where the property is attached under subsection (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 is not lawful for the person to deal with the property by sale or any other form of disposal of the property without the prior consent in writing of the Commissioner.

(4) A property attached under subsection (2) 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 is not 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 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 is 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 subsection.

(8) In the case of perishable goods, the Commissioner may dispose of the goods in a manner and within a period as the Commissioner considers appropriate.

(9) The purchaser of a 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) A surplus resulting from the sale after deduction of the amount of debt due and the 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 subsection (2) the Commissioner may release the attached property.

281. Garnishment

(1) Where the Commissioner has knowledge or suspects that a person is indebted or liable to make a payment to another person who is liable to make a payment under this Act 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 the person 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 subsection (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 ninety days grant a loan or advance moneys 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 the tax debtor’s indebtedness; or
- (b) a person, other than an institution, will within ninety days grant a loan or advance moneys to, or make payment on behalf of, a tax debtor who the Commissioner 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 Act 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 moneys 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 the Commissioner on account the liability of a tax debtor under this Act or any other enactment administered by the Commissioner from moneys 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 the Commissioner out of the payment to be made by that institution or person of an amount as may be stipulated by the Commissioner in the letter until the liability of the tax debtor is fully satisfied.

(5) An institution or person which fails to comply with a requirement under subsection (1), (2) or (4) is liable to pay to the Commissioner a penalty of ten thousand cedis for each day that the person or institution fails to comply with the requirement.

(6) Where a person who is indebted or liable to the tax debtor carries on business under a name or style other than that person’s 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 is served if it is left with an adult person employed at the place of business of the addressee or an adult inmate at the person’s place of abode.

282. Directors and members of governing bodies to be jointly and severally liable

(1) Where a company, corporation, partnership or an institution liable for the payment of excise duty 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 are 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 a member of the governing body of a company, corporation, partnership or any institution is not liable under subsection (1) if the director or member 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, lies on the director or member.

(3) Despite subsections (1) and (2) of this section, the directors and members of the governing body of a company, corporation, partnership or institution are jointly and severally liable under section 280 for the recovery of the amount due but unpaid and any interest or penalties on it.

(4) An action or proceedings to recover an amount payable by a director or member of the governing body of the company, corporation, partnership or other institution under subsection (1) shall not be commenced five years after that person has ceased to be a director or member of the governing body of that company, corporation, partnership or institution.

283. Failure to bring to when required

If an aircraft or a ship liable to seizure or examination under this Act does not bring to when required to do so and fails to remain for a period required by the boarding officer the master of the aircraft or ship shall incur a penalty of not less than one hundred thousand cedis.

284. 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 one hundred thousand cedis and is liable to the full costs of the repairs.

285. Interfering with goods found floating

A person, other than an officer, who interferes with or takes uncustomed goods or any other goods whose importation or exportation is prohibited or restricted, being in packages found floating on or sunk into the sea, shall incur a penalty of fifty percent the value of the goods, and the goods shall be forfeited.

286. Abetment

A person who abets a contravention of a provision of this Act which is enforceable by civil proceedings is civilly liable in respect of that contravention in the same manner and degree as the principal is civilly liable in respect of that contravention.

287. Saving for public officer

The penal provisions of this Act, whether the penalties provided are civil or criminal, do not apply to acts or omissions done or made by a public officer acting in good faith in the performance or intended performance of official functions.

PART EIGHTEEN

Procedure

288. General provisions as to forfeiture

(1) Subject to section 274 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 other goods which may be forfeited under this Act, are liable to forfeiture.

(2) An officer may seize anything liable to forfeiture under this Act at any place on 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 the goods are found and its contents, unless the Commissioner otherwise directs.

(4) Anything which is seized and forfeited to the Republic under this Act shall be disposed of as directed by the Commissioner.

289. 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, by delivering it to the offender, master or owner personally or by letter addressed to the offender, master or owner and sent by post to or delivered at the offender's, master's or owner's 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 does not have an address in Ghana, or that person's address is unknown, notice of seizure may be given by publication in the *Gazette* and in at least one national newspaper.

(3) A person claiming that anything seized as liable to forfeiture is not so liable shall, within thirty days from the date of the notice of seizure or, if a notice has not been given to the person or published in the *Gazette* or newspaper, within thirty days from the date of the seizure, give written notice of the claim to the Commissioner.

(4) If on the expiration of the relevant period a notice of claim has not 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) Despite subsection (5), where motor vehicles, animals or perishable goods have been seized, the Commissioner may at any time direct that the goods be sold by public auction and the proceeds retained to abide the result of any claim in respect of the goods.

(7) Where proceedings are taken under subsection (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.

290. Restoration of seizure

Where a seizure is made or a fine or penalty incurred or inflicted, or a person committed to prison for a contravention of this Act, the Minister 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 before or after proceedings, on the terms and conditions as determined by the Minister.

291. Claims to seizure to be in name of owner

(1) A claim for the restoration of anything seized under this Act shall be made by or in the real name of its owner, and shall state the owner's place of residence and occupation.

(2) If the claimant resides in Ghana, the claimant shall make a statutory declaration that the thing seized was the claimant's property at the time of seizure.

(3) If the claimant resides outside Ghana, the claimant's agent by whom the claim or appearance is entered shall state on oath that the agent has full authority from the claimant to make or enter it, and that to the best of the agent's knowledge and belief the thing seized was at the time of seizure the bona fide property of the claimant.

(4) On failure to make that proof of ownership the thing seized shall be forfeited as if a claim or appearance had not 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 the owners 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 Act, 1963 (Act 179), the claim and appearance may be entered by oath made by the secretary or a director of the company.

292. Civil proceedings

(1) Penalties and forfeitures incurred under this Act and the liabilities of forfeiture of an article seized under the authority of this Act, and rents, fees, charges, expenses and duties and any other sums of money payable under this Act may be sued for, determined, enforced and recovered by civil proceedings in a magistrate's court or a tribunal, which is vested with the necessary jurisdiction for the purpose, in the name of the Commissioner as nominal plaintiff.

(2) Except as otherwise provided in this Act, the ordinary civil procedure of Ghana applies to the civil proceedings under this Act.

(3) Whenever a person is adjudged to pay a penalty or costs in respect of a contravention of this Act, the court may order the person in default of payment to be committed to prison for a term not exceeding one year until the judgment debt is paid and in that 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 duties have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of proceedings under this Act.

(5) In civil proceedings by the Commissioner under this Act the same rules as to costs apply as in proceedings between private persons.

(6) Proceedings to recover a penalty incurred under this Act shall not relieve a person from liability to criminal proceedings where a contravention of this Act is also a criminal offence under any law.

293. Summary power to impose penalty

Where a contravention of this Act has occurred in respect of which the master of an aircraft or ship is liable to some fine, penalty or forfeiture, and it appears to the Commissioner that the master would be adequately penalised by a penalty not exceeding five hundred thousand cedis, the Commissioner may, instead of taking any other proceedings provided under this Act in respect of the contravention, summarily impose a penalty on the master not exceeding five hundred thousand cedis; and if the penalty imposed is not paid immediately resort shall be had to other proceedings.

294. Lesser forfeiture and mitigation of penalty

Despite a provision contained in this Act 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 a penalty or restore anything seized under this Act at any time before the commencement of proceedings in a court against a person for a contravention of this Act or for the forfeiture of any goods.

295. Certificate of probable cause

(1) When in proceedings relating to the seizure of any thing pursuant to an act done by an officer in the execution or intended execution of duty under this Act, 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 the officer's request and shall for all purposes be sufficient evidence of the certificate.

(3) Where a verdict is given against an officer in a prosecution or civil proceeding brought against the officer on account of a seizure or act, and the officer 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 the value of the things but, in the case of a prosecution, a conviction shall not be recorded against the defendant.

296. Arrest of defendant in proceedings

(1) Where the Commissioner takes civil proceedings against a person for a contravention of this Act, 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 the person's appearance, issue a warrant to arrest the person and bring the person 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 the person 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 on while the case is pending and until execution or satisfaction of the order that may be made against the person.

(3) The surety or sureties shall undertake in default of appearance of the defendant to pay any sum that may be adjudged against the defendant in the case, and in default of the security the court or tribunal may commit the defendant to prison.

(4) A person committed shall be entitled to be released on giving the required security at any time during the proceedings against the defendant.

297. Court or Tribunal may order detention or bail

(1) A person brought before a Court or tribunal for an offence against this Act in respect of which the Court or tribunal is not empowered to proceed summarily may, by order of the Court or tribunal, be detained subject to article 14 of the Constitution 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.

(2) At the expiration of the time specified in subsection (1), that person shall be brought before the Court or tribunal for the hearing and determination of the matter.

(3) If that person has been charged with an offence, and it appears to the Court or tribunal that that person is likely to abscond, the Court or tribunal may, instead of issuing a summons for that person's appearance, issue a warrant to bring that person before the Court or tribunal at a time and place to be named in the warrant for the hearing of the case.

(4) That person may be released on giving security to the satisfaction of the Court or tribunal in a sum of money, determined by the Court or tribunal, to appear at any time and place appointed by the Court or tribunal for hearing the case.

298. Procedure modified in small cases

When a person is brought before a court or tribunal in the exercise of its civil jurisdiction for an offence under this Act in respect of which the duty paid value of the goods liable to forfeiture and sought to be forfeited does not exceed five hundred thousand cedis, 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 Act ordinarily applicable to that offence, both in respect of forfeiture and otherwise, if the penalty sued for does not exceed five hundred thousand cedis.

299. Criminal proceedings

Where a provision of this Act is enforceable by fine or imprisonment, it shall be enforceable by the ordinary criminal procedure of Ghana.

300. Place of offence

An offence under this Act shall be deemed to have been committed and every cause of action to have arisen in the place in which it actually was committed or arose, or in any place or where the offender or person sued may be or be brought.

301. Time limit for criminal proceedings

Criminal proceedings shall not be instituted under this Act in respect of an offence after four years from the date of the offence.

302. Penalties joint and several

(1) When by this Act a civil penalty is jointly and severally incurred by a number of persons, those persons may be proceeded against jointly by one writ of summons or severally by separate writs of summons.

(2) Where those 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, although 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 judgement in that person's favour.

(3) A judgment in the proceedings shall not be reversed on the ground that it was obtained by confession or default of any of the persons, or on account of a difference in the amount of the penalty which any one or more of those persons may be adjudged to pay, or because any of those persons obtained judgment in that person's favour; but every judgment is valid and effectual against any or all of the several persons so jointly proceeded against, and for the full amount of the penalty.

303. Service of summons

A civil process issued by a court under this Act to bring a 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 the party's solicitor, or if it is left at the party's last known place of abode or business in Ghana or on board any ship to which the party may belong or may have lately belonged.

304. Civil proceedings to have priority

Civil proceedings instituted under this Act including appeal proceedings shall, in respect of the right to priority of hearing by the court, be given precedence over any other civil proceedings other than those which are part heard.

305. Construction of provisions and procedures

(1) Except where otherwise expressly provided, the provisions or procedures of or under the Act shall be independent of and additional to and not in substitution for a provision or procedure in any other enactment.

(2) The special provisions of this Act in respect of civil procedure are additional to and do not derogate from the ordinary civil procedure of Ghana.

(3) This section does not permit the punishment of a person more than once in respect of the same act or omission.

306. Officer may prosecute

Subject to article 88 of the Constitution, an officer of the Legal and Investigations Department may prosecute and conduct a prosecution or any other proceedings, whether criminal or civil, under this Act in

respect of an offence or penalty.

307. Payment of moneys received

Penalties received by the Commissioner under this Act shall be paid into the Consolidated Fund.

308. Rewards

The Commissioner may reward from the general revenue a person who informs the Commissioner of an offence against this Act or assists in the recovery of a penalty.

309. Onus of proof

(1) In proceedings under this Act, the proof shall lie on the person who asserts

- (a) the fact concerning the place from which goods have been brought;
- (b) that the proper duties have been paid on the goods;
- (c) that the goods have been lawfully made, imported, removed, delivered or exported, or lawfully put into or out of an aircraft or ship, or lawfully transferred from one aircraft or ship to another;
- (d) that the goods have been illegally seized.

(2) The following averments shall be sufficient unless the defendant proves to the contrary:

- (a) that the Commissioner has directed or requested that proceedings under this Act shall be instituted, or that a particular penalty should be sued for or recovered;
- (b) that goods thrown overboard, staved or destroyed were so dealt with to prevent seizure;
- (c) that a person is an officer;
- (d) that a person was employed for the prevention of smuggling;
- (e) that the offence was committed, or that an act was done, within the limits of a port, or in or over Ghana, or where the offence is committed in a port or place in Ghana, the naming of that port or place in the proceedings.

(3) Where in proceedings under this Act it is alleged that 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 a cause or matter under this Act, it shall not be necessary to prove guilty knowledge unless otherwise expressly required but the burden of disproving it shall be on the defendant.

310. Evidence of officers

If in proceedings under this Act a question arises whether a person is an officer, the person's own evidence in so far as it relates to employment in the Customs, Excise and Preventive Service or membership of the Police Service shall be conclusive.

311. Valuation for penalty

(1) In 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 on 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) Goods shall not be considered to be of less value because the goods have been damaged in the course of an attempt to destroy or make away with the goods by a person who contravenes or attempts to contravene this Act.

(3) A certificate as to the value of goods under the hand of the Commissioner or an officer authorised by the Commissioner as to the value of the goods shall be accepted by the court or tribunal as prima facie evidence of the value stated in the certificate.

312. Government Chemist's certificate

In proceedings under this Act the production of a certificate signed by the Government Chemist or a person authorised by the Government Chemist is prima facie evidence of the matters stated in it.

313. Admissibility of copies of documents

Where a book or document is required under this Act to be used as evidence in a 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.

314. Proof of orders

If in proceedings under this Act it is necessary to give proof of an order or letter of authority issued by the Commissioner or a 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.

315. Certificate of forfeiture

Forfeiture by a Court or tribunal under this Act may be proved in court or before a competent tribunal by the production of a certificate of the forfeiture signed by the registrar of the court.

PART NINETEEN

Supplementary

316. Time of importation, arrival and exportation

(1) The time when goods are imported shall be the time at which the goods came within the boundaries of Ghana.

(2) If a question arises on the arrival of an aircraft or a ship at a port or place in Ghana in respect of a 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 a person in the employment of the Government.

(3) The time when goods are exported shall be the time when the goods are put on board the exporting aircraft or ship unless the goods 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 the goods pass across the boundaries of Ghana.

317. Goods in transit

(1) The provisions of the Act relating to the importation, prohibition, entry, examination, landing, warehousing and the exportation and clearance of goods so far as the provisions are applicable, and subject to the Regulations made under this Act 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 the Commissioner considers appropriate.

318. Validity of bonds

A bond or any other security taken for the purposes of this Act

- (a) shall be taken on behalf of the Republic;
- (b) shall be valid although it may be given by a person under twenty-one years of age;
- (c) shall be valid although it is not sealed or not signed or delivered in the presence of a witness;
and
- (d) may be cancelled at any time by order of the Commissioner.

319. Sureties

(1) Without prejudice to a right of a surety under a bond or any other security taken for the purposes of this Act, the person who is a surety, shall be deemed a principal debtor and not merely a surety, and accordingly shall not be discharged from the surety's liability but shall be affected by time given for payment or by an 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 the surety has been a principal debtor.

(2) Where a person under a bond or any other security required by this Act pays the whole or a part of the sum for which that person is bound or, being a surety

- (a) dies, or
- (b) becomes a bankrupt or enters into an arrangement or composition with or for the benefit of the person's creditors, or
- (c) departs from Ghana without leaving sufficient property there to satisfy the whole amount for which the person 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 require a new bond or any other security to be executed.

320. Forms of documents

(1) A document submitted to the Commissioner or the Commissioner's officers for the purposes of this Act shall be in the prescribed form and shall contain the particulars required by the form or indicated

in it.

(2) Subject to this Act and the Regulations, the Commissioner may prescribe forms required for the purposes of this Act.

321. Production of documents

(1) An importer, exporter or a person concerned in the importation or exportation of goods shall, on the request of an officer made within five 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 the goods have been entered,

- (a) produce for the inspection of the officer the invoices, books of account and any other documents of whatever nature relating to the goods which the officer may require;
- (b) answer the questions put to the importer, exporter or person by the officer and sign the declarations required regarding the weight, measure, strength, value, cost, selling price, origin and destination of the goods, and the name of the place where the imported goods were consigned or transferred from one aircraft or ship to another;
- (c) produce the evidence that the officer considers necessary in support of information given.

(2) If the importer, exporter or any other person concerned neglects or refuses to comply with a provision subsection (1), the importer, exporter or person shall incur a penalty of not less than twenty thousand cedis and not more than sixty thousand cedis, 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 on the terms and conditions, and on deposit of a sum, pending the production of the proper documents and declarations, that the Commissioner may impose or require.

(3) The deposit made in accordance with subsection (2) shall be forfeited unless within three months of the time of deposit, or a further time that the Commissioner may allow, the person making the deposit produces the required documents or declarations to the Commissioner.

322. Copies of documents

(1) Where a person is required to submit a report, entry declaration or any other form for the purpose of this Act, the Commissioner may require that person to submit as many copies as the Commissioner considers necessary.

(2) Where the Commissioner requires invoices or certificates or originals, or both, to be produced for goods imported or exported, the Commissioner may require them to be submitted in duplicate, and may retain the duplicates; or, if they are not submitted in duplicate the Commissioner may retain the originals.

323. Translation into English

Where a document required for the purposes of this Act contains any words not in the English language, the person required to produce the document shall produce the document with a correct translation in English.

324. Samples

An officer may on the entry of goods, or at any time afterwards, take samples of the goods for any purpose the Commissioner considers necessary, and the samples shall be disposed of and accounted for in a manner directed by the Commissioner.

325. Agent to produce authority

(1) Where a person applies to an officer to transact business relating to customs or excise or any matter under this Act, 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.

(2) A document required by this Act to be signed by a person shall be deemed to be so if signed by a person so authorised on behalf of the person required to sign it; but the Commissioner may refuse to allow the application.

(3) Where a document or declaration is required under this Act to be signed in the presence of the Commissioner or a 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.

326. Master to attend before Commissioner

Where under this Act the master or agent of an aircraft or a ship is required to answer questions put to the master or agent by the Commissioner or an 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 the case the replies of the senior officer shall be deemed to be the replies of the person required by this Act to answer the questions.

327. Special packages deemed separate articles

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 the purposes of this Act be deemed to be separate articles except in cases where a contract provision is made.

328. Accommodation of officer

(1) If the master of a ship on board which an officer is stationed, neglects or refuses to provide the officer with proper and sufficient goods and suitable accommodation under the deck, the master 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 the Commissioner sees fit to impose, a master may instead of providing the services, compound by a money payment at the current chargeable commercial rate.

329. Receipts

(1) A person requiring a receipt for duties payable under this Act or for any other moneys which are brought to account in accordance with the directions of the Commissioner on a bill of entry may have it

on 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.

330. Auctioned goods

(1) When the duty on goods sold at a customs sale is chargeable ad valorem, the value of the goods 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 (P.N.D.C.L. 230) does not apply to sales under this Act when conducted by an officer, and an authorised officer may conduct the sales.

331. 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 a form and manner as the Commissioner may direct to meet the needs of any case to which the relevant provisions of this Act may not be conveniently applicable.

332. Existing ports, warehouses to continue

Ports, warehouses, sufferance wharves and boarding stations approved immediately before the commencement of this Act 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 Act.

333. Application to land frontiers and inland waters

This Act applies 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 Act may be construed with verbal alterations, not affecting the substance, as may render it applicable.

334. Acts of the Commissioner

(1) Anything required by this Act to be done by or before the Commissioner may be done by or before any officer appointed by the Commissioner for the purpose.

(2) A person employed on a 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) An 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) An act required by law to be done at a particular place shall be deemed to be so done if done at a place appointed by the Commissioner for that purpose.

335. Liability of Government

An action shall not be brought against the Commissioner or any of the officers of the service

- (a) for a loss of damage sustained by goods while in a warehouse or customs area or in the course of being received into or delivered from there,
- (b) for a loss of damage sustained by a warehouse or customs area or any of the contents of the warehouse customs area, 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 the Government or of an officer.

336. Regulations

(1) The Minister may, by legislative instrument, make Regulations providing for a matter which under this Act is to be provided for by regulations or is to be prescribed, and generally for carrying into effect this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations 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 the goods may be manufactured.

337. 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 other matter or things not covered by this Act which may be prescribed by the Commissioner.

338. Hours of attendance

(1) The Commissioner may give notice in the *Gazette* or in the national newspapers

- (a) prescribing the hours between which offices of the Customs, Excise and Preventive Service are to be open or officers are to be available for the performance of particular functions, and
- (b) directing the form and manner in which a request for an extension of the hours prescribed shall be made to the proper officer and the fees payable for an extension granted.

(2) The proper officer may grant or refuse a request for an extension of hours under this section.

339. Doubts concerning drugs

(1) Where a doubt arises, for the purpose of this Act, as to whether or not a 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 proceedings under this Act, a certificate signed by the Director of Medical Services or a representative of the Director is conclusive evidence of 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).

340. Wine and beer

For the purpose of customs duties

- (a) liquor containing more than 2.45 percent of pure alcohol by volume shall not be considered as wine; and liquor containing more than ten percent of pure alcohol by volume shall not be considered as ale, beer, cider, perry or stout;
- (b) liquor containing more than 24.5 percent of pure alcohol by volume, liquor, other than wine, containing more than ten percent of pure alcohol by volume, and liquor other than wine, ale, beer, cider, perry or stout containing more than one percent of pure alcohol by volume shall be considered as spirits.

341. Interpretation

In this Act unless the context otherwise requires

“**agent**”, in relation to the master or owner of an aircraft or a ship, includes a person who notifies the Commissioner in writing that that person intends to act as the agent, and who or on whose behalf a person authorised by that person signs a document required or permitted by this Act to be signed by an agent, if the owner of any aircraft or ship if resident or represented in Ghana shall, either personally or through a representative, be the agent of the master for the purposes of this Act, if that agent is appointed;

“**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 14 June, 1983;

“**aircraft**” means an 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 a quay, jetty, wharf or other place including any part of an aerodrome, appointed by the Minister by notice in the *Gazette* or in the national newspapers 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 Revenue Agencies Governing Board established by the Revenue Agencies Governing Board Act, 1998 [Act 558];

“**boarding station**” means a station or place appointed by the Minister by notice in the *Gazette* or in the national newspapers to be a station or place for aircraft or ships arriving at or departing from a 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;

“**commercial vehicle**” includes buses, coaches, trucks, lorries, tippers, vans, vehicles generally falling under H.S. Codes 87.02 and 87.04;12(15)

“**Commissioner**” means the person for the time being having charge of the 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 spirit to render them unfit for use as a beverage;

“**country of importation**” means a country or customs territory of importation;

“**Court**” means a court of competent jurisdiction;

“**customs area**” means a place appointed by the Commissioner by notice in writing under the Commissioner’s hand for the deposit of uncustomed goods;

“**customs surveillance zone**” means an area within a distance of the frontier or coastline 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 purpose of levying ad valorem duties of customs on imported goods;

“**drawback**” means a refund of all or part of a 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 or drawback;

“**entered**” in relation to goods imported, warehoused, put on board an aircraft or a ship as stores or 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 the 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 on the goods 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 those goods, the giving of such security;

“**excise duty**” means a duty other than an export duty of customs imposed on good 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 a 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 a person acting on his behalf, and any person who for customs purposes signs a 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 of the premises or place used for the manufacture of excisable goods;

“**fents**” means remnants of cloth of irregular lengths being under six yards;

“**functions**” includes powers and duties;

“**Ghana**” includes the territorial waters of Ghana;

“**goods**” includes all kinds of articles, currency, merchandise and livestock;

“goods of the same class or kind” means good which fall within a group or range of goods produced by a particular industry or industry sector, and include identical or similar goods;

“Government warehouse” means a building or place the property of the Government approved by the Minister by notice in the *Gazette* or in the national newspapers to be place where goods to be warehoused may be lodged, kept and secured;

“hydrocarbon oils” means petroleum oils, coalter, and oil produced from coal, chalk, peat, or any other bituminous substance and all liquid hydrocarbons, but does not include hydrocarbons or bituminous or asphaltic substances as are solid or semi-solid at 60°F;

“identical goods” means goods which are the same in all respects, including physical characteristics, quality and reputation and minor differences of appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;

“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 the importation of the goods until the goods are duly delivered out of the charge of the proper officer, and also a person who signs a document relating to imported goods required by this Act, to be signed by an importer;

“manufacturer” means a person who by any means or produces or causes to be made or produced excisable goods; and **“manufacture”** has a corresponding meaning,

“master” includes a person having or taking charge or command of an aircraft or a ship;

“materials” includes goods from which excisable goods are capable of being manufactured and any residue from any process of manufacture;

“motor vehicle” means a mechanically propelled vehicle intended or adopted for use on roads other than cycles, motor cycles, sidecars and any other similar vehicles;

“name” includes the registered mark of an aircraft;

“occupier” includes a person who signs as principal a bond in respect of a building or place used for the deposit of goods for the security of the goods or of the duties due on the goods under this Act;

“officer” means a person employed in the Customs, Excise and Preventive Service, as well as a person acting in the aid of that person; and a person acting in the aid of an officer acting in the execution of duty shall be deemed to be an officer acting in the execution of duty;

“over Ghana” means above the area contained within the imaginary lines bounding Ghana; and if a person, goods or things descend or fall, or are dropped or thrown, from an aircraft within that area, that 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 a person who is for the time being entitled 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 a parcel, container, bundle, box, cask or any other receptacle;

“port” means a place, whether on the coast or elsewhere, appointed by the Minister by notice published in the *Gazette* or in the national newspapers, subject to the conditions of limitations specified in the notice, to be a port for the purpose of this Act; 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 by the Postal and Courier Services Regulatory Commission under the Postal and Courier Services Regulatory Commission Act, 2003 (Act 649);

“pre-entry” means the entry of goods prior to the importation of the goods into Ghana;

“prescribed” means prescribed by any of the Regulations made under this Act;

“private warehouse” means a building or place appointed by the Commissioner and licensed to be a place where goods to be warehoused may be loaded, kept and secured;

“produced” includes grown, manufactured and mined;

“prohibited goods” means goods whose importation or exportation is prohibited by law;

“proper officer” means an officer who has the right or duty to exact the performance of or to perform the act referred to;

“rectify” means to re-distil spirits;

“refinery” means the premises approved and licensed by the Commissioner for the treatment of hydrocarbon to produce refined hydrocarbon oils or by-products thereof;

“Regulations” means any of the Regulations made under this Act;

“removal articles” include the 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 198 (1) of this Act, but does not include arms and ammunition;

“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;

“restricted goods” means goods whose importation or exportation is restricted by law;

“Service” means the Customs, Excise and Preventive Service continued in existence under section 1;

“similar goods” means goods which, although not alike in all respects, have like characteristics and like component materials which enable the goods to perform the same functions and to be commercially interchangeable and the quality of the goods, the reputation of the goods and the existence of a trade mark are among the factors to be considered in determining whether goods are similar;

“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, un-examined, detained or seized goods for the security thereof or of the duties due thereon;

“sufferance wharf” means a place other than an approved place of loading or unloading at which the Commissioner may, 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 Act or any other enactment administered by the Commissioner 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 that person or the company;

“transaction” in relation to an article means the sale, gift, transfer or exchange of that article;

“transit shed” means a 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 the goods, whether liable to duty or not, which are imported or exported or in any way dealt with contrary to the provision of this Act relating to custom; partially customed goods shall be deemed as wholly “uncustomed” for the purposes of this Act;

“vehicle” means a kind of conveyance for the transport by land of persons or property;

“warehouse” in the provisions of this Act relating to excise, means a place appointed by the Commissioner to be a warehouse for the security of any excisable goods and of the duty due on the goods;

“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.

342. Repeals and savings

(1) The following enactments as subsequently amended are hereby repealed:

Sales Tax Act, 1965 (Act 257)

Customs and Excise Decree, 1972 (N.R.C.D. 114)

Removal Articles (Exemptions) Decree, 1974 (N.R.C.D. 280)

Vehicle Purchase Tax Decree, 1978 (S.M.C.D. 184)

Motor Vehicles (Importation) Law, 1985 (P.N.D.C.L. 121)

Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144)

Motor Vehicle Importation (Amendment) Law, 1987 (P.N.D.C.L. 167).

(2) A 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.

(3) Despite the repeal of the enactments specified in subsection (1), every statutory instrument and the notices, orders and rules made under those enactments and in force immediately before the commencement of this Act shall, until altered, revoked or modified under this Act, continue in force as if made under the corresponding provisions of this Act.

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) Act, 1993 (P.N.D.C.L. 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 a 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 those distrainable things as specified under 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 manufacturer or of any person on his behalf or in trust for the manufacturer. For the purposes of levying the distress you are hereby authorised, if necessary, with such assistance as mentioned to break open any building or place in the day time.

Given under my hand at this day of 20.....

Commissioner of Customs, Excise and Preventive Service

MEMORANDUM

1. In 1986, the government began a programme aimed at restructuring and rationalising its major revenue collecting agencies. The role of the Department of Customs and Excise as the main institutional agency responsible for Indirect Taxation in the country was enhanced with the strengthening of its customs preventive functions to include duties for which the erstwhile Border Guards were previously responsible. The Department was re-named Customs, Excise and Preventive Service and given new administrative structures to accord with its corporate, para-military and quasi self-accounting status. These structural changes were given legal effect with the promulgation of the Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144).

2. The promulgation of the Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144) as a separate enactment has given rise to the need to consolidate all the major enactments relating to the collection and management of the revenues collectible and accountable by Customs, Excise and Preventive Service.

3. The object of this law therefore is to re-enact and consolidate existing laws relating to the operations as well as the administration of the erstwhile Department of Customs and Excise and Customs, Excise and Preventive Service by refashioning these to meet the demands of the latter's new para-military and corporate identity.

4. For ease of reference and convenience, the major enactments which regulate the operations of Customs, Excise and Preventive Service but which are contained in discrete statutes have been

consolidated together with Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144) under this Law.

5. These enactments, for example, the Sales Tax Act, 1965 (Act 257) which have been frequently amended, have become duplicitous while others have remained in their pristine forms with penalties remaining inordinately low and meaningless in terms of current fiscal realities.

6. This Law restates and consolidates all major existing enactments that guide the administration and operations of CEPS in a more convenient form, raises penalties to realistic levels and introduces provisions aimed at enhancing and strengthening the preventive capacity of the new service. It is hoped that the consolidation will make for easier accessibility to the major laws on the management and operations of Customs, Excise and Preventive Service and assist the general public in more readily mastering the law.

7. Part One deals with the administrative set up of Customs, Excise and Preventive Service and extensively restates the Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144).

8. Part Two contains the general provisions relating to the imposition of Indirect taxes and Duties by CEPS. It offers a departure from the Brussels definition of "import value" and adopts the General Agreement on Tariff and Trade (GATT) definition of value. Allowance is, however, made for the application of the Commissioner's value where the value of an item cannot be properly determined. Section 3 grants the Commissioner and the Minister defined authority to grant exemptions, remission and refund of duties and taxes. The existing law relating to drawbacks, refunds, and goods used contrary to unauthorised purpose is restated in this Part.

9. Part Three sets out the existing law relating to Customs duties. Part Four introduces together, the basic laws regulating Excise Duties and Sales Tax. The provisions of the Sales Tax Act, 1965 (Act 257) is revised and incorporated into the law. Part Four provides specific penalties with respect to Excise Duty and Sales Tax offences. Default in the regular submission of Excise Duty and Sales Tax returns and the non-possession of the Tax Clearance Certificates are now punishable offences.

10. Part Five consolidates and revises two basic enactments which regulate vehicle importation into the country, viz: The Vehicles Purchase Tax Decree, 1978 (S.M.C.D. 184) and the Motor Vehicles (Importation) Law, 1985 (P.N.D.C.L 121), as amended by the Motor Vehicles Importation (Amendment) Law, 1987 (P.N.D.C.L. 167). As a port decongestion measure, the 120 day forfeiture clause which disentitles any owner of any vehicle that has remained unentered and uncleared within a period of one hundred and twenty days after discharge, has been made into law.

11. Parts Six and Seven contain customs provisions relating to arrival report, entry, etc. and warehouse and customs areas. The penalties under provisions have been revised though no change has been made of the substance in Law. Part Eight deals with the loading and exportation of goods and Part Nine with departure and clearance for customs purposes while Part Ten contains supplementary provisions with revised penalties relating to coasting trade, ie. trade by sea or air from one port of Ghana to another.

12. Part Eleven updates the provisions on Postal Articles under the Customs and Excise Decree, 1972 (N.R.C.D. 114) and consolidates same with revised provisions of the Removal Articles (Exemptions) Decree, 1974 (N.R.C.D. 280).

13. Part Twelve to Fifteen relate to excise-warehouse, removal of goods and provisions relating to manufacturers and warehouse keepers. Part Fifteen reproduces the effect of the provisions of Customs and Excise Decree, 1972 (N.R.C.D. 114) on Folded Woven Goods which are of some importance for custom's purposes with respect to the importation of cloth.

14. Part Sixteen sets out the powers of officers of CEPS. The Commissioner is now vested with the power to authorise the search of premises if satisfied on information that there is reasonable cause to suspect any restricted, prohibited or uncustomed or unexcised goods on such premises. This Part also empowers officers of the Service to seal off premises suspected to harbour or contain prohibited, uncustomed, restricted or smuggled goods.

15. Part Seventeen contains general penal provisions. The pecuniary penalties have been revised to make them meaningful. Smuggling, falsification, alterations of documents and false declarations carry heavy penalties. Stiff penalties have been prescribed for owners of vehicles on which have been constructed false compartments designed to facilitate smuggling. The Commissioner's powers have been enhanced with the conferment of powers of attachment and garnishment to recover duties, taxes and penalties owed the Service. Directors and members of companies and governing bodies are now liable jointly and severally for their company's or institution's indebtedness to CEPS.

16. Part Eighteen restates the existing law relating to procedure. Part Nineteen contains supplementary provisions which apart from the general revision are derived wholly from Customs and Excise Decree, 1972 (N.R.C.D. 114).

Endnotes

1 (Popup - Footnote)

1. Issued as the Customs, Excise and Preventive Service (Management) Law, 1993 ([P.N.D.C.L. 330](#)), made on the 5th day of January, 1993 and published in the *Gazette* on 11th June, 1993.

2 (Popup - Footnote)

2. That Service was established under the Customs, Excise and Preventive Service Law, 1986 (P.N.D.C.L. 144).

3 (Popup - Footnote)

3. See [section 2](#) of the Revenue Agencies (Governing) Board Act, 1998 ([Act 558](#)).

4 (Popup - Footnote)

4. [Sections 4](#) and [5](#) amended by the Revenue Agencies (Governing Board) Act, 1998 ([Act 558](#)).

5 (Popup - Footnote)

5. [P.N.D.C.L. 143](#).

6 (Popup - Footnote)

6. [P.N.D.C.L. 330](#).

7 (Popup - Footnote)

7. [Sections 6, 7](#) and [8](#) amended by the Revenue Agencies (Governing Board) Act, 1998 ([Act 558](#)).

8 (Popup - Footnote)

8. Repealed by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1996 (Act 511) which was assented to on the 20th March, 1996 and published in the *Gazette* on 22nd March, 1996. The section reads,

“If the customs value of the imported goods cannot be determined under [sections 29](#) to [33](#) of this Law, or where there is doubt or where the acceptance of the declared value would result in inequities or endanger revenue, the customs value shall be the Commissioner’s value.”

9 (Popup - Footnote)

9. Amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552) which was assented to on 4th May, 1998 and published in the *Gazette* on 8th May, 1998. The provision reads,

“89. Motor vehicles to be imported

(1) Any person who imports any motor vehicle of more than five years old shall pay a pecuniary penalty as specified in the regulations made under this Law.

(2) The age of a motor vehicle imported under this Law shall be calculated with effect from the year in which the motor vehicle was first manufactured.

(3) No person shall import any right-handed steering motor vehicle.”

10 (Popup - Footnote)

10. Amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552). The provision provided as follows:

“91. Forfeiture of vehicles

Without prejudice to [sections 117](#) and [118](#) of this Law, any vehicle that remains un-entered within 120 days after discharge or from the date it crossed the national boundary into Ghana shall be forfeited to the State.”

11 (Popup - Footnote)

10a. Amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634).

12 (Popup - Footnote)

10b. Amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act 2002 (Act 634) and the Customs, Excise and Preventive Service (Management) (Amendment) Act 2006 (Act 704).

13 (Popup - Footnote)

10c. Added by the Customs, Excise and Preventive Service (Management) (Amendment) Act 2006 (Act 704).

14 (Popup - Footnote)

11. Added to by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552).

15 (Popup - Footnote)

12. Amended by the Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552).
The previous provision read
“**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 reward.’