

CHAPTER 322

THE CUSTOMS AND EXCISE ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Commissioner-General and Commissioner of Customs and Excise
4. Powers of Commissioner-General

PART II

POWERS OF OFFICERS

5. Stationing of officers on ship or train
6. Officers to travel free when on duty
7. Powers of officers in relation to ships, aircraft, or vehicles
8. Sealing of goods on ships, aircraft, or vehicles
9. General powers of officers
10. Taking of samples
11. Opening of packages
12. Action of officer when given unsatisfactory answers to questions

PART III

IMPORTATION OF GOODS

13. Customs ports, aerodromes and houses
14. Establishment of customs barriers
15. Prohibition of importation or exportation except through appointed ports
16. Appointment of landing, loading, and examination places
17. Appointment of customs areas
18. Charges by owner or operator of customs area
19. Vehicles entering or leaving customs areas
20. Person in charge of train to supply documents to officer
21. Person in charge of vehicle to report goods
- 21A. Duty of persons arriving in Zambia to report to customhouse
22. Report of arrival of aircraft
23. Report of arrival of ships
24. Non application of section fifteen
25. Report by operator of a pipeline
26. Report may be amended
27. Cargo may remain on board ships or aircraft
28. Liability for duty

- 29. Master, pilot, or pipeline operator may appoint agent
- 30. Goods deemed to have been imported
- 30A. Person entitled to act as declarant
- 31. Time of importation

Section

- 32. No importation without entry
- 32A. Entry of ships, aircraft and other vehicles
- 32B Entry of goods prior to importation
- 33. Entry of goods
- 34. Types of entry of imported goods
- 35. Repealed by Act No. 4 of 1999
- 36. Repealed by Act No. 4 of 1999
- 37. Details to be shown on entry
- 38. Repealed by Act No. 4 of 1999
- 39. Repealed by Act No. 4 of 1999
- 40. Goods prohibited from importation
- 41. Restricted importations
- 41A. Declaration of currency notes
- 42. Wreck

PART IV

CUSTOMS CARRIERS

- 43. Customs Carriers
- 44. Payment of duty by customs carrier
- 45. Repealed by Act No. 4 of 1999
- 46. Repealed by Act No. 4 of 1999

PART V

EXPORTATION OF GOODS

- 47. Exporter to deliver customs documents and produce goods
- 48. Exportation of goods
- 49. Exportation of goods over land
- 50. Outward clearance of ships
- 51. Outward clearance of aircraft
- 52. Master, pilot, or pipeline operator may appoint agent
- 53. Time of exportation of goods
- 54. Restriction of exportation

PART VI

WAREHOUSING OF GOODS

- 55. Licensing of bonded warehouse
- 56. Issuing or reissuing of bonded warehouse licence
- 57. Storing of goods in warehouse without payment of duty
- 58. Removal of goods from warehouse

- 59. Bonded goods as stores for aircraft or ships
- 60. Repealed by Act No. 4 of 1999
- 61. Liability of goods to duty at date of entry for consumption
- 62. When warehoused goods shall be cleared
- 63. Sorting, repacking or destroying goods under customs authority
- 64. Transfer of ownership of goods warehoused
- 65. Warehouses may be locked by an officer
- 66. Taking stock and duty on deficiencies
- 67. Sampling of warehoused goods

Section

- 68. Remittal of duty on certain warehoused goods which are destroyed, etc.
- 68A. Failure to pay duty by importer or owner of warehoused goods
- 69. Removal of goods in bond to any other port of entry or any other country
- 70. Responsibility for goods placed in a bonded warehouse

PART VII

ORDINARY DUTIES AND DUMPING DUTIES

- 71. Definition of production of goods
- 72. Customs duties
- 72A. Export duties
- 73. Determination of origin of manufactured goods
- 74. Interpretation
- 75. Complaint against goods
- 75A. Extent of injury
- 75B. Provisional dumping or countervailing duty
- 75C. Application of dumping and countervailing duty
- 75D. Provisional duty on imported goods
- 75E. Powers on an inquiry on subsidised or dumped goods
- 76. Excise duties
- 76A. Payment of excise duty on imported goods
- 77. Surtax
- 78. Repealed by Act No. 4 of 1999
- 79. Duties payable subject to certain provisions
- 80. Repealed by Act No. 4 of 1999

PART VIII

AGREEMENTS

- 81. President may enter into customs agreements
- 82. Minister may make regulations to give effect to agreements
- 83. Provisions of agreements and regulations to prevail when inconsistent with this Act or any other law
- 84. Repealed by Act No. 4 of 1999

PART IX

VALUE FOR DUTY PURPOSES

- 85.** Importer to specify customs value on entry
- 86.** Amendment of valuation assessment
- 87.** Foreign currency to be converted into Zambian currency
- 88.** Assessment of excise duty due on importation
- 88A.** Assessment of excise duty and surtax on goods manufactured in Zambia
- 88B.** Valuation of exports

PART X

REBATES, REFUNDS, AND REMISSIONS OF DUTY

- 89.** Suspension and rebate of certain duties
- 90.** Claims for exemption; burden of proof on claimant
- 91.** Goods for President to be exempt from duty
- 92.** Refunds generally

PART XI

EXCISE AND SURTAX MANAGEMENT

Section

- 93.** Licence to manufacture goods liable to excise duty or surtax
- 94.** Goods which may be manufactured without licence and without payment of duty
- 95.** Authority to manufacture goods without licence and without payment of duty
- 96.** Power of Commissioner-General to authorise manufacture of certain goods
- 97.** Licensing of manufacturers
- 98.** Refusal or suspension of licence
- 99.** Appeals
- 100.** Surrender of licence
- 101.** Authorised premises
- 102.** Repealed by Act No. 4 of 1999
- 103.** Repealed by Act No. 4 of 1999
- 104.** Repealed by Act No. 4 of 1999
- 105.** Repealed by Act No. 4 of 1999
- 106.** Repealed by Act No. 4 of 1999
- 107.** Repealed by Act No. 4 of 1999
- 108.** Duties of licensed manufacturer
- 108A.** Cigarettes tax stamps
- 109.** Records to be kept on licensed premises
- 110.** Stocktaking
- 111.** Duty to be paid on surplus stock
- 112.** Duty to be paid in respect of deficiency in stock, etc.
- 113.** Entry and search of premises
- 114.** Where processes in licensed premises are to be carried out and goods kept
- 115.** Supervision of operations
- 116.** Tables for calculating quantities of goods liable to excise duty or surtax

117. Obligations of manufacturers of goods liable to excise duty or surtax
118. Licensee to provide storerooms, plugs, taps, etc.
119. Damages to locks, pipes, safes, etc.
120. Erection of safes, receivers, and requisites in connection therewith
121. Vats and butts
122. Ascertaining capacity of distillery, refinery tanks etc.
123. Strength to be as denoted by Gay Lussacs' Hydrometer
124. Spirits store
125. Receipt into spirits store
126. Storing of manufactured wines
127. Removal of and securing of duty on spirits or wines
128. Opening of store in the absence of an officer
129. Repealed by Act No. 4 of 1999
130. Repealed by Act No. 4 of 1999
131. Prohibitions in respect of brewing
132. Prohibitions in respect of worts, wash, low-wines, etc.
133. Spirits, worts, etc., illicitly kept
134. Removing or selling tobacco in respect of which any provision of this Act has been contravened to be an offence
135. Using or supplying unauthorised or previously used stamp labels to be an offence
136. Restriction of weight of cigarettes which may be manufactured
137. Removal of goods liable to excise duty or surtax

Section

138. Procedure on cessation of manufacture of goods liable to excise duty or surtax
139. Loss of goods liable to excise duty or surtax in warehouses

PART XII

OFFENCES, PENAL PROVISIONS AND PROCEDURE

140. False statements by persons arriving in Zambia
141. False invoices, false representation and forgery
142. Possession of blank invoice
143. Obstruction of officers
144. Removing, altering, or defacing marks or seals
145. Certain responsibilities of master, pilot, or person in charge of vehicle
146. Removing or breaking locks placed on warehouse
147. Failure to make full declaration of sealable goods
148. Bribery, collusive seizure or agreement not to seize
149. Smuggling
150. Importation of prohibited or restricted goods to be an offence
151. Miscellaneous offences
152. Warehousing irregularities
153. Offences by licensed manufacturer
154. Offences relating to the use of ships, aircraft, or vehicles

- 155. General penalties
- 156. Concealed goods
- 157. Forfeited packages, containers, or utensils
- 158. Substitution of other goods for goods actually liable to seizure
- 159. Vehicles carrying goods liable to forfeiture
- 160. Ships, aircraft, or vehicles adapted for smuggling liable to forfeiture
- 161. Embargo on goods which have passed out of customs control
- 162. Power of officer to seize goods
- 163. Power of Commissioner-General to release goods seized
- 164. Notice of action to be given to officer
- 165. Tender of amends and effect thereof
- 166. Court may refuse costs
- 167. Pest infected or harmful goods
- 168. Imposition of fine by Commissioner-General
- 169. Orders by court as to unpaid duty and forfeitures
- 170. Liens and preferences
- 170A. Recovery by distress
- 171. Interest to be paid for late payment
- 171A. Attachment of debts
- 172. Impounding of documents
- 173. Burden of proof
- 174. Evidence in certain circumstances

PART XIII

GENERAL

- 175. Secrecy
- 176. Oaths and affidavits

Section

- 177. Entries, oaths, etc., made outside Zambia to be of full force and effect in Zambia
- 178. Translation of foreign documents
- 179. Conditions and enforcement of bonds
- 180. Fresh security
- 181. Joint and several liability of subscribers to bond
- 182. Security to be given by agents and other persons for due observance of laws
- 182A. Licensing of Clearing and Forwarding Agents
- 183. Liabilities of agent and principal
- 184. Written authority to transact business on behalf of another
- 185. Expense and risk of handling goods
- 186. Repealed by Act No. 4 of 1999
- 187. Sellers of goods to produce proof of payment
- 188. Persons carrying on business to keep proper books
- 189. Claims and refunds
- 190. Appeal to Tribunal

- 191.** Rates of duty in relation to time of importation or entry
- 192.** Circumstances in which payment of proposed duty may be deferred
- 193.** Repealed by Act No. 4 of 1999
- 194.** Policies and instructions by Commissioner-General
- 195.** Customs warehouses
- 196.** Weights and measures
- 197.** Goods in transit
- 198.** Regulations
- 199.** Orders
- 200.** Rules
- 201.** Delegation of Commissioner-General's functions
- 202.** Presumption as to absence of licence, etc.
- 203.** Disposal of goods by the Commissioner-General
- 204.** Goods to be donated by Commissioner-General
- 205.** Proceeds of sale
- 206.** Savings and transitional provisions

FIRST SCHEDULE Customs tariff

SECOND SCHEDULE Excise tariff

THIRD SCHEDULE- Repealed by Act No. 4 of 1999

FOURTH SCHEDULE - Surtax tariff

FIFTH SCHEDULE- Valuation of goods for the purpose of the Tariff.

SIXTH SCHEDULE- Valuation of goods for the purposes of assessing Excise duty or surtax payable on goods manufactured in Zambia

SEVENTH SCHEDULE – Valuation of Services for the purpose of assessing Excise duty payable on excisable Services.

EIGHTH SCHEDULE- Service Excise Tariff.

NINTH SCHEDULE – Export tariff

1 of 1979	<i>Federal Acts</i>
1 of 1980	16 of 1955
5 of 1981	24 of 1955
4 of 1982	10 of 1956
3 of 1983	16 of 1956
1 of 1984	16 of 1956
14 of 1984	20 of 1956
1 of 1985	29 of 1956
1 of 1986	1 of 1957
18 of 1986	10 of 1957
4 of 1987	20 of 1957
10 of 1988	24 of 1957
25 of 1989	15 of 1958
20 of 1992	25 of 1958
17 of 1993	7 of 1959
13 of 1994	15 of 1959
15 of 1994	21 of 1959
17 of 1995	22 of 1959
16 of 1996	44 of 1959
9 of 1997	3 of 1960
1 of 1998	4 of 1960
2 of 1998	17 of 1960
4 of 1999	18 of 1960
3 of 2000	39 of 1960
2 of 2001	5 of 1961
1 of 2002	22 of 1961
1 of 2003	4 of 1962
11 of 2004	6 of 1962
4 of 2005	25 of 1962
-3 of 2006	36 of 1962
<i>Government</i>	49 of 1962
<i>Notices</i>	3 of 1963
407 of 1963	9 of 1963
13 of 1964	25 of 1963
14 of 1964	
82 of 1964	<i>Acts No.</i>
86 of 1964	66 of 1963
139 of 1964	16 of 1964
143 of 1964	35 of 1964
262 of 1964	30 of 1965
497 of 1964	31 of 1965
	47 of 1965
<i>Statutory</i>	3 of 1966
<i>Instruments</i>	21 of 1966
145 of 1965	37 of 1966
173 of 1965	38 of 1966
	54 of 1966
	2 of 1967
	3 of 1967
	22 of 1967
	52 of 1967
	7 of 1968
	15 of 1968
	17 of 1968
	29 of 1968
	38 of 1968
	39 of 1968
	48 of 1968
	3 of 1969
	14 of 1969
	19 of 1969
	34 of 1970
	1 of 1971
	2 of 1971
	31 of 1971
	2 of 1972
	24 of 1973
	26 of 1973
	7 of 1974
	2 of 1975
	1 of 1976
	1 of 1977
	1 of 1978

CHAPTER 322

CUSTOMS AND EXCISE

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

[*1st July 1955*]

PART I
PRELIMINARY

Short Title

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

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

Interpretation

2. In this Act, unless the context otherwise requires—

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

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

“aircraft” includes balloons, kites, gliders, airships, and flying machines;

“alcoholic strength” in relation to spirits, means the strength of alcohol by volume ascertained by Gay Lussac’s hydrometer.

“assessment of duties and taxes” means the determination of the amount of duties and taxes payable;

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

Cap. 321

“Authority” means the Zambia Revenue Authority established by the Zambia Revenue Authority Act;

“beer” includes—

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

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

Cap. 321

“Board” means the Zambia Revenue Authority Board established by the Zambia Revenue Authority Act;

“brandy” means—

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

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

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

distillate referred to in paragraph (a) calculated by alcoholic strength by volume at a temperature of 20 degrees Celsius; or

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

“brewer” means a brewer or manufacturer of beer;

“cigar” includes cheroot and cigarillo;

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

“cigarette tobacco” means—

- (a) any tobacco cut into strips less than one millimetre in width and includes any cut tobacco described or offered for sale as tobacco for making into cigarettes;
- (b) a mixture of any cut tobacco with tobacco as defined in paragraph (a) of this definition;

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

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

“consumption” means consumption or use in Zambia;

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

“crew” includes every person, except the master or pilot, employed in any capacity on any ship, aircraft or vehicles;

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

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

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

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

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

“customs port” means a place appointed by the Minister under section *thirteen* as being a place through which goods may be imported or

- exported and at which persons may arrive or depart, by land or water;
- “customs value” means the customs value of those goods determined in accordance with the Fifth Schedule to this Act;
- “customs warehouse” means any building, premises or area in Zambia that is declared by the Commissioner-General to be a customs warehouse in terms of section *one hundred and ninety-five*;
- “declarant” means any person who makes a goods declaration or on whose behalf the declaration is made;
- “Deputy Commissioner” means a Deputy Commissioner of the Customs and Excise Division of the Zambia Revenue Authority;
- “direct trader input” means the electronic presentation and registration by an importer, exporter, excise producer, or an agent acting in that behalf;
- “distiller” means any person who conducts, works, or carries on any distillery either by himself or through his agent or servant;
- “distillery” means any place or premises where any process of distillation whatever of spirits is carried on, or where any process of rectification of spirits is carried on, or where any spirits are manufactured or produced from any substance whatever by any process other than fermentation;
- “distress” means to detain or seize in substitution for other goods such goods or chattels as are deemed to be of equivalent value to those other goods or the sum of duties and other charges deemed to be due to the Republic on those other goods and “notice of distress” and cognate expressions shall be construed accordingly;
- “due date” means the date when payment of duties and taxes is due;
- “duty” means any duty leviable under any law relating to customs and excise and includes surtax;
- “duty paid value” means the customs value of any goods as determined in accordance with the provisions of the Fifth Schedule plus the duty payable thereon;
- “entry” in relation to the clearance of goods for importation, warehousing, removal from warehouse, or exportation means the presentation, in accordance with the provisions of this Act, of a correctly completed declaration in writing in the prescribed form and in the case where facilities are provided for direct trader input, registration on the customs Computer System, together with such bills of lading, invoices, certificates and other documents as are by or under this Act required to be furnished with that declaration, and “an entry” or “bill of entry” and “to enter” and cognate expressions shall be construed accordingly;
- “examination station” means an area at a customs port designated by the Commissioner-General under section *sixteen* for the embarkation and disembarkation of persons and the loading and unloading of goods;

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

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

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

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

“feints” means any liquid which, in the course of distillation, redistillation or rectification, is conveyed to—

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

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

“fortified wine” means wine, grape must or concentrated grape must to which—

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

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

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

“gin” means—

- (a) a distillate resulting from the redistillation of neutral spirit in the presence of juniper berries with or without the addition of common salt and harmless aromatic or other flavouring matter in a pot or gin still; or
- (b) a distillate as defined in paragraph (a) of this definition compounded with neutral spirit;

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

- “goods” includes all wares, articles, merchandise, animals, matter, baggage, stores, or things;
- “goods declaration” means a statement made in accordance with this Act indicating the customs procedure to be applied to the goods and the particulars which the Commissioner-General requires;
- “he” means “he” or “she” and cognate expressions shall be construed accordingly;
- “honey beer” means any portable liquid containing more than two per centum of alcohol by volume but not more than ten per centum of alcohol by volume which is derived by the fermentation of a mixture of honey and water;
- “hydrocarbon oil” includes petroleum oil and oil produced from coal, shale, peat or any other bituminous substance, and all liquid hydrocarbons, but does not include any oil which is a hydrocarbon or a bituminous or asphaltic substance and is, when tested in a manner prescribed by the Commissioner-General, solid or semi-solid at a temperature of twenty degrees Celsius;
- “import” means to bring goods or cause goods to be brought into Zambia, and cognate expressions shall be construed accordingly;
- “importer” in relation to goods, includes any owner of or other person for the time being possessed of or beneficially interested in any goods before entry of the same has been made and the requirements of this Act fulfilled, and the agent of any such person;
- “in bond” in relation to the removal, transport or carriage of goods means the removal, transport or carriage of goods which are uncustomed, by a customs carrier or person authorised for that purpose and “in bond entry” and cognate expressions shall be construed accordingly;
- “landing” in relation to goods, includes the discharging of goods from a pipeline;
- “leaf tobacco” means the cured leaves of the tobacco plant;
- “licensed premises” means any premises in respect of which a licence is issued in terms of section *ninety-seven*;
- “loading” in relation to goods, includes the pumping or insertion of goods into a pipeline;
- “low-wines” means spirits of first extraction by a single still and conveyed into a low wines receiver;
- “manufacture” in relation to goods liable to excise duty or surtax, other than imported goods, includes the mixing, brewing, distilling, packaging, production or refining of goods liable to excise duty or surtax;
- “manufactured tobacco” means—
- (a) leaf tobacco which has been subjected to any process of manufacture including cutting, grinding, crushing, rolling, breaking, tearing or rubbing; and

(b) manufactured or partially manufactured tobacco which is subjected to any further process of manufacture including cutting, grinding, crushing, rolling, breaking, tearing or rubbing; and scrap tobacco, tobacco waste, tobacco clippings or stems or deposits of tobacco resulting from any processing or handling of leaf tobacco, made up for consumption or use in or outside Zambia;

“manufacturer in relation to goods liable to excise duty or surtax, other than imported goods” includes any person who is required to be licensed in terms of section *ninety-three* and any person who mixes, brews, distils, packages, produces or refines goods liable to excise duty or surtax or who employs others to do so on account of such person and “licensed manufacturer” and cognate expressions shall be construed accordingly;

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

“methyrate” includes any prescribed method of denaturing and cognate expressions shall be construed accordingly;

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

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

“opaque beer” means any potable liquor containing more than two per centum of alcohol by volume which—

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

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

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

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

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

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

“pipe tobacco” means any manufactured tobacco including tobacco in the form of cake, plug or stick but not including cigars, cigarette

tobacco, roll tobacco, snuff or tobacco processed for any purpose other than chewing or smoking;

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

“premises” means any building or place whatsoever;

“refiner” means the proprietor or occupier of a refinery;

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

“release of goods” means the action by the Customs Division to permit goods undergoing clearance to be placed at the disposal of the person concerned;

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

“roll tobacco” means—

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

“rum” means—

- (a) a distillate resulting from the distillation of the fermented juice of sugar cane or its by-products at a strength not exceeding eighty- five per centum of alcohol by volume; or
- (b) a mixture of two or more distillates as defined in paragraph (a) of this definition; or
- (c) a distillate or mixture of distillates as defined in (a) and (b) of this definition compounded with neutral spirit derived from sugar cane or its by-products so, however, that the finished product contains not less than twenty per centum of distillates referred to in paragraph (a) calculated by alcoholic strength measurement;

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

“sealable goods” means—

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

Customs Division by the pilot or master and which are held in a secure place under the personal supervision of the pilot or master;

“security” means an undertaking which ensures to the satisfaction of the Commissioner-General that an obligation to the Commissioner-General will be fulfilled;

“ship” includes any ship, vessel, boat, hovercraft or floating construction of any kind whatsoever, whether propelled by steam or otherwise or towed;

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

“smuggled goods” have corresponding meanings;

“spirits” means—

- (a) ethyl alcohol; and
- (b) feints; and
- (c) potable liquid containing more than two per centum of alcohol by volume which is not—
 - (i) beer, honey beer, opaque beer, cider or perry; or
 - (ii) wine containing thirty per centum of alcohol by volume;

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

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

“Taxpayer Identification Number” means the National Registration Card number or such number as may be designated by the Commissioner-General;

“third party” means any person who deals directly with the Customs Division for or on behalf of another person in relation to the importation, exportation, movement or storage of the goods;

“transshipment” means the procedure under which goods are transferred under Customs control from the importing means of transport to another means of transport;

“Tribunal” means the Revenue Appeals Tribunal established under the Revenue Appeals Tribunal Act;

“uncustomed goods” means goods liable to duty on which the full duties have not been paid, and any goods, whether liable to duty or

not, which, being required to be accounted for in terms of this Act, have not been so accounted for;

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

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

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

“weight” means—

- (a) in relation to tobacco, the net weight of such tobacco plus the weight of the moisture and other substances contained therein at the time of manufacture; and
- (b) in relation to cigarettes, the weight of the cigarettes as a whole including the weight of the tobacco, the paper or other wrapping materials, and the tipping material, if any;

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

“wine”—

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

but does not include opaque beer, cider or perry;

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

(As amended by No. 24 of 1955, No. 16 of 1956, No. 20 of 1957, Nos. 7 and 22 of 1959, No. 18 of 1960, No. 36 of 1962, No. 3 of 1963, G.N. No.407 of 1963, Act No. 16 of 1964, S.I. No. 173 of 1965, Acts No. 38 of 1966, No. 48 of 1968, No. 6 of 1973, No. 24 of 1973, No. 2 of 1975, No. 4 of 1984, No. 10 of 1988, No.25 of 1988, No. 20 of 1992, No. 16 of 1996, No. 9 of 1997, No. 4 of 1999, No. 2 of 2001 and No. 1 of 2002)

Commissioner-
General and
Commissioner
of Customs and
Excise

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

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

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

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

(Act No. 4 of 1999)

Powers of
Commissioner-
General

4. The Commissioner-General may—

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

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

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

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

(Act No. 4 of 1999)

Can. 97

PART II

POWERS OF OFFICERS

Stationing of
officers on ship
or train

5. The Commissioner-General may station an officer on any ship or train while such ship or train is within Zambia and the master of any such ship or the person in charge or control of any such train shall provide free of charge such accommodation and board as the Commissioner-General may reasonably require.

(Act No. 4 of 1999)

Officers to
travel free
when on duty

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

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

7. (1) An officer may board any ship arriving at or being about to depart from any port in Zambia, or being within Zambian waters, and—

(a) may freely stay on board for so long as the officer considers necessary for the proper performance of duties or until all goods laden therein have been delivered from such ship;

- (b) shall have free access and the right to search every part of the ship and to examine all goods on board;
- (c) shall have power to fasten down hatchways, doors and other openings;
- (d) shall have power to lock up, seal, mark, or otherwise secure any goods on board that ship; and
- (e) shall have the right to, lock up, seal, or otherwise secure the ship's wireless apparatus.

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

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

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

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

Sealing of
goods on ships,
aircraft, or
vehicles

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

(2) An officer may seal up any goods other than sealable goods in the possession of the master, pilot, members of the crew, or passengers on the ship, aircraft, or vehicle.

(3) Except by the authority of an officer, no seal placed by an officer upon any goods under this section shall be broken or disturbed while the ship, aircraft, or vehicle remains at any place in Zambia.

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

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

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

9. (1) An officer may stop and search any person, including any person within or upon any ship, aircraft, or vehicle, whom he has good reason to suspect of having secreted about him or in his possession any dutiable goods or any goods in respect of which there has been a contravention of any of the provisions of this Act:

Provided that—

- (i) before being searched, such person may demand to be taken before an officer of higher rank, who may, at his discretion, discharge such person or direct that he be searched;
- (ii) a person shall be searched only by a person of the same sex.

(2) For the protection of the revenue and the proper administration of this Act, the Commissioner-General or an officer authorised by the Commissioner-General may—

- (a) without previous notice, at any time enter any store, shop, structure, or enclosed area for the reception of goods, for the purpose of making such examination and inquiry as he considers necessary, and may seal, mark, detain or otherwise secure any package there found;
- (b) while he is on such premises or at any other time, require from any person the production then and there, or at a time and place to be fixed by the officer, of any book, document, or thing which is required under the provisions of this Act to be kept or exhibited, or which is or has been on such premises or in the possession or custody or under the control of any such person or his employee;
- (c) at any time and at any place require from any person who has the possession, custody, or control of any such book, document, or thing, as is mentioned in paragraph (b), the production thereof then and there, or at a time and place to be fixed by the officer;
- (d) examine and make extracts from and copies of such books or documents as are mentioned in paragraph (b) and may require from any person an explanation of any entry therein and may seize such books, documents, or things as in his opinion may afford evidence of an offence under this Act; and
- (e) take with him on to such premises an assistant who may be a police officer or other person.

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

(4) If an officer, after having declared his official capacity and his purpose and having demanded admission into any premises referred to in subsection (2), is not immediately admitted thereto, he and any person assisting him may at any time, but during the hours of darkness only in the

presence of a police officer, break open any door or window or break through any wall on such premises for the purpose of entry and search.

(5) An officer and any person assisting him may at any time break up any part of any premises referred to in subsection (2) for the purpose of search, and if any safe, chest, box, or package is locked or otherwise secured and the keys thereof or other means of opening it are not produced upon demand, may open such safe, chest, box, or package by any means at his disposal.

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

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

- (a) all bank accounts, whether current or deposit, business or private, of such person, company or institution kept at any branch of that bank or financial institution; and
- (b) deposits or sources of deposits made by such person, company or institution in any account maintained at that bank or financial institution; and
- (c) all payments made by or to any such person, company or institution.

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

(As amended by G.N No. 407 of 1963, Acts No. 16 of 1996, No. 4 of 1999, and Act No.1 of 2003)

Taking of
Samples

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

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

(As amended by Act No. 16 of 1996)

Opening of
packages

11. (1) An officer may require the owner of any package imported or believed to have been imported into Zambia, or entered for export or believed to be intended for export from Zambia, to open such package and may examine, weigh, mark, or seal such goods as are contained therein.

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

(As amended by G.N No. 407 of 1963, Acts No. 16 of 1964 and No. 4 of 1999)

Action of officer when given unsatisfactory answers to questions

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

(Act No. 4 of 1999)

PART III

IMPORTATION OF GOODS

Customs ports, aerodromes and custom houses

- 13. (1)** The Minister may, subject to such terms and conditions as the Minister may specify—
- (a) appoint places to be customs ports for Zambia at or through which goods may be imported or exported and persons may arrive or depart, by land or water;
 - (b) appoint places within Zambia to be customs aerodromes at or through which goods may be imported or exported and persons may arrive or depart, by air;
 - (c) define the roads or routes over which imported goods that are uncustomed, or goods that are to be conveyed in bond or goods intended for export, shall be conveyed to or from a particular customs port or customs aerodrome;
 - (d) appoint custom houses at customs ports or customs aerodromes or elsewhere within Zambia for the processing of entries, the collection of revenue and for the general administration of this Act; and

- (e) determine the hours of the day and night during which particular customs ports and custom houses shall be open for the processing of persons and goods either in general or in specific classes or categories.

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

(Act No. 4 of 1999)

Establishment
of customs
barriers

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

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

(As amended by No.1 of 1957 and Act No. 16 of 1996)

Prohibition of
importation or
exportation
except through
appointed ports

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

(2) The Commissioner-General may, at his discretion, permit, subject to such conditions as he may specify, ships, aircraft and vehicles and persons whether or not engaged in importing or exporting goods to enter or leave Zambia through places or aerodromes or by routes other than those appointed or defined in terms of section *thirteen*.

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

(Act No. 16 of 1964 as amended by Acts No. 48 of 1968, No. 16 of 1996 and No. 4 of 1999)

Appointment
of landing,
loading, and
examination
places

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

(2) Where at any customs port or customs aerodrome, an examination station has been appointed under this section, any person who embarks or who disembarks or who loads or unloads goods otherwise than at such place,

except with the written permission of the Commissioner-General, shall be guilty of an offence.

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

Licensing of
customs areas

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

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

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

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

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

(5) No vehicle or goods shall be taken out of any customs area without the permission of the Commissioner-General.

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

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

(Act No. 4 of 1999 & Act No.4 of 2005)

Charges by
owner or
operator of
customs area

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

(Act No. 4 of 1999)

Vehicles
entering or
leaving
customs areas

19. The driver or person in charge or having the control of any vehicle which is within or is entering or leaving any customs area shall, when requested to do so by an officer by word, sign, or in any other manner, cause

the vehicle to stop for the purpose of search and examination, and no person shall cause the vehicle to be set in motion again until permitted by such officer to do so.

(As amended by Act No. 4 of 1999)

Person in charge of train to supply documents to officer

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

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

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

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

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

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

(Act No. 4 of 1999)

Person in charge of vehicle to report goods

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

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

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

(Act No. 4 of 1999)

Duty of persons arriving in Zambia to report to

- 21 A.** (1) Any person arriving in Zambia shall—
- (a) in the case of persons arriving by train, report to the Customs Division at the customs area designated for trains at the customs port of arrival;
 - (b) in the case of persons arriving by ship or aircraft, whether or not travelling by vehicle carried on that ship or aircraft, report to the Customs Division at the examination station of the customs port of arrival;
 - (c) in the case of persons arriving by vehicle, unless otherwise directed by an officer, convey that vehicle immediately to a customs area appointed at the customs port of arrival and report to the custom house at that port;
 - (d) in the case of persons crossing the border by foot or by means of transport other than as specified above, report to the custom house at the customs port nearest to the point at which that person crossed the border.

(Act No. 4 of 1999)

Report of arrival of aircraft

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

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

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

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

(Act No. 4 of 1999)

Report of arrival of ships

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

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

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

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

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

(Act No. 4 of 1999)

Non
application
of section
fifteen

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

- (a) is required by any statutory or other requirement relating to navigation; or
- (b) is compelled by accident, stress or weather or other necessity.

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

- (a) shall report forthwith to a customs officer;
- (b) shall not, without the consent of a customs officer, permit any goods carried in the ship or aircraft to be unloaded from it or any of the crew or passengers to depart from its vicinity; and
- (c) shall comply with any directions given by a customs officer in respect of any goods, crew or passengers carried in the ship or aircraft.

(Act No. 4 of 1999)

Report by
operator of a
pipeline

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

(Act No. 48 of 1968 as amended by Acts No. 16 of 1996 and No. 4 of 1999)

Report may be amended

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

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

Cargo may remain on board ships or aircraft

27. With the permission of and under conditions imposed by an officer authorised for that purpose by the Commissioner-General at any port or customs aerodrome, the master of a ship or the pilot of an aircraft may retain on board cargo consigned to that port or aerodrome or may land at that port or aerodrome cargo not consigned thereto.

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

Liability for duty

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

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

(3) In all cases where under the provisions of subsection (1) liability for duty does not rest upon the master of the ship, the pilot of an aircraft, the operator of a pipeline, or the owner or person in charge of any other vehicle, liability for duty on all exported goods or goods deemed to have been exported in terms of section *forty-seven* shall rest upon the exporter or, in the case of goods consigned from Zambia upon the person within Zambia who deals with the goods on behalf of the owner of the goods.

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

(As amended by G. N. No. 407 of 1963, No. 24 of 1973, Act No. 16 of 1996 & Act No. 4 of 2005)

Master, pilot
or p Master,
pilot or
pipeline

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

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

(Act No. 4 of 1999)

Goods deemed
to have been
imported

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

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

Person entitled
to act as
declarant

30A. Any person having the right to dispose of the goods referred to in a goods declaration shall be entitled to act as a declarant.

(Act No. 4 of 1999)

Time of
importation

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

- (a) in the case of ships and where goods are imported by ship, at the time when the ship first enters the territorial waters of Zambia whether or not in the course of a journey to Zambia;
- (b) in the case of aircraft, and where goods are imported by aircraft, at the time when the aircraft makes its first landing in Zambia;
- (c) in the case of trains and where goods are imported by train, at the time when the train crosses the borders of Zambia;
- (d) where goods are imported by pipeline, the time when the goods are discharged from the pipeline in Zambia;
- (e) where goods are imported by means other than ship, aircraft, train or pipeline, the time when the goods cross the borders of Zambia.

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

(As amended by G. N. No. 407 of 1963, Acts No. 48 of 1968, No. 14 of 1984, No. 16 of 1996, No. 4 of 1999, and Act No.1 of 2003)

No importation
without entry

32. (1) Goods shall not be imported into Zambia without entry being made and without such duties as may be imposed by law being paid or secured.

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

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

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

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

(5) The Commissioner- General may specify goods to be entered for warehousing or otherwise for purposes of in bond carriage, subject to such conditions as the Commissioner-General may prescribe or determine by rules made pursuant to section two hundred.

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

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

(As amended by No. 16 of 1956, G.N. No 407 of 1963, Acts No. 48 of 1968, No. 4 of 1999 and No. 4 of 2005)

Entry of ships,
aircraft and
other vehicles

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

train or other vehicle or class thereof, by rules made pursuant to section *two hundred*.

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

(As amended by Act No. 4 of 1999)

Entry of
goods
prior to
importatio
n

32B. (1) The Commissioner – General may, subject to such rules as the Commissioner-General may prescribe; accept entry of goods for customs purposes five days prior to the arrival of the goods at a customs port on the condition that the importer undertakes to present to the Customs Division goods which match the goods so declared in all material particulars.

(2) Subject to section eighty-seven, where goods are entered under subsection (1) the Commissioner-General shall make an assessment of the duties due on the goods and the importer of the goods or the agent of the importer shall pay the duties so assessed within five days of such assessment unless the goods are entered to be warehoused or removed in bond.

(3) The importer of the goods or the agent of the importer may, prior to the examination of the goods, request the Customs Division to amend the declaration made under subsection (1) and where the declaration is amended the Commissioner – General shall make an assessment of the duties due and the importer of the goods or the agent of the importer shall pay the duties so assessed within the period specified in subsection (2) unless the goods are entered to be warehoused or are removed in bond.

(4) Where no request to amend a declaration is received or where the request is received after the examination of the goods has commenced, and if the reasons given by the importer or the agent of the importer for not amending the declaration or for submitting the request late are deemed invalid, the goods shall be liable to seizure.

(5) Subject to the provisions of sections *thirty-one, thirty-two, thirty-four* and *thirty – seven*, goods entered under the section shall be released from Customs control on the issuance of a release order by the Customs Division.

(6) Any importer, importer's agent or other person who makes any declaration to the Customs Division with respect to the pre-entry of the goods under this section which that person knows to be false or incorrect in material particular commits an offence.

(As amended by Act No. ----- of 2006)

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

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

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

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

Commissioner
General may
defer payment
of duty

33A. (1) Notwithstanding the provisions of sections *thirty-two* and *thirty three*, the Commissioner-General may, subject to such terms and conditions as the Commissioner-General impose, authorise a registered taxpayer on the declaration at registration to defer payment of duties due for a period not exceeding twelve months.

(2) Where payment of duties is deferred under subsection (1) the Commissioner-General shall make an assessment of the duties due on the imported goods and the goods shall be released to the registered taxpayer without payment of duty.

If a taxpayer to whom goods are released under subsection (2) fails to comply with the terms and conditions imposed for the deferred payment under subsection (1), the Commissioner-General shall withdraw the authorisation to defer payment and shall require the registered taxpayer to pay the duties due forthwith.

Where the Commissioner-general withdraws the authorisation to defer payment under subsection (3) and the taxpayer concerned has outstanding duty to be paid, the outstanding duty shall constitute a debt due to Government which shall be dealt with in accordance with the provisions of this Act.

(Acts No. 4 of 1999,

No.4 of 2004 and No.4 of 2005)

Obligations
for
entry of
imported
goods

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

- (a) deliver to the Customs Division such copies as may be required of a duly completed bill of entry;
- (b) produce all such documents as may be required by the Customs Division;

(c) answer any questions relating to those documents or those goods; and

(d) Provided that where electronic registration on the Customs Computer System exists, payment shall be made within five days from the date of the issue of an assessment notice..

(2) Where—

(a) visitors motor vehicles are imported temporarily;

(b) goods not being goods for commercial use are imported in the baggage of passengers and accompanying them on the same ship, aircraft, train or vehicle other than a train;

(c) goods are unaccompanied passengers baggage not being goods for commercial use; or

(d) goods valued at not more than the kwacha equivalent of five hundred United States dollars are imported;

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

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

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

(5) Goods that remain within customs premises beyond forty-eight hours from the time of their release from customs control shall be liable to such storage fees as the Commissioner—general may prescribe.

(6) Deleted by Act No. 4 of 1999

(7) Deleted by Act No. 4 of 1999

(As amended by Acts No.20 of 1992, No. 4 of 1999, No.1 of 2002 , No. 4 of 2005 and No.—of 2006)

35. Repealed by Act No. 4 of 1999

36. Repealed by Act No. 4 of 1999

Details to be shown on entry

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

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

- (b) the goods have been properly described in the entry by the denomination and with the characters, circumstances, and origin according to which they may be imported or are charged with duty;
- (c) the value of the goods in terms of section *eighty-five* has been declared; and
- (d) all documents required by the Customs Division have been produced and all questions asked by the Customs Division in relation to such documents or the imported goods, have been answered; and
- (e) the registration number is assigned electronically by the Customs Computer System, on the entry duly signed by a declarant or importer, where such facilities exist.

(2) Goods taken or delivered by virtue of an entry which is not valid, out of any ship, aircraft, vehicle, pipeline, customs area, or bonded warehouse, or other place where they have been deposited in terms of this Act shall be deemed to be goods landed or taken without entry, and any person taking or delivering such goods shall be guilty of an offence.

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

- (a) are delivered to any person from any customs area or other place where they have been deposited in terms of this Act pending clearance through customs, or from any ship, aircraft, vehicle, or pipeline; or
- (b) are tampered with in any way whatsoever;

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

(As amended by G.N. No. 407 of 1963, Acts No. 48 of 1968, No. 4 of 1999, No. 1 of 2002, and Act No.1 of 2003)

38. Repealed by Act No. 4 of 1999

39. Repealed by Act No. 4 of 1999

Goods
prohibited
from

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

- (a) false or counterfeit coin or banknotes and any coin or banknotes that are intended for circulation in Zambia that are not legal tender in Zambia;
- (b) any goods which in the opinion of the Minister are indecent, obscene or objectionable;
- (c) goods manufactured or produced wholly or in part by prison labour or within or in connection with any prison, jail or penitentiary excluding a *bona fide* gift made by a prisoner for the personal use of a private individual;

- (d) pirated and counterfeit goods and any goods bearing false or misleading marks or descriptions as to their origin, purpose and use.
- (e) qilika;
- (f) any goods the importation of which is prohibited by or under the authority of any other law; and
- (g) any other goods that may be declared to be prohibited goods by statutory order issued by the Minister.

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

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

(As amended by No. 24 of 1955, G.N. No. 407 of 1963 Acts No. 21 of 1966 and No. 4 of 1999)

Restricted importations

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

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

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

Declaration of currency notes

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

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

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

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

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

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

Wreck

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

- (a) flotsam and jetsam;
- (b) any portion of a ship lost, abandoned, or stranded or of the cargo, stores, or equipment thereof; and
- (c) any portion of an aircraft or vehicle which has been wrecked or abandoned or of the cargo, stores, or equipment thereof.

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

- (a) shall without delay give notice of the wreck to the nearest Custom house;
- (b) without the permission of the Customs Division, shall not remove or alter in any quantity or quality any such wreck;
- (c) if required, shall deliver that wreck or permit it to be delivered to such person or place as directed by the Customs Division.

(3) Uncustomed wreck found within Zambia shall be deemed to be imported goods that have not been entered pursuant to subsection (1) of section *thirty-three* and this Act shall apply to such goods.

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

PART IV CUSTOMS CARRIERS

Customs
carriers

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

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

(3) Without limiting the authority conferred on the Commissioner-General by subsection (1), the Commissioner-General may make the issue, continuation or reissue of any customs carriers licence conditional on the provision of a bond or guarantee or similar undertaking as may, in the

opinion of the Commissioner-General, ensure that the duty due on any goods that might from time to time be carried by the customs carrier shall be secured to the Republic.

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

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

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

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

(Act No. 4 of 1999)

Payment of
duty by
customs carrier

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

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

(Act No. 4 of 1999)

45. Repealed by Act No. 4 of 1999.

46. Repealed by Act No. 4 of 1999.

PART V EXPORTATION OF GOODS

Exporter to
deliver
customs
documents and
produce goods

47. (1) Every person intending to export any goods from Zambia shall, before such an exportation takes place, deliver to an officer a bill of entry or such other documents as may be prescribed, with such copies as may be required by the officer, showing full details and particulars of the goods and their destination with such other information as the officer may require, and

no goods shall be exported or accepted for carriage for export until such entry or other customs documents have been so delivered:

Provided that—

(a) where—

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

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

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

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

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

(4) Deleted by Act No. 4 of 1999

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

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

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

Exportation of
goods

48. (1) Goods shall not be exported from Zambia without entry being made and without such duties as may be imposed by the law being paid or secured.

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

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

(As amended by G.N. No. 407 of 1963, Acts No. 48 of 1968, Act No. 4 of 1999 and Act No.4 of 2005)

Exportation of
goods over
land

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

- (a) make a report in such form as may be prescribed; and
- (b) shall answer any questions asked by any officer in relation to that report, the intended journey of the train or other vehicle and the goods and persons carried on the train or other vehicle.

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

(3) Deleted by Act No. 4 of 1999

(Act No. 4 of 1999)

Outward
clearance of
ships

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

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

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

- (a) deliver to the Customs Division a duly completed application for clearance in the prescribed form; and
- (b) answer all such questions concerning the ship, its cargo, or passengers, if any, crew and voyage as may be asked by an officer.

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

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

(6) If a ship in respect of which a clearance has been issued at any place in terms of this section does not depart from that place within thirty-six hours of the time when the clearance was issued, or within such further time as the

Customs Division may allow, such clearance shall lapse and the master shall obtain fresh clearance before permitting the ship to depart.

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

Outward
clearance of
aircraft

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

- (a) deliver to the Customs Division a duly completed application for clearance in the prescribed form; and
- (b) answer all such questions concerning the aircraft and its freight, if any, passengers, if any, crew and journey as may be asked by any officer.

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

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

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

(As amended by No. 16 of 1956, G.N. No. 407 of 1963 and Act No. 4 of 1999)

Master, pilot or
pipeline
operator may
appoint agent

52. (1) The master of any ship, the pilot of any aircraft, or the operator of any pipeline may appoint an agent to perform any act including the answering of questions required by or under this Part, and any such act performed by the agent shall in all respects and for all purposes be deemed to be the act of the master, pilot, or operator, as the case may be.

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

(Act No. 4 of 1999)

Time of
exportation of
goods

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

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

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

(As amended by G.N. No. 407 of 196, Acts No. 48 of 1968 and No. 4 of 1999)

Restriction of
exportation

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

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

(3) For the purpose of this Act—

- (a) the entry of goods for export, the loading or placing of any goods upon a ship, aircraft, or vehicle which is about to leave Zambia or has other goods upon it which are to be exported;
- (b) the taking of goods aboard such a ship, aircraft, or vehicle by a person;
- (c) the handing of any goods to any carrier or transport company or to the master of a ship or the pilot or owner of any aircraft or any member of the crew of the ship, aircraft or vehicle for the purpose of exportation;
- (d) the placing of any goods in a pipeline which has been prepared for the exportation of goods; or
- (e) the placing in the post of any package addressed to a place outside Zambia;

shall be deemed to be an attempt to export.

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

PART VI

WAREHOUSING OF GOODS

Licensing of
bonded
warehouse

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

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

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

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

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

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

(7) Goods to which subsection (6) applies that are not entered or cleared in accordance with the provisions of that subsection shall be forfeited and may be sold or disposed of by the Commissioner-General in accordance with the provisions of sections *two hundred and three to two hundred and five*.

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

(Act No. 4 of 1999)

Issuing or
reissuing of
bonded
warehouse
licence

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

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

(Act No. 4 of 1999)

Storing of goods in warehouse without payment of duty

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

(2) Deleted by Act No. 4 of 1999

(3) The manufacturer or other person who becomes the owner of any goods liable to excise duty or surtax before that duty or surtax becomes due for payment may, before such excise duty or surtax has been paid, warehouse the goods without payment of duty or surtax in any warehouse duly licensed in terms of section *fifty-five*.

(As amended by Act No. 4 of 1999)

Removal of goods from warehouse

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

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

Provided that—

- (a) if any deficiency has already been accounted for in terms of subsection (4), duty shall only be paid on the actual quantity of goods to be delivered for consumption in Zambia; and
- (b) the payment of excise duty and or surtax on hydrocarbon oils and oil products manufactured by a licensed manufacturer in Zambia and stored in a bonded warehouse licensed for that purpose, shall be as provided for in regulations or rules made under this Act.

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

- (a) entry shall not be made of or duty paid on wet goods which are—
 - (i) removed in the prescribed manner and in accordance with prescribed conditions from a warehouse to a place on or a part of licensed premises approved by the Commissioner-General for regauging, racking, blending, mixing, reducing, fining, bottling or other manipulation; and
 - (ii) returned to the warehouse from which they were removed; and
- (b) duty shall not be paid on goods which are released from a bonded warehouse in accordance with any entry for re-warehousing or for in-bond export as cargo or as ship, aircraft or vehicle stores, duly made and passed by the Customs Division in accordance with this Act and any regulations or rules made thereunder.

(4) If at any time warehoused goods are found to be missing from a warehouse without having been cleared from such warehouse in accordance

with this Act or any regulations or rules made thereunder or are found to be less in quantity than that which was declared and accepted at the time of their entry into the warehouse, duty shall be due and payable on any such missing goods or such deficiency:

Provided that—

- (a) in case of—
 - (i) wet goods;
 - (ii) oil in bulk storage tanks;
 - (iii) petrol and any other spirit derived from petroleum shale or coal tar, in bulk storage tanks; and
 - (iv) such other goods as may be prescribed;

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

- (b) nothing contained in this subsection shall be deemed to release the owner of any goods or the owner or operator of any warehouse from liability to prosecution under the provisions of this Act for the removal of goods from a warehouse without entry thereof; and
- (c) any deficiency in the goods in a warehouse, except a deficiency not in excess of that specified by or in accordance with the provisions of regulations made under this Act, shall, in the absence of proof to the contrary, be deemed to have come about by the removal of goods from the warehouse without entry.

(5) The duty on missing or deficient goods pursuant to subsection (4) shall constitute a debt due to the Republic by the owner or operator of the warehouse and the importer or owner of the goods who shall be jointly and severally liable and; notwithstanding any appeal thereto, such duty shall be paid within ten days of the issue by the Commissioner-General of a notice of claim thereof.

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

(As amended by No. 18 of 1960, G.N. No. 407 of 1963 and Acts No. 16 of 1996 and No. 4 of 1999)

Bonded goods
as stores for
aircraft or ships

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

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

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

60. Repealed by Act No. 4 of 1999

Liability of goods to duty at date of entry for consumption

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

(As amended by Act No. 4 of 1999)

When warehoused goods shall be cleared

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

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

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

(Act No. 4 of 1999, and Act No.1 of 2003)

Sorting, repacking or destroying goods under customs authority

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

- (a) the owner of, or person having control over, warehoused goods to sort, separate, pack, or repack any such goods and to make such alterations or arrangements as may be necessary for the preservation of those goods, or for the sale, exportation, or other legal disposal of the goods, and, in the case of wines and spirits, to bottle from bulk stocks or to break down from greater to less strengths;
- (b) the assembly, blending, mixing, conversion or manufacture in bond of any goods wholly or partly consisting of materials liable to duty.

(2) When any goods referred to in subsection (1) are entered for consumption, duty shall be paid upon any material contained therein liable to duty or consumed in the processing or manufacture thereof and, when such duty is payable on value, the value of such materials as accepted at the time of their warehousing in Zambia, shall be their value for duty purposes.

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

(Act No. 4 of 1999)

Transfer of ownership of goods warehoused

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

(As amended by Act No. 16 of 1996)

Warehouses may be locked by an officer

65. The Commissioner-General may cause any bonded warehouse to be locked with a customs lock for so long as the Commissioner-General considers fit, and no person shall during such period remove or break such lock or enter such warehouse or remove any goods therefrom without the permission of the Commissioner-General.

(Act No. 4 of 1999)

Taking stock and duty on deficiencies

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

Sampling of warehoused goods

67. (1) An officer may permit—

- (a) the taking, subject to such conditions as may be prescribed, of samples of warehoused goods by the owner or importer of the goods; and
- (b) the payment of duty on samples taken in terms of paragraph (a) to be deferred until the consignment of the goods from which the samples were taken is entered for consumption or for removal or export in bond.

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

(No. 18 of 1960 and No. 16 of 1996)

Remittal of duty on certain warehoused goods which are destroyed,

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

- (a) goods were destroyed by accident or lost by accident without going into consumption whilst in a bonded warehouse or place deemed to be a bonded warehouse in terms of subsection (6) of section *fifty-eight* or whilst in transit to a bonded warehouse or in transit for export in bond or export in bond as ship, aircraft or vehicle stores or when removed from a bonded warehouse in terms of sub-paragraph (i) of paragraph (a) of subsection (3) of section *fifty-eight*; and
- (b) every reasonable effort was made and precaution taken to prevent their loss or destruction;

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

(2) The Commissioner-General shall remit the duty due upon warehoused goods which, with the consent of the Commissioner-General, are destroyed under customs supervision.

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

Failure to pay duty by importer or owner of warehoused goods

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

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

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

(Act No. 4 of 1999)

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

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

(Act No. 4 of 1999)

Responsibility for goods placed in a bonded warehouse

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

(As amended by Act No. 16 of 1996)

PART VII

ORDINARY DUTIES AND DUMPING DUTIES

Definition of production of goods

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

(As amended by Act No. 4 of 1999)

Customs duties

72. Subject to the provisions of section *seventy-nine*, there shall be charged, levied, collected, and paid in respect of goods imported into Zambia customs duties at the rates specified in the customs

tariff set out in the First Schedule, in this Act referred to as the customs tariff.

Export duties

72A There shall be charged, levied, collected and paid in respect of goods exported from Zambia export duties at the rates specified in the export tariff set out in the Ninth Schedule, in this Act referred to as the export tariff.

(As amended by G.N. No.407 of 1963, Acts No.16 of 1964, No.21 1966 and No.4 of 2005)

Determination of origin of manufactured goods

73. (1) For the purposes of this Act, the country of origin of any manufactured goods shall be deemed to be –

(a) the country in which the goods are wholly produced; or

(b) the country in which the value added to the goods as a result of the process of production accounts for at least thirty five per centum of the ex-factory cost.

(2) For purposes of paragraph (a) of subsection (1), the following shall be considered to be wholly produced in country:

(a) mineral products extracted from the ground or sea-bed of a country;

(b) vegetable products harvested within a country;

(c) live animals reared within a country;

(d) products obtained from live animals within a country;

(e) products obtained by hunting or fishing conducted within a country;

(f) products obtained from the sea and from rivers and lakes within a country by a vessel of that country;

(g) products manufactured in a factory of a country exclusively from products referred to in paragraph (d); and

(h) scrap and waste resulting from manufacturing operations within a country.

(As amended by Act No. 21 of 1966, and Acst No. 1 of 2003 and No.4 of 2004)

Interpretation

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

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

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

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

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

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

“subsidised goods” means-

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

(Act No. 4 of 1999)

Complaint
against goods

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

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

the Minister may by statutory order determine that-

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

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

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

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

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

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

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

(Act No. 4 of 1999)

Extent of
injury

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

- (a) the volume of the dumped or subsidised imports;
- (b) the effect of the dumped or subsidised imports on prices in the Zambian market for like goods; and
- (c) the consequent impact of the dumped or subsidised imports on the relevant Zambian industry.

(2) Without limiting the generality of subsection (1) the Minister shall have regard to the following matters:

- (a) the extent to which there has been or is likely to be a significant increase in the volume of dumped or subsidised imports of the goods either in absolute terms or in relation to production or consumption in Zambia;
- (b) the extent to which the effect of the dumped or subsidised imports is or is likely significantly to depress prices for the goods in Zambia or significantly prevent price increases for the goods which otherwise would have occurred; and
- (c) the economic impact of the dumped or subsidised imports on the industry including—
 - (i) actual and potential decline in output, sales market share, profits, productivity, return on investments, and utilisation of production capacity;
 - (ii) factors affecting domestic prices; and

- (iii) actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

(Act No. 4 of 1999)

Provisional
dumping or
countervailing
duty

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

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

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

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

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

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

(Act No. 4 of 1999)

Application of
dumping and
countervailing
duty

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

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

(3) Where the Minister determines—

- (a) in respect of dumped goods:

- (i) that there is a history of dumping causing material injury or that the importer was or is aware that the goods were dumped and that such dumping would cause injury; or
 - (ii) that the material injury is caused by substantial dumped imports of a product in a relatively short period to such an extent that in order to prevent it recurring the Minister is of the opinion that it is necessary to levy a dumping duty retrospectively;
- (b) in the case of subsidised goods, where the Minister determines that material injury is caused by substantial imports, in a relatively short period, of goods benefiting from export subsidies paid or bestowed inconsistently with the provisions of the General Agreement on Tariffs and Trade 1994 and the Agreements thereto relating to anti-dumping and countervailing measures, and for the purpose of precluding the recurrence of such material injury, the Minister imposes a countervailing duty retrospectively;-

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

(Act No. 4 of 1999)

Provisional
duty on
imported goods

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

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

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

(Act No. 4 of 1999)

Powers on an
inquiry on
subsidised or
dumped goods
Cap. 41

75E. (1) The Commissioner-General or other person undertaking an inquiry relating to subsidised or dumped goods shall have the powers, rights, privileges and duties conferred or imposed on a Commissioner by the Inquiries Act.

(2) The provisions of the Inquiries Act shall apply to an inquiry held for the purpose of investigating a complaint against subsidised or dumped goods and to a person summoned to give evidence, or giving evidence at such inquiry.

Cap.41

(Act No. 4 of 1999)

Excise duties

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

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

Payment of excise duty on imported goods

76A In respect of any imported goods that are of a kind or class subject to excise duties in terms of section *seventy-six* there shall, in addition to such other duties imposed by this Act or any other written law, be charged, levied collected and paid excise duties at the rates specified in the excise tariff.

76B There shall be charged, levied, collected, and paid in respect of services rendered, imported into or provided within Zambia excise duties at the rates specified in the service excise tariff set out in the Eighth Schedule, in this Act referred to as the service excise tariff.

(Acts No. 4 of 1999 and No.4 of 2004)

Surtax

77. (1) There shall be charged, levied, collected, and paid in respect of

(a) goods which are imported into or manufactured or produced in Zambia;

(b) Carbon emissions from motor vehicles:

surtax at the rates specified in the surtax tariff set out in the Fourth Schedule, in this Act referred to as the surtax tariff.

(2) The Commissioner-General shall issue a carbon emission tax certificate upon payment of a surtax, at the rate specified in the Fourth Schedule, in respect of the carbon emissions referred to in paragraph (b) of subsection (1).

(As amended by G.N. No.407 of 1963, G.N. No.143 of 1964, Acts No.16 of 1964 and No. -of 2006)

78. Repealed by Act No. 4 of 1999

Duties payable subject to certain provisions

79. (1) Subject to the provisions of subsection (2), the duties imposed under this Act shall be subject to all of the provisions of this Act, relative to agreements, suspensions, rebates, refunds, drawbacks, or remission of duty, or to the warehousing of goods.

(2) The provisions of this Act relative to agreements, suspensions, rebates, refunds, drawbacks or remissions of duty shall not apply to any dumping or countervailing duties imposed by the Minister pursuant to

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

(Act No. 4 of 1999)

80. Repealed by Act No. 4 of 1999

PART VII A
SAFEGUARD MEASURES

80A. In this part unless the context other requires- “domestic industry”

Means-

(a) the producers as a whole of a product within the Republic which
Are like or directly competitive with the investigated product;

And

(b) Producers operating within the Republic whose collective output of products which are like or directly competitive with the investigated product constitute a major proportion of the total domestic production of those products;

“Safeguard investigation “means an investigation into whether increased imports of the investigated imports of the investigated product have caused serious injury to the domestic industry; and
“Safeguard measure” means the temporary imposition of customs tariffs or quantitative restrictions or a combination thereof in response to an affirmative determination in a safeguard investigation to prevent or remedy serious injury to the domestic industry; and

“Safeguard measures” shall be construed accordingly.

Interpretation of Part
VII A

Application of Safeguard measures
CAP 421

80B. (1) Where the Minister responsible for Commerce, trade and industry determines pursuant to section *four* M of the Control of Goods Act to impose Provisional safeguard measures, the Minister, shall, in consultation with the Minister responsible for Commerce, trade and industry, by statutory order, effect a provisional increase in customs tariffs on any goods entered for consumption on or after the date of statutory order.

(2) The statutory order referred to in subsection (1) shall state-

- (a) the rate of increase in customs tariffs
 - (b) the proposed date of application of the provisional safeguard measures; and
 - (c) the proposed duration of the provisional safeguard measures
- (3) Subject to subsection (4), where the minister imposes Provisional safeguard measures on any goods under subsection (1), the owner or importer of such goods shall lodge with the Customs Division a monetary deposit equivalent to the Duties due at the rate of the increased customs tariffs.
- (3) Notwithstanding the provisions of subsection (3) the owner or Importer of the goods referred to in subsection (1) may guarantee the provisional increased tariffs with sufficient security approved by the Commissioner-General.

Refunds and Releases

80C. (1) Where provisional safeguard measures have been imposed pursuant to section *eighty B* and the subsequent safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act, do not result in a determination that the conditions for imposing definitive safeguard measures exist, the monetary deposit paid as increased customs tariffs and any security lodged with the Customs division in accordance with section subsection (3) of section *eighty B*, shall be refunded or released, as the case may be within a period of not more than sixty days from the date of the claim.

- (2) Where safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act result in a determination that the conditions for imposing definitive safeguard measures exist the monetary deposit paid as increased customs tariffs and any security lodged with the Customs Division shall be converted into tax due under this Act.

Imposition, extension or liberalization of definite safeguard measures

80 D (1) Where safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act have resulted in a determination to impose extend or liberalize a definitive safeguard measure, the Minister, shall, in consultation with the Minister responsible for commerce, trade and industry, by statutory order, implement the definitive safeguard measure.

- (2) The statutory order referred in subsection (1) shall prescribe-
 - (a) the rate of increase in customs tariffs;
 - (b) the proposed date of application of the definitive Safeguard measure;
 - (c) the proposed duration of the definitive safeguard

Measure; and

(d) the names of the developing countries exempted from the definitive safeguard measure

(3) Where the period specified under paragraph (c) of subsection (2) is no longer than one year, including the period of the provisional safeguard measure, the Minister shall prescribe a time schedule for the progressive liberalization of the definite safeguard measure.

Provisions of the Act with respect to safeguard measures

80E. The provisions of this Act in respect of agreements, suspensions, rebates, refunds, drawbacks, or remissions of duty shall not apply to any safeguard measures imposed by the Minister pursuant to sections *eighty B or eighty D* unless such application is, in each case, specifically approved by the Minister, by statutory instrument.

Regulations

80F. The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this part and for prescribing anything which by this Act is required to be prescribed.

(Act No.11 of 2004)

PART VIII AGREEMENTS

President may enter into customs agreements

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

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

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

Minister may make regulations to give effect to agreements

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

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

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

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

84. Repealed by Act No. 4 of 1999

PART IX

VALUE FOR DUTY PURPOSES

Importer to specify customs value

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

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

- (a) keep the documents, records and information in respect of that entry in such manner and for such period as is required by or under this Act; and
- (b) when required by the Customs Division, produce documents, records and information kept under paragraph (a) for the purpose of establishing the accuracy of the assessment.

(Act No. 4 of 1999)

Amendment of valuation assessment

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

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

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

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

- (a) an amended assessment made pursuant to subsection (1); and
- (b) the basis for the amended assessment, and where applicable, the provisions of the Fifth Schedule to this Act that are relevant to the amended assessment.

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

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

(Act No. 4 of 1999)

Foreign
currency to be
converted into
Zambian
currency

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

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

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

(Act No. 4 of 1999)

Assessment of
excise duty due
on importation

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

(Act No. 4 of 1999)

Assessment of
excise duty and
surtax on
goods
manufactured
in Zambia

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

(Act No. 4 of 1999)

Valuation of
exports

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

(Act No. 4 of 1999)

PART X

REBATES, REFUNDS, AND REMISSIONS OF DUTY

Suspension and rebate of certain duties

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

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

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

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

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

(As amended by No. 24 of 1955, Nos. 16, 20 and 29 of 1956, No. 15 of 1958, No. 18 of 1960, No. 4 of 1962, No. 3 of 1963, G.N. No. 407 of 1963, G. N. No. 13 of 1964, Act No. 16 of 1964, S.I. No. 173 of 1965, Acts No. 30 of 1965, No. 21 and 54 of 1966, No. 16 of 1996 and No. 4 of 1999)

Claims for exemption; burden of proof on claimant

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

Goods for President to be exempt from duty

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

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

Refunds generally

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

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

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

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

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

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

PART XI

EXCISE AND SURTAX MANAGEMENT

Licence to
manufacture
goods liable to
excise duty or
surtax

93. (1) Subject to the provisions of sections *ninety-four*, *ninety-five* and *ninety-six*, no person shall manufacture on any premises any goods subject to excise duty or surtax or any potable liquid, other than honey beer, containing more than two per centum of alcohol by volume otherwise than in accordance with the conditions of a license issued in accordance with section *ninety-seven* of this Act.

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

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

(Act No. 4 of 1999 as amended by Act No.1 of 2002)

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

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

- (a) fermented liquor, other than opaque beer, containing not more than two per centum of alcohol by volume; and
- (b) tobacco in the form of cigars, cigarettes, pipe tobacco or snuff when made from manufactured tobacco on which duty has been paid or from roll tobacco.

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

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

(Act No. 4 of 1999)

Authority to
manufacture
goods without
licence and
without
Payment of
duty

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

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

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

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

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

(Act No. 4 of 1999, and Act No.1. of 2003)

Power of
Commissioner-
General to
authorise
manufacture of
certain goods

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

(2) The licensing requirements of section *ninety-three* shall not apply in respect of opaque beer manufactured in accordance with subsection (1) and the beer manufactured, consumed or disposed of in terms of that subsection shall not be liable to duty.

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

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

(Act No. 4 of 1999)

Licensing of
manufacturers

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

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

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

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

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

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

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

(7) Notwithstanding subsection (2), the Commissioner-General may waive the requirement for applicants for the renewal of excise licences to re-submit certain documents provided that there has been no material change in the premises, equipment, process of manufacture or such other matters as the Commissioner-General may determine.

(Acts No. 4 of 1999 and No.---- of 2006)

Refusal or suspension of licence

98. (1) If a licensed manufacturer fails to comply with any terms or conditions of the licence or provision of this Act or regulations or rules made there under or with any instruction made or given by the Commissioner-General in connection with the administration of this Act, the Commissioner-General may suspend or revoke the licence or refuse to renew it.

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

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

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

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

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

(Act No. 4 of 1999, and Act No.1 of 2003)

Appeals

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

(Act No. 4 of 1999, and Act No.1 of 2003)

Surrender of licence

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

(Act No. 4 of 1999)

Authorised
premises

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

(Act No. 4 of 1999)

102. Repealed by Act No. 4 of 1999

103. Repealed by Act No. 4 of 1999

104. Repealed by Act No. 4 of 1999

105. Repealed by Act No. 4 of 1999

106. Repealed by Act No. 4 of 1999

107. Repealed by Act No. 4 of 1999

Duties of
licensed
manufacturer

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

- (a) maintain in such form and manner as may be required under the terms and condition of the licence and otherwise by any regulations or rules made under this Act, a record of—
 - (i) all goods received into the licensed premises;
 - (ii) all goods manufactured or produced on the licensed premises;
 - (iii) all goods removed from the licensed premises;
 - (iv) all goods consumed, lost, or otherwise disposed of during any process of manufacture or production;
 - (v) all stock on hand including input stock and products whether or not fully or partially manufactured or produced;
 - (vi) all excise duty or surtax paid or payable.
- (b) Submit in such form and manner as may be required or permitted under the terms and conditions of the licence and otherwise by any regulations or rules made under this Act, a return of all manufacturing and business activity undertaken in the preceding month and a duly completed entry in the prescribed form accounting for all goods, not already accounted for in bond or other entry, that have been removed from the licensed premises or otherwise disposed of during that month.

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

(3) The return and entry required under this section shall be submitted on or before the twentieth day of the month following that month to which the return relates and any amount of duty and surtax on the return shall be due and payable within five days of the issue of a notice of an assessment thereof;

(4) Where a manufacture licensed under the Act fails to make payment within the time allowed under this Act, the manufacture shall pay additional duty as specified in section *one hundred and seventy-one* of the Act; and

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

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

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

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

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

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

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

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

(Act No. 4 of 1999 as amended by Act No. 3 of 2000)

Cigarette
tax
stamps

108A (1) Subject to section one hundred and eight, any person who manufactures distributes or imports cigarettes shall affix a cigarette tax stamp, in the prescribed form, to each individual package of cigarettes in such a manner as may be prescribed by the Commissioner – general.

(2) Any person who contravenes subsection (1) commits an offence.

(3) In subsection (1) “cigarette tax stamp” means such mark, whether in electronic form or otherwise, as the Minister may, by statutory instrument, prescribe.

(As amended by Act No. ---- of 2006)

Records to be kept on licensed premises

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

(Act No. 4 of 1999)

Stocktaking

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

(Act No. 4 of 1999)

Duty to be paid on surplus

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

(No. 18 of 1960 and No.16 of 1996)

Duty to be paid in respect of deficiency in stock, etc.

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

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

(a) goods liable to duty were—

- (i) lost in the course of and by reason of the process of their manufacture; or
- (ii) destroyed by accident, or lost by accident without going into consumption, in the course of manufacture; or
- (iii) destroyed by accident or lost, by accident or otherwise, without going into consumption, in the course of manipulation;
- (iv) in or at a place on licensed premises which is not a place deemed to be a warehouse in terms of subsection (6) of section *fifty-eight*; or

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

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

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

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

Entry and search of premises

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

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

(As amended by Act No. 4 of 1999)

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

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

- (a) any process in the manufacture is to be carried on; and
- (b) materials for use in manufacture and manufactured goods liable to excise duty or surtax respectively are to be kept.

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

(As amended by Act No. 4 of 1999)

Supervision of operations

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

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

- (a) of a pattern or type approved by the Commissioner-General; and
- (b) installed, marked, numbered and distinguished in accordance with the provisions of this Act and any regulations or rules made thereunder.

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

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

116. For the purpose of calculating the full quantity of goods liable to excise duty or surtax which have been produced on any licensed premises, tables may be prescribed showing the quantity of such goods which shall be

deemed to have been produced from a given quantity of material, or the quantity of fully manufactured goods which shall be deemed to have been produced from a given quantity of partly manufactured goods.

Obligations of manufactures of goods liable to excise duty or surtax

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

(Act No. 4 of 1999)

Licensee to provide storerooms, plugs, taps, etc.

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

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

(As amended by Act No. 4 of 1999)

Damages to locks, pipes, safes, etc.

119. (1) If on any licensed premises any meter, rod, lock, key, or fitting is tampered with or damaged, or if any pipe, cock, fastening or fitting connected with a safe, receiver, or charger is pierced or damaged, the licensee shall forthwith repair or renew the article in question to the satisfaction of the Customs Division and if such repair or renewal is not undertaken forthwith an officer may effect such repair or renewal or cause such repair or renewal to be effected by a third party at the expense of the licensee.

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

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

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

(As amended by Act No. 4 of 1999)

Erection of safes, receivers, and requisites in connection therewith

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

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

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

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

(4) Only such rods and revenue locks and keys as shall be approved and provided by the Commissioner-General at the Authority's expense shall be used in any distillery. Every safe and receiver shall be kept locked unless opened for a lawful purpose under the supervision of an officer.

(As amended by Act No. 16 of 1996)

Vats and butts

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

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

(As amended by Act No. 4 of 1999)

Ascertaining capacity of distillery, refinery tanks, etc.

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

(As amended by Act No. 24 of 1973)

Strength to be as denoted by Gay Lussacs' Hydrometer

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

(As amended by Act No. 20 of 1992)

Spirits store

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

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

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

Receipt into spirits store

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

(2) No spirits which have been removed from the licensed premises of a distiller shall be brought back into a spirits store.

Storing of manufactured wines

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

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

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

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

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

Removal of and securing of duty on spirits or wines

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

Opening of store in the absence of an officer

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

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

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

Prohibitions in respect of brewing

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

Prohibitions in respect of worts, wash, low-wines etc.

132. A distiller shall not in distillery—

- (a) use or add to any worts, wash, low-wines, feints, or spirits any substance which interferes with the ascertaining by means of a saccharometer or hydrometer of their specific gravity or true strength;
- (b) without the written permission of the Customs Division previously obtained, have in his distillery any worts or wash not made in that distillery, or mix any worts or wash made in his distillery with worts or wash made elsewhere.

(As amended by Act No. 4 of 1999)

Spirits, worts, etc., illicitly kept

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

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

134. Any person who—

- (a) removes or permits to be removed from licensed premises any tobacco in respect of which any contravention of or non-compliance with this Act has taken place; or
- (b) sells, offers or exposes for sale or has in his possession for sale, any tobacco in respect of which any contravention of or non-compliance with this Act has to his knowledge taken place;

shall be guilty of an offence.

Using or supplying unauthorised or previously used stamp labels to be an

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

Restriction of weight of cigarettes which may be manufactured

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

(As amended by G.N. No. 407 of 1963 and Act No. 1 of 1979)

Removal of goods liable to excise duty or surtax

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

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

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

- (a) within twenty days from the cessation of manufacturing activity render to the Customs Division a true and complete return of all manufacturing and business activity since the last monthly return and;
- (b) submit to the Customs Division an entry in the prescribed form accounting for all stock on hand and all stock sold or otherwise disposed on which excise duty or surtax has not been paid together with a bank certified cheque for the amount of excise duty and or surtax payable.

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

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

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

(Act No. 4 of 1999, and Act No.1 of 2003)

Loss of goods liable to excise duty or surtax in warehouses

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

(As amended by No. 24 of 1973 and No. 16 of 1996)

PART XIA

MANAGEMENT OF EXCISE DUTY ON SERVICES

139A. In this part unless the context otherwise requires-

“rendering a service” means providing a mobile cellular telephone service;

Interpretation

“service” means a mobile cellular telephone service liable to excise duty;

“service provider” means a service provider licensed under section *one hundred and thirty-nine D*; and

“talk time” means the minutes of calls a subscriber makes from a mobile cellular telephone.

Licensing of
service
providers

139B. (1) Subject to the provisions of section *one hundred and thirty-nine*, a person shall not render services which are liable to excise duty except in accordance with this part and under the authority of a license issued under section *one hundred and thirty-nine D*.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding three years, or both.

(3) Notwithstanding the penalty in subsection (2) all the machinery, equipment and materials used in rendering services liable to excise duty in contravention of subsection (1) shall be liable to seizure in accordance with the provisions of section *one hundred and sixty-two*.

(4) The provisions of section *one hundred and sixty-two* shall apply, with necessary modification, to the seizure of machinery, equipment and materials referred to in subsection (3).

Application
for Licence

139C. (1) a person may apply to the Commissioner-General for a license to render services liable to excise duty.

(2) An application under subsection (1) shall –

(a) be in such form as the Minister may, by statutory instrument, prescribe; and

(b) specify the following:

(I) the name of the service provider;

(II) the principal place of business of the service provider;

(III) the premises at which, and the machinery and equipment with which the services shall be provided;

(IV) the business, the shareholders of the service provider, its assets, related business and accounting practices; and

(V) such other information as the Commissioner-General may require.

139D. (1) The Commissioner-General shall, within thirty days of receipt of an

Issue of
Licence

application for a licence under section *one hundred and thirty-nine C*, issue a licence
Subject to such terms and conditions as the Commissioner-General may impose.

(2) A Licence issued under subsection (1) shall expire on the 31st December in
the year in which the Licence was issued and may be renewed by the Commissioner-
Commissioner-General.

Commissioner-
General may
authorise
service provider
to render
services without
licence or

(3) A Licence shall be issued or renewed upon payment of a prescribed licence

139E. (1) Notwithstanding section one hundred and thirty-nine B, the

Commissioner General may, subject to the provisions of this part and any rules made
thereunder, authorise a service provider without a licence to render services liable to excise
duty on an experimental or trial basis:

Provided that the services so rendered shall not be for sale or disposal for profit and shall be
rendered without the payment of duty.

(2) Any service provider who being authorised by the Commissioner-General to render
services in terms of subsection (1) sells or disposes of such services for profit commits an
offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand
penalty units or to imprisonment for a term not exceeding three years or both.

Surrender
of licence

139F. Where the business of a licensed service provider is sold or a licensed service
provider wishes to relocate its operations to new premises the licence shall be deemed to
have been surrendered as at the date of the sale or relocation unless prior to the sale or
relocation the written approval of the Commissioner-General is obtained and all the terms
and conditions imposed by the Commissioner-General at the time of the approval have been
fulfilled to the satisfaction of the Commissioner-General.

Duties of
licensed
service
provider

139G. (1) Every service provider licensed under this part shall-

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

- (i) all talk time sold
- (ii) all talk time consumed, lost, or otherwise disposed of
during any process of rendering the service; and
- (iii) all excise duty paid or payable;

(b) submit in such form and manner a return of all talk time sold in the preceding month and
duly completed entry in the prescribed form accounting for all talk time disposed of during
that month.

(2) The return and entry required under this section shall be submitted on or before the
twentieth day of the month following the month to which the return relates and any amount
of duty on the return shall be due and payable within five days of issuance of a notice of an
assessment thereof.

(3) A service provider who is licensed under this part and who fails to lodge a return within
the time allowed by or under this Act shall pay a penalty of –

(a) one thousand penalty units; and

(b) an additional one hundred penalty units for each day the return is not lodged.

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

(5) Any assessment made by the Commissioner-General under subsection (4) shall be deemed to be correct assessment for the purposes of section *one hundred and thirty-nine H* and shall be due and payable within five days following the issue of the notice of assessment thereof.

(6) Where a service provider licensed under this part fails to make payment as required under subsection (5) the duty specified in the assessment made under subsection (4) shall constitute a debt due to Government which debt shall be dealt with in accordance with the provisions of this Act.

Duty payable to constitute debt to Government.

139H. The duty payable in respect of any service liable to excise duty shall, from the time when it is due, constitute a debt due to the Government from the service provider concerned, and shall, any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Commissioner-General.

Records to be kept on licensed premises.

139I. The records maintained pursuant to section *one hundred and thirty-nine G* shall be kept on the service provider's premises, whether or not in electronic or written form and shall be made available to the Customs Division at any time on request by an officer.

139J. For the purposes of verifying the information submitted by a service provider under section *one hundred and thirty-nine C*, an officer may, at anytime, enter any part of any licensed service provider's premises and take stock of, or value, all the equipment and materials at hand.

139K. (1) An officer may at all times enter and search the premises any service provider licensed in terms of section *one hundred and thirty-nine D* or the premises of any person who renders services liable to excise duty and who is suspected of providing such services in contravention of or without complying with the provisions of this part, and may seize upon such premises all books, accounts, or documents relating to the services, in respect of which a contravention of, or non-compliance with, this part is suspected of having taken place.

(2) An officer may remove all the machinery, equipment and materials used in rendering services liable to excise duty in contravention of, or without complying with the provisions of, this part or pending removal seal the premises in which the services are so rendered.

Obligation of service provider

139L. Every service provider licensed under this Part shall, at the premises specified in their licence, provide free of charge, such accommodation and other facilities as the Commissioner-General may determine to enable officers to exercise their powers of inspection and supervision under this Act.

Procedure on cessation of service provider to render service

139M. (1) Where a service provider licensed under this part intends to cease the provision of the service in respect of which the licence was issued, the service provider shall give to the Commissioner General not less than one month's prior written notice of that intention and shall-

(a) within twenty days from the date of ceasing to provide the service lodge with the Customs Division a true and complete return of all talk time sold and business activity since the last monthly return; and

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

(2) Nothing contained in this section shall be deemed to deprive the Republic of any right it may have against the property or estate of the service provider or those of its sureties in respect of any duty which may remain unpaid after cessation of business activity and shall not relieve the service provider of liability to prosecution under this Act.

(Act No.4 of 2004)

PART XII

OFFENCES, PENAL PROVISIONS, AND PROCEDURE

False statements by persons arriving in Zambia

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

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

False invoices, false representation and forgery

141. (1) Any person who—

- (a) produces any false invoice or an invoice framed so as to deceive, or makes any false representation in regard to the nature, the quantity or the value of any goods or the country in which such goods were grown, produced, or manufactured;
- (b) forges any document required under this Act or any law relating to customs or excise;
- (c) under false pretences or with intent to defraud or to evade the provisions of this Act or any law relating to customs or excise or by making any false statement, affidavit, or declaration procures or attempts to procure any such document as is mentioned in paragraph (b);
- (d) being required to make or render any report, statement, document, bill of entry, declaration, or return, or to supply any information demanded or asked for, or to answer any question, neglects or refuses to do so, or makes or renders any untrue or false report, statement, document, bill of entry, representation, declaration, return or answer, or conceals or makes away with any goods required to be accounted for by this Act or any law relating to customs or excise;

- (e) imports or attempts to import, or assists in, or is accessory to, or connives at the importation or attempted importation of any goods illegally or without payment of the duty thereon; or
- (f) deals with or assists in dealing with any goods contrary to the provisions of this Act or any law relating to customs or excise;

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

(2) Any person who—

- (a) uses or attempts to use any document which has been forged with intent to defeat the provisions of this Act or any law relating to customs or excise;
- (b) otherwise than in accordance with the provisions of this Act, buys or receives or has in his possession any goods required to be accounted for by this Act or any law relating to customs or excise before they have been so accounted for; or
- (c) otherwise than in accordance with the provisions of this Act, has in his possession any goods liable to forfeiture under this Act or any law relating to customs or excise;

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

- (i) that the document was forged;
- (ii) that duty on the goods had not been paid or secured or that the goods had not been accounted for in terms of this Act or any law relating to customs or excise; or
- (iii) that the goods were liable to forfeiture;

as the case may be.

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

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

Possession of
blank invoice

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

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

Obstruction of officers

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

Removing, altering or defacing marks or seals

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

(As amended by Act No. 24 of 1973 and Act No. 4 of 1999)

Certain responsibilities of master, pilot or person in charge of vehicle

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

- (a) the lock, mark, or seal is not opened, altered, or broken;
- (b) such goods are not secretly removed; and
- (c) such hatchways are not opened without the consent of an officer;

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

(2) Whenever any lock, mark, or seal has been placed by an officer upon any valve, meter, or other appliance or apparatus used to control or record the flow of goods through or from a pipeline, or upon any inspection plate, hatch or access to such pipeline, the operator of the pipeline shall ensure that the lock, mark, or seal is not opened, altered, or broken without the prior authority of an officer and, if he fails so to ensure, the operator of the pipeline shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent any such act.

(As amended by Act No. 48 of 1968, No. 24 of 1973 and No. 4 of 1999)

Removing or breaking locks placed on warehouse

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

Failure to make full declaration of sealable goods

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

- (a) the master of a ship, the pilot of an aircraft, or the person in charge of a vehicle fails to make a full disclosure of any

sealable goods which are the unconsumed stores of the said ship, aircraft, or vehicle; or

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

Such master, pilot, person, or member of the crew aforesaid shall be guilty of an offence.

Bribery,
collusive
seizure or
agreement not
to seize

148. (1) If any officer makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any ship, aircraft, vehicle, goods, or other things liable to forfeiture under this Act or any other law relating to customs or excise, or takes or receives any bribe, fee, recompense, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly, from any person for the neglect or non-performance of the officer's duty in any of these respects the officer shall be guilty of an offence.

(2) Any person who gives or promises to give or offers or procures to be given, any bribe, fee, recompense, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, or makes any collusive agreement with any such officer to induce that officer in any way to neglect the duty of the officer in any of these respects or to do anything in conflict with the duty, or to do, or conceal, or connive at anything whereby the provisions of this Act may be evaded, shall be guilty of an offence.

(Act No. 4 of 1999)

Smuggling

149. Any person who—

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

shall be guilty of an offence.

Importation of
prohibited or
restricted
goods to be an
offence

150. If any goods are imported into Zambia in contravention of section *forty* or *forty-one*, the person importing them and any person who assists in or connives at their importation shall be guilty of an offence.

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

Miscellaneous
offences

151. Any person who—

- (a) supplies the means or materials for, or assists in establishing or repairing, maintaining, or working any still or distilling apparatus used or to be used in the production or refining of alcohol other than within premises licensed in accordance with section *ninety-seven* of this Act;

- (b) has upon his premises or in his custody or under his control, or purchases, sells, or otherwise disposes of any goods liable to excise duty or surtax, which have been manufactured in breach of the provisions of this Act, unless such person proves that he or she was unaware that such goods were so manufactured;
- (c) is found without lawful excuse in any place where the illegal manufacture of goods liable to excise duty or surtax is being carried out;
- (d) without lawful authority imports any goods liable to excise duty or surtax after they have been exported from Zambia;
- (e) not being a person licensed to manufacture goods liable to excise duty or surtax, has, without lawful authority, in his possession, custody, or control any manufactured or partly manufactured goods liable to excise duty or surtax upon which such duty or surtax has not been paid;
- (f) falsely holds himself out to be an officer;
- (g) fraudulently claims a refund, rebate, remission, or drawback to which he is not entitled;
- (h) makes improper use of any licence, permit, or document issued under the provisions of this Act or any other law relating to customs or excise;
- (i) damages, destroys, or disposes of any goods in order to prevent the seizure thereof by an officer or any other person authorised to seize them;
- (j) in order to prevent the securing of any goods seized under this Act rescues, damages, or destroys such goods;
- (k) (k)any person apprehended for any offence against the provisions of this Act or prevents any such apprehension; or
- (l) imports any goods in pursuance of a bill of entry in which a false declaration has been made;

shall be guilty of an offence.

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

Warehousing
irregularities

152. If any goods entered for warehousing—

- (a) are not carried into and deposited in the warehouse;
- (b) after deposit in the warehouse, are taken out of the warehouse without entry and clearance; or
- (c) having been entered and cleared for exportation, are not duly exported;

the owner of such goods, or the proprietor or occupier of the warehouse, or the person responsible for the handling of the goods, shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent

the act which constituted the offence, and, in addition to any other penalty which may be imposed, such goods shall be liable to forfeiture.

Offences by
licensed
manufacturer

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

- (a) fails to keep records required or permitted pursuant to the provisions of section *one hundred and eight* or fails to produce the records when required by an officer to do so;
- (b) fails to make in any such record any entry required to be made or fraudulently, or with fraudulent intent, makes any entry in such records;
- (c) erases, obliterates or otherwise deletes any entry made in such records;
- (d) mutilates or tears therefrom any leaf or page of any book or other documentary record;
- (e) as the manufacturer or through the agency or with the assistance of any other person destroys, conceals, or makes away with any such records or part thereof;
- (f) refuses to allow an officer at any time to inspect such records or obstructs or hinders any officer in such inspection;
- (g) neglects or refuses to furnish any return specified in section *one hundred and eight* within the time specified for the furnishing of such return;
- (h) sends in a false return; or
- (i) neglects or refuses to give such further information to his
- (j) operations in the manufacturer of goods liable to excise duty or surtax, or the disposal thereof, as an officer may from time to time require;

he shall be guilty of an offence, and, in addition to any other penalty which may be imposed, all goods subject to excise duty or surtax and all spirits, mixtures, compounds, or preparations of such goods found in his possession or on his premises shall be liable to forfeiture, whether or not excise duty or surtax has been paid thereon.

(As amended by Act No. 4 of 1999)

Offences
relating to the
use of ships,
aircraft or
vehicles

154. If—

- (a) any ship, aircraft, or vehicle is used in smuggling or in the unlawful importation, exportation, or conveyance of any prohibited or restricted goods;
- (b) any ship approaches the shores or banks of Zambia and fails to bring to for boarding upon being lawfully required to do so;
- (c) any ship loiters in the vicinity of the shores or banks of Zambia and does not depart within twenty-four hours after being required to depart by an officer; or

- (d) any goods on any ship, aircraft, or vehicle are thrown overboard, staved, or destroyed to prevent seizure;

the master of the ship, the pilot of the aircraft, or the person in charge of the vehicle, as the case may be, shall be guilty of an offence, unless he proves that he took all reasonable precautions to prevent the act which constituted the offence.

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

General
penalties

155. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence, even if it is not specifically stated that the person responsible for such contravention or non-compliance is guilty of an offence.

(2) Any person who is guilty of an offence under this Act for which no special penalty is provided shall be liable in respect of each offence—

- (a) to a fine not exceeding treble the duty-paid value of any goods which may be the subject-matter of the offence;
- (b) if treble the duty-paid value of such goods is less than eight thousand penalty units, or if there are no goods involved in the offence, to a fine not exceeding eight thousand penalty units;
- (c) to imprisonment for a period not exceeding five years;
- (d) to both such imprisonment and any such fine as is provided in paragraph (a) or (b).

(3) Without derogation from the powers contained in section *one hundred and sixty-two*, any goods which are the subject-matter of an offence under this Act shall be liable to forfeiture and, if such goods cannot be found or recovered, the court which convicts the offender may order the offender to pay to the Commissioner-General an amount equal to the duty-paid value of such goods. If such amount is not paid on demand, the Commissioner-General may recover it by civil action in a court of competent jurisdiction.

(4) Notwithstanding the fact that high maximum penalties are prescribed by this section, a court shall pay due regard to the circumstances of the offence and, in any case where the offender is not discharged with a caution or reprimand, shall impose only a moderate penalty, unless it is satisfied that the offence is of a serious nature. In judging the seriousness of an offence, the court may take into account, *inter alia*, the fact that the offence might have led to a serious loss of duty.

(As amended by No. 4 of 1962, Acts No. 1 of 1980, No. 20 of 1992, No. 13 of 1994 and No. 4 of 1999)

Concealed
goods

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

(As amended by Act No. 4 of 1999)

Forfeited packages, containers, or utensils

- 157.** (1) If any package is found to contain goods which—
- (a) are liable to forfeiture; or
 - (b) are being exported or have been imported or otherwise dealt with contrary to or not in accordance with—
 - (i) the provisions of any law, including this Act, relating to customs or excise; or
 - (ii) any law prohibiting, restricting or controlling the importation or exportation of such goods;

such package and the full contents thereof shall be liable to forfeiture.

(2) If any goods are forfeited, all casks, cases, containers, or utensils containing them shall also be forfeited.

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

Substitution of other goods for goods actually liable to seizure

158. Where any goods subject to duty become liable to seizure in terms of section *one hundred and sixty-two*, whether or not duty has been paid thereon, an officer may, instead of seizing those goods, seize from the stock of the person from whom those goods would have been seized—

- (a) in the case of spirits or potable liquor, the equivalent quantity, strength or bulk of other spirits or potable liquor, as the case may be;
- (b) in the case of goods, other than spirits or potable liquor, the equivalent quantity of other like goods liable to duty;

and the spirits, potable liquor or goods so seized shall be dealt with in terms of section *one hundred and sixty-two*.

(As amended by Act No. 16 of 1996)

Vehicles carrying goods liable to forfeiture

- 159.** (1) Subject to the provisions of subsection (2), any ship, aircraft, vehicle or other thing used for the removal or carriage of goods which —
- (a) are liable to forfeiture; or
 - (b) are being exported or have been imported or otherwise dealt with contrary to or not in accordance with—
 - (i) the provisions of any law, including this Act, relating to customs or excise; or
 - (ii) any law prohibiting, restricting or controlling the importation or exportation of such goods;

shall itself be liable to forfeiture.

(2) Any ship, aircraft, vehicle or other thing used for the removal or carriage of any goods referred to in subsection (1) shall not be liable to forfeiture, if the owner thereof shows that—

- (a) it was used for the removal or carriage of those goods without his express or tacit consent, or that of his agent; or
- (b) since its use in such removal or carriage it has been acquired for its true value by a person who was unaware at the time of his acquisition that it was liable to forfeiture in terms of this section.

(3) For the purpose of this section, “owner” includes the hirer under a hire-purchase agreement, or a trustee, or a person having legal custody and control.

(As amended by No. 36 of 1962, Acts No. 16 of 1996 and Act No. 4 of 1999)

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

160. (1) Any ship, aircraft or vehicle with false bulkheads, false bows, double sides or bottoms, or any secret or disguised place adapted for the purpose of smuggling goods shall be liable to forfeiture.

(2) Any suitcase, briefcase or other container with a false bottom or any secret or disguised place adapted for the purpose of smuggling goods shall be liable to forfeiture.

(3) Any person who uses any ship, aircraft, vehicle, suitcase, briefcase or other container referred to in subsection (1) and (2) shall be guilty of an offence.

(As amended by Act No. 16 of 1996)

Embargo on goods which have passed out of customs control

161. If at any time an officer has reason to believe that the correct duties have not been paid on any goods which have passed out of customs control, or that there has been or may be in respect of those goods a contravention of any of the provisions of this Act or any other law relating to the importation of goods, he may, within a period of five years from the date of importation, removal from a bonded warehouse or delivery from licensed premises in the case of excisable goods, seize or place an embargo on those goods, wheresoever or in possession of whomsoever found, and, until the embargo has been withdrawn, no person shall remove such goods from the place indicated by the officer, or in any way deal therewith, except with the permission of the officer.

(As amended by Acts No.16 of 1996, No. 4 of 1999 and No. 3 of 2000)

Power of officer to seize goods

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

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

- (a) liable to forfeiture under any provision of this Act or under any provision of any other law relating to customs or excise;
- (b) declare all or any of the articles to be forfeited;

- (c) the subject matter of an offence under or a contravention of or a failure to comply with any provision—
 - (i) of any law, including this Act, relating to customs or excise; or
 - (ii) of any law prohibiting, restricting or controlling the importation or exportation thereof;

notwithstanding the fact that no person has been convicted of such offence, contravention or failure.

(3) Seizure shall not be made in terms of subsection (1) where more than five years have elapsed since the goods first became liable to seizure:

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

(4) All goods which have been seized in terms of subsection (1) shall be taken forthwith to and delivered into the custody of an officer at the custom house nearest to the place where they were seized or, in the event of their being of such nature that they cannot be removed to a place of security, the officer seizing them may declare them as having been seized in the place where the officer found them.

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

(6) The Commissioner-General may—

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

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

(7) Subject to the provisions of subsection (8), when goods are seized under this section the officer who seizes the goods shall, within ten days of such seizure, give to the person from whom the goods have been seized or the owner of the goods a notice in writing specifying the goods which have been seized and informing such person of the provisions of subsection (9).

(8) Notice in terms of subsection (7) shall be deemed to have been duly given to the person concerned-

- (a) if delivered to that person personally;
- (b) if addressed to that person and left at, or forwarded by post to that person's usual or last known place of abode or business; or

- (c) where the person is unknown or has no address within Zambia or has no known address, by publication of notice of seizure in the Gazette.

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

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

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

Provided that the goods shall be forfeited after the expiry of forty-five days from the date of the publication in the Gazette, of a notice issued by the Commissioner-General that the goods shall be forfeited.

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

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

(13) For the avoidance of doubt it is hereby declared that any action taken in terms of this section shall not—

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

(Acts No. 4 of 1999, No.1 of 2003 and No. ---of 2006)

163. (1) Where, pursuant to the provisions of section *one hundred and sixty-two*, any goods have been seized, the Commissioner-General may at any time before such goods are forfeited, deliver the goods to the owner or

other person from whom they were seized, on the deposit with the Customs Division of a sum equal—

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

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

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

(Act No. 4 of 1999)

Notice of
action to be
given to officer

164. (1) A writ or summons shall not be issued against nor a copy of any process served upon the Authority for anything done by him under this Act or any other law relating to customs or excise until one month after notice in writing has been delivered to the Authority by the person, or the person's legal practitioner, who intends to issue such writ, summons, or process.

(2) In the notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring the action, and the name and address for service of the person's legal practitioner, if any.

(3) Evidence shall not be adduced at the trial of the action by the plaintiff except as to causes thereof stated in the notice, and judgement shall not be given for the plaintiff unless the plaintiff proves that the notice was given in default of proof of notice by the plaintiff, the defendant shall be entitled in such action to judgement in the plaintiffs favour and costs.

(4) Every such action shall be brought within three months after the cause thereof arose and if the plaintiff discontinues the action, or if judgement is given against the plaintiff, the defendant shall receive as costs full indemnity for all expenses incurred by the Authority in or in respect of the action and shall have such remedy for the same as any defendant has in other cases where costs are given by law.

(As amended by Act No. --- of 2006)

Tender of
amends
and effect
thereof

165. The Authority may, within one month after notice has been given in terms of section *one hundred and sixty-four*, tender amends to the party complaining or to his legal practitioner or agent, and may plead such tender in bar to any proceedings, together with any other plea, and if the court finds the amends sufficient it shall give judgement for the defendant, except as to the amends tendered. In such event, or if the plaintiff discontinues his action, the defendant shall be entitled to costs, but if upon the trial of any such action the court finds that no amends were tendered, or that they were not sufficient, or finds against the defendant upon any such other plea, the court

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

(As amended by Act No. --- of 2006)

Court may
refuse costs

166. If any action is brought by any person against the Authority or on account of any seizure, wherein judgement has been given for the plaintiff, and if the court before which the action was tried finds and adjudges that there was reasonable cause for seizure, the court may refuse to grant the plaintiff costs.

(As amended by Act No. --- of 2006)

Pest infected or
harmful goods

167. (1) If, after obtaining such expert advice as may be available, the Commissioner-General is of the opinion in respect of goods which have been imported—

- (a) that such goods are infected with any pest which may spread any human, plant, or animal disease; or
- (b) that such goods are likely to be prejudicial to the health of any human being, plant, or animal;

he may direct that such goods and the containers in which they are packed shall be seized and destroyed or otherwise dealt with in any manner which he may consider suitable.

(2) A person shall not be entitled to claim compensation on account of any action taken under the provisions of subsection (1).

Imposition of
fine by
Commissioner-
General

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

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

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

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

(4) If the Commissioner-General accepts any sum pursuant to this section such acceptance shall not be treated as a conviction for a criminal offence

and the offender shall not be liable to be prosecuted for the offence in respect of which the payment was made.

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

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

(Act No. 4 of 1999)

Orders by court
as to unpaid
duty and
forfeiture

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

- (a) make an order for the payment by the offender of any unpaid duty; and
- (b) declare any ship, aircraft, vehicle, or other goods liable to forfeiture as a result of the act of the offender to be forfeited to the Government and, upon such declaration, such ship, aircraft, vehicle, or goods as the case may be, shall be dealt with in terms of subsection (10) of section *one hundred and sixty-two*; and
- (c) if any ship, aircraft, vehicle, or other goods liable to forfeiture cannot be found or recovered, make an order for the payment to the Commissioner-General by the offender of an amount equal to the duty-paid value of the ship, aircraft, vehicle, or other goods, as the case may be.

(2) No forfeiture shall be ordered unless and until the owner of the ship, aircraft, vehicle, or goods has been given an opportunity of being heard.

(As amended by Nos. 4 and 36 of 1962)

Liens and
preferences

170. (1) The correct amount of duty payable in respect of any goods shall, from the time when it is due, constitute a debt due to the Government by the person concerned, and shall, at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Commissioner-General, and—

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

shall, while under the control of the Customs Division, be subject to a lien for such debt and may be detained by the Customs Division until such debt is paid, and the claims of the Government shall have priority over the claims of all persons upon the said goods of whatever nature.

(2) Where any person who, under the provisions of this Act, is indebted to the Government in respect of any sum due for duty becomes bankrupt, then

in any proceedings concerning his bankruptcy the claim of the Commissioner-General for such sum shall rank for preference next after any mortgage, charge, lien or equitable right of any person or any prior registered special mortgage bond or any pledge or right of retention upon such assets or any part thereof, and shall rank equally with any claim which may be made on behalf of the Government in respect of income tax.

(3) Deleted by Act No. 4 of 1999

(4) Deleted by Act No. 4 of 1999

(5) Deleted by Act No. 4 of 1999

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

Recovery by
distress

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

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

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

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

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

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

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

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

Interest to be paid for late payment

171. (1) Where any amount of duty or fine remains unpaid after the day on which it became due for payment under this Act, the person liable to pay that duty or fine shall pay an amount in additional duty or fine consisting of interest, on the unpaid sum, calculated at the prevailing discount rate advised by the Bank of Zambia plus two per centum per annum for the period that the duty or fine thereafter remains unpaid.

(2) Notwithstanding any other provision of this Act, the Commissioner-General may, where duty is found to be owing to the Republic after clearance of goods from customs control, whether or not as a result of customs investigation or voluntary disclosure, determine by notice in writing, issued to the importer or owner of those goods, fix a date for payment of that duty or fix dates for the payment by instalment of that duty:

Provided that where any amount of such duty remains unpaid after the day on which it becomes due for payment under the provisions of this subsection, the person liable to pay that duty shall pay an amount in additional duty or fine consisting of interest, on the unpaid sum, calculated at the prevailing discount rate advised by the Bank of Zambia plus two per centum per annum for the period that the duty or fine thereafter remains unpaid.

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

(4) For the purpose of this section, interest charged under subsections (1) and (2) shall be simple interest.

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

(Act No. 3 of 2000)

Attachment of debts

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

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

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

(2) Upon the issuance of a notice under this section, the money referred to in subsection (1), to the extent necessary to discharge the sum of duty, fine and interest due from the importer or manufacturer, shall be a debt due to the Republic and shall if not paid in accordance with subsection (1) be

recoverable at the suit of the Commissioner-General, or any officer in any court of competent jurisdiction.

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

(Act No. 4 of 1999)

Impounding of documents

172. The Commissioner-General may impound or retain any document presented in connection with any entry or required to be produced under this Act, and the person otherwise entitled to such document shall on application be given in lieu thereof a copy of the document duly certified by the Commissioner-General, and the certified copy shall be admissible in evidence at any trial to the same extent and in the same manner as the original would be admissible.

Burden of proof

173. (1) When any goods are detained or seized under the provisions of this Act, and any question arises as to whether the duties have been paid on the goods, or whether the goods have been lawfully imported or lawfully laden or are being lawfully exported, the burden of proof of the affirmative of these facts shall be on the person owning or claiming such goods.

(2) When, for any purpose under the provisions of this Act, it is necessary to prove the country of origin of any goods, the onus of proof of such origin shall be upon the owner or the importer of such goods and not upon an officer.

(3) Any invoice or other document submitted or used by an importer or any other person for the purpose of any of the provisions of this Act may be produced as evidence by or on behalf of the Commissioner-General in any civil or criminal proceedings without calling the person who prepared it or signed it.

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

Evidence in certain circumstances

174. (1) In any prosecution on account of the non-payment of duty on goods liable to excise duty or surtax, and in any proceedings for the recovery of duty on such goods, instituted against a manufacturer, any statement in any record kept by or on behalf of such manufacturer to the effect that such goods of a particular quantity or strength have been manufactured or held in stock by him at any time, shall be admissible as evidence of the fact that he had at that time manufactured or held in stock goods liable to excise duty or surtax of that quantity or strength.

(2) If in any such prosecution or proceedings such person claims that he has disposed of or used any goods liable to excise duty or surtax in such manner as not to be subject to excise duty or surtax, the burden of proving that such goods have been so disposed of or used shall be upon him.

PART XIII
GENERAL

Secrecy

175. Except for the purposes of this Act or with express permission of the Commissioner-General or the compilation of statistics or when ordered to do so by a court, no officer shall disclose any information relating to any person, firm, or business acquired in the performance of his duties.

(As amended by Act No. 2 of 1975)

Oaths and affidavits

176. The Commissioner-General or any officer designated by him shall have and is hereby vested with power and authority to administer an oath or to attest an affidavit in every case in which by this Act or by any law relating to customs and excise an oath or affidavit is permitted or required, and any person who makes a false statement upon any oath or in any affidavit sworn before the Commissioner-General or any such officer shall be guilty of an offence.

Entries, oaths etc., made outside Zambia to be of full force and effect in Zambia

177. Any bill of entry, writing, oath, or declaration required to be made by this Act or any law relating to customs or excise shall, if made outside Zambia to or before a Zambian customs officer, be binding and of full force and effect in Zambia.

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

Translation of foreign documents

178. Where any document written in a language other than English is presented to any officer for any purpose connected with this Act, the Commissioner-General may require a translation into the English language to be made at the expense of the owner, by such person as the Commissioner-General may approve.

Conditions and enforcement of bonds

179. (1) The conditions of any bond, guarantee or similar undertaking executed in terms of this Act and the enforcement thereof shall not be construed as exempting any person from any prosecution to which he may be liable under this Act or any other law in respect of matters provided in such conditions.

(2) In any proceedings for the enforcement of a bond, guarantee or similar undertaking entered into in terms of this act, the sum stated therein shall be deemed to be liquidated damages, calculated to reimburse the Government for loss occasioned by breach of any of the conditions thereof.

(As amended by Act No. 4 of 1999)

Fresh Security

180. If at any time the Commissioner-General is not satisfied with the sufficiency or form of any security previously given, he may require a fresh security, and a fresh security shall be given accordingly.

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

Joint and several liability of subscribers to bond

181. Unless otherwise provided therein, any bond, guarantee or similar undertaking executed in terms of this Act shall bind the subscribers thereto jointly and severally for the full amount stated therein.

(As amended by Act No. 4 of 1999)

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

182. Every landing, shipping, and forwarding agent, and every agent appointed by the master of a ship, the pilot of an aircraft, or the operator of a pipeline in terms of section *twenty-nine* or *fifty-two*, transacting customs business, and every vehicle owner or other person carrying goods, which are required to be accounted for in terms of this Act shall, when required to do so by the Commissioner-General, give security to the satisfaction of the Commissioner-General for the due observance of all relevant provisions of the laws relating to customs or excise.

(As amended by Act No. 48 of 1968)

Licensing of clearing and forwarding agents

182A. (1) The Minister may, by regulations, provide for the licensing of persons carrying on or desirous of carrying on, the business of customs clearing and forwarding agents, and prohibit the carrying on of such business without a licence issued under such regulations.

(2) In such regulations, the Minister may also prescribe—

- (a) the conditions subject to which a licence may be granted or renewed;
- (b) the circumstances under a licence may be suspended;
- (c) the circumstances in which a licence may be revoked;
- (d) the qualifications required to be possessed by an applicant for a licence; and
- (e) the fee payable for the grant or renewal of a licence.

(Act No. 1 of 1976 as amended by Acts No.15 of 1994 and No.2 of 2001)

Liabilities of agent and principal

183. (1) An agent appointed by any master, pilot, importer, or exporter, or any person who represents himself to any officer as the agent of any master, pilot, importer, or exporter and is accepted as such by that officer, shall be liable for the fulfilment, in respect of the matter in question, of all obligations, including the payment of duty, imposed upon such master, pilot, importer, or exporter by this Act or any law relating to customs or excise.

(2) Every master, pilot, importer, or exporter, licensed manufacturer, owner or operator of a bonded warehouse or any owner of goods in a bonded warehouse shall be responsible for any act committed by any person acting in his place or on his behalf, whether the said act was done within Zambia or beyond its borders, and the person so acting shall, if within Zambia, likewise be liable to prosecution under this Act or any law relating to customs or excise.

(3) Any person who appoints an agent to carry out any requirements of this Act on his behalf shall be responsible for any action of his agent while acting on his behalf and shall be liable to prosecution for any contravention of the Act committed by his agent while acting on his behalf.

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

Written
authority to
transact
business on
behalf of
another

184. If any person makes an application to an officer to transact any business on behalf of another person, such officer may require the person so applying to produce a written authority in the form approved by the Commissioner-General from the person on whose behalf he purports to act and, in default of the production of such authority, may refuse to transact such business.

Expense and
risk of
handling goods

185. All handling of and dealing with goods for the purpose of any law relating to customs or excise shall be performed by or at the expense and risk of, the importer or exporter, as the case may be, and where goods are examined at a warehouse, at the expense and risk of the owner of the goods.

186. Repealed by Act No. 4 of 1999

Sellers of
goods to
produce proof
of payment

187. (1) Any person being in possession or control of imported goods or goods which are liable to duty under the provisions of this Act, and any persons who offers for sale, exports, or attempts to export such goods or has such goods entered in his books or mentioned in any document referred to in section *one hundred and eighty-eight* shall, when requested by an officer so to do, produce proof as to the place where entry of the goods was made and any duty due thereon was paid and also the date of entry and the marks and numbers of the packages concerned, which marks and numbers shall correspond with the documents produced in proof of entry or the payment of duty. If he himself did not pay the duty or make entry of the goods, such person shall produce such evidence as will enable the officer to discover the person who did make such entry and payment in respect of the goods.

(2) Where any person who has made entry and payment in respect of goods referred to subsection (1) cannot be located or found for any reason whatsoever, and there is no evidence of duty having been paid or there is no evidence of the correct amount of duty having been paid, the person being in possession of the goods which are liable to duty shall be liable to pay all such duties as if they were unpaid.

(3) Any person failing or delaying without reasonable cause to produce the proofs or evidence required in this section shall be guilty of an offence.

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

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

Persons carrying on business to keep proper books

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

(2) Any person who fails to comply with any provision of this section shall be guilty of an offence.

(As amended by G. N. No. 407 of 1963, Acts No. 5 of 1981 and No. 4 of 1999)

Claims and refunds

189. When any amount of duty has been underpaid or erroneously refunded, the person who should have paid such amount or to whom the refund has erroneously been made shall pay such amount or repay the amount erroneously refunded, on demand being made by the Customs Division.

(As amended by Act No. 4 of 1999)

Appeals to Tribunal

190.(1) Any person who is aggrieved by a decision or determination made by the Commissioner-General under this Act or under any regulation or rules made under this Act, may in respect of the matters set out in subsection (2) appeal to the Tribunal in such manner within such time as the Minister may by regulation prescribe.

(2) The Tribunal shall hear and determine appeals under this Act in respect of any of the following matters:

- (a) In the circumstances set out in paragraph (a) of section *three* of the Revenue Appeals Tribunal Act;
- (b) the refusal to grant, renew or the cancellation of a licence for the manufacture of excisable goods;
- (c) the refusal to grant, renew or the cancellation of a licence for a bonded warehouse;

- (d) the refusal to grant, renew or the decision to suspend or cancel a Customs Agent's licence;
- (e) the application of any administrative decision on a matter arising from a seizure of goods under this Act; or
- (f) any other matter against which an appeal shall lie under this Act.

(Act No. 2 of 2001)

Rates of duty in relation to time of importation or entry

191. Subject to the provisions of this Act—

- (a) goods imported into Zambia shall be liable to the rates of customs duty and surtax which are applicable to those goods at the time when they are imported or at the time when they are entered for consumption, whichever shall be the later, so, however, that in no case, except in the case of goods properly taken out of bond, shall the duty be less than that payable at the time of importation;
- (b) goods which have been manufactured in Zambia and are liable to excise duty or surtax shall be liable to the rates of duty which are applicable to those goods at the time when they are delivered from the place of manufacture for consumption or are used or otherwise disposed of by the manufacturer or in the case of such goods that are immediately after manufacture entered into a bonded warehouse, at the time that they are entered for consumption.
- (c) Deleted by Act No. 4 of 1999

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

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

192. When a new duty is imposed or the rate of an existing duty is increased in terms of an order made under the Taxation (Provisional Charging) Act, the actual payment of the new duty or increased duty may be deferred if the person responsible for the payment of the duty and a surety approved by the Customs Division enter into a bond, guarantee or similar undertaking providing for the payment of the new duty or increased duty as soon as the new duty or increased duty has been enacted by Parliament.

(Act No. 4 of 1999)

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

Policies and instructions by Commissioner-General

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

(Act No. 4 of 1999)

Customs warehouses

195. (1) The Commissioner-General may, by notice in the Gazette, declare any building, premises or area in Zambia, to be a customs warehouse

for the purposes of this Act and may in a like manner declare that any customs warehouse shall cease to be a customs warehouse.

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

(Act No. 4 of 1999)

Weights and
measures

196. All duties shall, unless otherwise specially provided, be charged, paid, and received on and according to the weights and measures established by law in Zambia, and in all cases where duties are imposed according to any specific quantity, the same shall be deemed to apply proportionately to any greater or less quantity.

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

Goods in
transit

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

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

Regulations

198. (1) The Minister may, by statutory instrument, make such regulations as he may deem expedient to prescribe anything to be prescribed under the provisions of this Act, to give force or effect to this Act or for its better administration.

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may, in the exercise of the powers conferred upon him by that subsection, provide for—

- (a) the entry, before or after their arrival in Zambia, of goods despatched to Zambia by railway train, the removal of such goods from customs areas in which they are held and the taking delivery of such goods and the charges to be paid by importers on failure to make entry of or to remove or take delivery of such goods within prescribed periods; and
- (b) the regulation of the removal of wines and spirits from licensed premises or from one part of licensed premises to another part of licensed premises; and
- (c) the regulation of—
 - (i) the storage on licensed premises of goods on which duty has been paid; and
 - (ii) the reprocessing on licensed premises of goods on which duty has been paid; and
 - (iii) the notices to be given by licensees in respect of—

- A. goods acquired by them or received at their licensed premises; and
- B. operations to be performed on their licensed premises; and
- (d) the specifying or fixing of allowances such as are referred to in subsection (4) of section *fifty-eight* and the goods in respect of which those allowances may be made and any other matter for which provision is under this Act to be made by, in or in accordance with the provisions of regulations; and
- (e) the manner in which complaints in respect of subsidised imports or the dumping of goods shall be made and investigated;
- (f) Deleted by Act No. 4 of 1999
- (g) the keeping of records, books and other documents and the making of returns and the giving of information by manufacturers of goods liable to excise duty or surtax; and
- (h) the prescribing of standards for the purposes of this Act; and
- (i) prescribing the fees which shall be paid—
 - (i) in respect of each licence issued or renewed in terms of this Act;
 - (ii) in respect of any correction to a bill of entry that is required to be made subsequent to the lodgement of such entry with the Customs Division;
 - (iii) in respect of any dumping or countervailing complaint made in terms of section *seventy-five B* of this Act;
 - (iv) on the entry of goods for consumption, warehousing, re-warehousing or removal from warehouse or exportation.
 - (v) in respect of each certificate of origin issued by the Customs Division following an application therefor.

(3) In the exercise of the powers conferred upon him by subsection (1), the Minister may make different provision in respect of different licensed premises and different classes of persons and goods.

(4) Deleted by Act No. 4 of 1999

(5) If, in regulations providing for matters referred to in paragraph (a) of subsection (2), provision is made for the entry of goods before their arrival in Zambia, the provisions of section *thirty-four* shall, *mutatis mutandis*, apply to the goods as if they had been imported into Zambia.

(6) If, in terms of regulations providing for matters referred to in paragraph (a) of subsection (2), charges become payable by an importer, the Commissioner-General may institute proceedings for the recovery of the charges in any competent court.

(As amended by No. 18 of 1960, No. 4 of 1962, G. N. No. 407 of 1963, G.N No. 82 of 1964, S.I No. 173 of 1965 and Act No. 4 of 1999)

Orders

199. (1) The Minister may by regulation or statutory order determine—

- (a) the working hours of the Customs Division either generally or at any particular place or places and the fees which shall be payable by any person in respect of whom or in respect of whose business the attendance of any customs officer is, in the opinion of the Commissioner-General, necessary at any time outside of those hours, and
- (b) the fees which shall be payable by any person in respect of whom or in respect of whose business the attendance of any customs officer is, in the opinion of the Commissioner-General, required at any time at a remote location.

(2) For the purposes of this section a “remote location” shall be any location that is not within ten kilometres of a port or customs aerodrome or custom house.

(Act No. 4 of 1999)

Rules

200. (1) The Commissioner-General may make rules not inconsistent with this Act or any other law in respect of any matter where this Act provides that such matter is to be dealt with in accordance with rules made by the Commissioner-General.

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

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

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

Delegation of
Commissioner-
General's
functions

201. The Commissioner-General may delegate to any officer any duties, powers and functions by this Act conferred or imposed upon him, other than those conferred or imposed by this section and by section *two hundred*:

Provided that the duties and functions conferred or imposed by sections *one hundred and sixty-two* and *one hundred and sixty-eight* shall not be delegated to any officer below the rank of Assistant Commissioner.

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

Presumption as
to absence of
licence, etc.

202. Any person charged with any act or omission which is an offence under this Act or any other law if the act is done or omitted to be done without a permit, exemption, permission or other authorisation, shall be

presumed, unless and until the contrary is proved by the accused person, to have done or to have omitted to do such act without such permit, exemption, permission or other authorisation, as the case may be, when he performed or omitted to perform the act in question.

(Act No. 1 of 1971)

PART XIV MISCELLANEOUS

Disposal of
goods by
Commissioner-
General

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

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

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

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

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

(Act No. 4 of 1999)

Goods to be
donated by
Commissioner-
General

204. (1) Notwithstanding the provisions of section *two hundred and three*, where the sale of such goods in the opinion of the Commissioner-General may be inappropriate because of the sale price obtainable or the effect of such sale on local manufacture or for any other reason the Commissioner-General may—

- (a) donate the goods to a charitable institution within Zambia for the purpose of use not involving sale; or
- (b) order the goods destroyed under supervision.

(2) Subject to subsection (1), where the Commissioner-General decides to donate the goods to a public institution, the Commissioner –General shall apply to the Minister for approval.

(Acts No. 4 of 1999 and No.4 of 2004)

Proceeds of
sale

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

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

(2) The residue of any proceeds shall be paid to the person, appearing to the Commissioner-General, to be entitled thereto.

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

(Act No. 4 of 1999)

Savings and
transitional
provisions

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

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

FIFTH SCHEDULE
(Sections 85 and 88)

VALUATION OF GOODS FOR THE PURPOSES OF THE TARIFF

Interpretation

1. (1) In this Schedule—

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

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

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

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

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

"identical goods" means imported goods that—

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

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

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

"similar goods" means imported goods that—

- (a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued;
- (b) are produced in the country in which the goods being valued were produced; and
- (c) are produced by or on behalf of the person who produced the goods being valued but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in Zambia were supplied, directly or indirectly by the buyer of those goods imported free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

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

"transaction value" means the value determined in accordance with clauses 2

and 3.

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

- (a) they are officers or directors of one another's business;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls, or holds 5 percent or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) (f) both of them are directly or indirectly controlled by a third person;
- (g) they together directly or indirectly control a third person. or
- (h) they are members of the same family.

(3) For the purposes of this Schedule persons shall be deemed to be members of the same family if—

- (a) they are connected by blood relationship within the fourth degree of relationship;
- (b) they are married to one another or if one is married to a person who is connected within the fourth degree of relationship to the other; or

- (c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.

(4) For the purposes of this Schedule, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be.

(5) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value where—

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) such goods are actually sold at the price declared as the price actually paid or payable;
- (c) the buyer, if required, can demonstrate that—
 - (i) the financing arrangement was made in writing; and
 - (ii) the claimed rate of interest does not exceed the level of such transaction prevailing in the country where, and at the time when, the finance was provided.

(6) For the purpose of this Schedule, the value of any goods imported under a hire or leasing contract shall be the total rental or lease charges paid or payable, as the case may be, and the other provisions of this Schedule shall apply with necessary modification; and

Transaction
value as
primary basis
of valuation

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

- (a) if there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that—
 - (i) are imposed by law;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
- (b) if the sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined;
- (c) where any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable

for the goods includes the value of that part of the proceeds or can be adjusted in accordance with clause 3; or

- (d) if the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time,—
 - (i) their relationship did not influence the price paid or payable for the goods; or
 - (ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in subclause (2) of this clause.

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

- (a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to Zambia between a seller and buyer who are not related at the time of the sale; or
- (b) the deductive value of identical or similar goods determined in accordance with clause 6; or
- (c) the computed value of identical or similar goods determined in accordance with clause 7.

(3) Where the Commissioner-General is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, the Commissioner-General shall inform the importer, in writing if so requested, of the grounds on which the Commissioner-General formed that opinion, and shall give the importer a reasonable opportunity to satisfy the Commissioner-General that the relationship did not influence the price.

(4) Where subclause (2) applies, the importer shall, without limiting the generality of that subclause, provide the following information:

- (a) the nature of the goods being valued;
- (b) the nature of the industry that produces the goods being valued;
- (c) the season in which the goods being valued are imported;
- (d) whether a difference in values is commercially significant;
- (e) the trade levels at which the sales take place;
- (f) the quantity levels of the sales;
- (g) any of the amounts referred to in clause 3; and

- (h) the costs, charges, or expenses incurred by a seller when the seller sells to a buyer to whom the seller is not related that are not incurred when the seller sells to a buyer to whom the seller is related.

(5) Where—

- (a) in the opinion of the Commissioner-General, the customs value cannot be determined under this clause, or
- (b) the Commissioner-General has reason to doubt the truth or accuracy of the declared customs value and, after having sought further explanations or other evidence that the declared customs value represents the total amount actually paid or payable for the imported goods, the Commissioner-General is still not satisfied that the customs value can be determined under this clause:

the Commissioner-General may determine the customs value of the goods by proceeding sequentially through clauses 4 to 8 under which the customs value can, in the opinion of the Commissioner-General, be determined.

(6) Notwithstanding subclause (5), on the written request of the importer to the Commissioner-General, the order of consideration of the valuation basis provided for in clauses 6 and 7 shall be reversed.

Adjustment of
price paid or
payable

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

- (a) by adding thereto amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to-
 - (i) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to the buyer's agent for the service of representing the buyer overseas in respect of the purchase of the goods;
 - (ii) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are shipped to Zambia; and
 - (iii) the value of any of the following goods and services:
 - (A) materials, component parts, and other goods incorporated in the imported goods:
 - (B) tools, dyes moulds, and other goods utilised in the production of the imported goods:
 - (C) materials consumed in the production of the imported goods:

(D) engineering, development work, artwork, design work, plans, and sketches undertaken elsewhere than in Zambia and necessary for the production of the imported goods;

determined in accordance with subclause (2) are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost of use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;

- (iv) royalties and license fees, including payments for patents, trademarks, and copyrights in respect of the imported goods that the buyer shall pay, directly or indirectly, as a condition of the sale of the goods for export to Zambia, exclusive of charges for the right to reproduce the imported goods in Zambia;
- (v) the value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller;
- (vi) the value of any materials, component parts, and other goods incorporated in the imported goods for the purpose of repair to, or refurbishment of, those goods prior to export of the goods to Zambia, and the price paid for the service of repair or refurbishment, as the case may be;
- (vii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods until the goods have left the country of export; and
- (viii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods from the time the goods have left the country of export;
- (ix) Subject to paragraphs (vii) and (viii), the cost of insurance shall be the actual cost of insurance incurred on the imported goods:

Provided that where there is insufficient information on the cost incurred on the imported goods, the cost shall be deemed to be one per centum of the free on board value of the goods.

- (b) by deducting therefrom amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to any of the following costs, charges, or expenses—

- (i) any reasonable cost, charge, or expense that is incurred for the construction, erection, assembly, or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported;
- (ii) any reasonable cost, charge, or expense that is incurred in respect of the transportation or insurance of the goods within Zambia and any reasonable cost charge, or expenses associated therewith;
- (iii) any customs duties or other taxes payable in Zambia by reason of the importation or sale of goods:

if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods;

- (c) in respect of carrier media bearing data or instructions, by deducting the value of the data or instructions from the price paid or payable for the goods if—
 - (i) the value of the data or instructions is distinguished from the cost or value of the carrier media; and
 - (ii) the data or instructions are not incorporated in data processing equipment.

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

- (a) in the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued—
 - (i) by ascertaining—
 - (A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time of their acquisition;
 - (B) their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to the buyer at the time of their acquisition but who did not produce them; or
 - (C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
 - (ii) by adding thereto—
 - (A) the cost of their transportation to the place of production of the goods being valued; and
 - (B) the value added to them by any repairs or modifications made to them after they were so acquired or produced;

- (b) in the case of tools, dyes, moulds, and other goods, utilised in the production of the goods being valued-
 - (i) by ascertaining-
 - (A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time they were so acquired;
 - (B) their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to the buyer at the time they were so acquired but who did not produce them; or
 - (C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production;
 - (ii) by adding thereto-
 - (A) the cost of their transportation to the place of production of the goods being valued; and
 - (B) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and
 - (iii) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced.
 - (c) in the case of engineering, development work, art work, design work, plans and sketches, undertaken elsewhere than in Zambia and necessary for the production of the goods being valued by ascertaining-
 - (i) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to the buyer at the time they were so acquired or leased and are not generally available to the public;
 - (ii) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to the buyer at the time they were so acquired or leased, but who did not produce them and are not generally available to the public;
 - (iii) the cost to the public of obtaining them where they are available generally to the public; or
 - (iv) the cost of production thereof where they were produced by the buyer or a person related to the buyer at the time of their production.
- (3) For the purposes of paragraph (c) of subclause (1)-

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

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

Transaction
value of
identical goods
as customs
value

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

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

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

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

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

- (a) commercially significant differences between the costs, charges, and expenses referred to in clause 3 (1) (a) (vii) in respect of the identical goods and those costs, charges, and expenses in respect of the goods being valued that are

attributable to differences in distances and modes of transport

- (b) where the transaction value is in respect of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subclause (2), differences in the trade levels to the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be;

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

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

Transaction value of similar goods as customs value

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

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

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

Deductive value as customs value

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

(2) Where the goods being valued or identical goods or similar goods are sold in Zambia in the condition in which they were imported at the same or substantially the same time as the time of importation of goods being valued, the deductive value of the goods being valued shall be the

price per unit in respect of sales described in subclause (5) determined in accordance with that subclause and adjusted in accordance with subclause (6) at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold.

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

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

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

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

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

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

- (a) an amount, determined in accordance with subclause (7), equal to—
 - (i) the amount of commission generally earned on a unit basis; or

- (ii) the amount for profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is generally reflected on a unit basis in connection with sales in Zambia of goods of the same class or kind as those goods:
- (b) reasonable costs, charges and expenses that are incurred in respect of the transportation and insurance of the goods within Zambia and reasonable costs, charges, and expenses associated therewith to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a);
- (c) the costs, charges, and expenses referred to in clause 3 (1) (b) (I) incurred in respect of the goods, to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a);
- (d) any customs duties or other taxes payable in Zambia by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a); and
- (e) where subclause (4) applies, the amount of the value added to the goods that is attributable to the assembly, packaging, or further processing in Zambia of the goods, if that amount is determined, in the opinion of the Commissioner-General, on the basis of sufficient information;

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

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

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

General be determined under clause 6, the customs value of the goods shall be the computed value in respect of those goods.

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

equal to—

- (a) the costs, charges, and expenses incurred in respect of, or the value of—
 - (i) materials employed in producing the goods being valued; and
 - (ii) the production or other processing of the goods being value determined on the basis of—
 - (A) the commercial accounts of the producer of the goods being valued; or
 - (B) any other sufficient information relating to the production of the goods being value that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued;
 - (iii) the costs, charges, and expenses referred to in clause 3 (1) (a) (ii);
 - (iv) the value of any of the goods and services referred to in clause 3 (1) (a) and (iv), determined and apportioned to the goods being valued as referred to in that clause, whether or not goods and services have been supplied free of charge or at a reduced cost;
 - (v) the costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, design work, plans, or sketches undertaken in Zambia that were supplied, directly or indirectly, by the buyer of the goods being valued for use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods, apportioned to the goods being valued as referred to in clause 3 (1) (a) (iii);
- (b) the amount, determined in accordance with subclause (4), for profit and general expenses, considered together as a whole, generally reflected in sales for export to Zambia of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers in Zambia who are not related to the producers from whom they buy the goods at the time the goods are sold to them.

(3) For the purpose of this clause, the expression "general expenses" means the direct and indirect costs, charges and expenses of producing

and selling goods for export, other than the costs, charges, and expenses referred to in paragraph (a) of subclause (2).

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

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

Residual basis
of valuation

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

(2) A customs value shall not be determined on the basis of-

- (a) the selling price in Zambia of goods produced in Zambia;
- (b) a basis which provides for the acceptance of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values that have been determined for identical or similar goods in accordance with clause 7;
- (e) the price of goods for export to a country other than Zambia, unless the goods were imported into Zambia;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

SIXTH SCHEDULE
(Sections 88A and 163)

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

Value of goods
for excise duty
and surtax

1. The value of any goods for the purposes of section 88A of this Act shall be the price at which the goods are sold exclusive of excise duty and surtax and value added tax by a person licensed under section 97 of this Act if such sale is a sale on the open market as defined in clause 4 (9).

Value of goods
manufactured
by a contractor

2. Goods upon which any work has been done by a contractor shall be deemed to have been manufactured by a contractor and the value of any goods manufactured by a contractor shall be their fair market value as determined under clause 4.

Value of goods
not sold in the
open market

3. Where the value of the goods cannot be determined under clause 1 the value shall be the fair market value of those goods as determined under clause 4.

Determination
of fair market
value

4. (1) In determining a fair market value, the Commissioner-General shall—

- (a) use only those prices which represent a sale between buyers and sellers independent of each other; and
- (b) exclude from the price any excise duty and surtax and value added tax.

(2) For the purposes of this Schedule, the fair market value of any goods shall be determined by proceeding sequentially through subclauses (3) to (8) to the first such subclause under which fair market value can be determined.

(3) The fair market value of any goods at any date shall be the lowest price for which identical goods in the same or substantially the same quantities are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.

(4) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (3), it shall be deemed to be the lowest price for which identical goods in quantities different from those being sold are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.

(5) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (4), it shall be deemed to be the lowest price for which similar goods in the same or substantially the same quantities are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.

(6) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (5), it shall be deemed to be the lowest price for which similar goods in quantities different from those being sold are generally sold at that date in the open market in Zambia on sales freely offered and made on ordinary trade terms by a person licensed under section *ninety-seven* of this Act, other than a contractor.

(7) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (6), the Commissioner-General shall ascertain the price which the goods would generally fetch at the retail level and deduct from that price such amount as would reasonably represent the profit margin and other costs beyond the manufacturing level on those goods.

(8) Where, in the opinion of the Commissioner-General, the fair market value cannot be determined under subclause (7), the Commissioner-General shall compute the value of the goods by taking the costs of the production of the goods and adding such amount as reasonably represents the profit margin and other costs to the manufacturing level of those goods.

(9) For the purposes of this clause—

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

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

“a sale in the open market” means—

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

(10) Two persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

SEVENTH SCHEDULE

(Section 76B)

VALUATION OF SERVICES FOR THE PURPOSE OF ASSESSING EXCISE DUTY PAYABLE ON EXCISABLE SERVICES.

Value of talk
time for
excise duty

The value of talk time for the purposes of section *seventy-six B* shall be the price at which the talk time is sold exclusive of excise duty, surtax and value added tax by a service provider licensed under section *one hundred and thirty-nine D*

(Act No. 4 of 2004)