

CHAPTER 50:01">

EXCISE DUTY

ARRANGEMENT OF SECTIONS

SECTION

PART I

Preliminary

1. Short title
2. Interpretation

PART II

Duties and Powers of Commissioner General and Officers

3. Powers and duties of Commissioner General
4. Delegation of duties and powers of Commissioner General
5. Duties and powers of Permanent Secretary responsible for investment, trade and industry
6. General duties and powers of officers

PART III

Importation, Exportation and Transit of Goods

7. Appointment of places of entry, authorised roads and routes, etc.
8. Report of arrival or departure of aircraft
9. Sealing of goods on board aircraft
10. When goods deemed to be imported
11. No landing or loading of goods without permission
12. Goods imported or exported overland
13. Goods imported or exported by post
14. Persons entering or leaving Botswana
15. Opening of packages in absence of importer or exporter
16. State warehouse
17. Removal of goods in bond
18. Exportation of goods from excise warehouse

PART IV

Excise Warehouses: Storage and Manufacture of Goods in Warehouses

19. Excise warehouses
20. Goods in excise warehouses
21. Special excise warehouses
22. Samples of goods in excise warehouse
23. Storage or manufacture of prohibited goods
24. Aircraft stores consumed in Botswana
25. Sorting, packing, etc. in excise storage warehouses
26. Transfer of ownership or pledging or hypothecation of warehoused goods
27. Special provisions in respect of excise manufacturing warehouses
28. Ascertaining quantity of spirits by measuring the mass or volume
29. Classification of spirits
30. Control of use of spirits for certain purposes
31. Entry of spirits for use in manufacture
32. Ascertaining strength of spirits
33. Requirements in respect of stills
34. Special provisions regarding spirits manufactured by agricultural distillers
35. Special provisions regarding wine
36. Special provisions regarding cigarettes and cigarette tobacco
37. Specific provisions regarding beer
38. Special provisions in respect of the manufacture of goods and the collection of duty
39. Duties applicable to goods manufactured in excise warehouse
40. Special provision in respect of marked goods, certain goods being free of duty

PART V

Clearance of Goods: Liability for and Payment of Duties

41. Entry of goods and time of entry
42. Importer and exporter to produce documents and pay duties
43. Sale in transit
44. Validity of entries
45. Particulars on invoices
46. Disposal of goods on failure to make due entry
47. Liability for duty
48. Determination of duty applicable
49. Joint and several liability for duty or certain amounts

50. Establishment of Fund
51. Payment of duty and rate of duty applicable
52. Prohibition of certain acts in respect of certain goods not duly entered
53. General amendment of Schedules
54. Amendment of Schedule No. 1
55. Minister may amend Schedules under certain circumstances
56. Agreements with other governments
57. Agreements with African territories
58. Imposition of fuel levy by party to customs union agreement
59. Discrimination by other countries
60. Special provisions regarding importation of cigarettes

PART VI

Amendment of Duties

61. Time when new or increased duties become payable
62. Contract prices may be varied to extent of alteration in duty

PART VII

Licensing

63. Licence fees according to Schedule No. 8
64. Excise warehouse licences
65. Agricultural distillers
66. Stills to be licensed
67. Special warehouses for the manufacture of wine
68. Container depot licences

PART VIII

Value

69. Value for duty purposes
70. Conversion of prices expressed in foreign currency

PART IX

Rebates, Refunds and Drawbacks of Duty

71. Specific rebates, drawbacks and refunds of duty
72. General refunds in respect of imported goods
73. Limitation on refund claims
74. Set-off on refund against amount of tax owing

75. Recovery of certain amounts not duly payable

76. Set-off of certain amounts

PART X

Penal Provisions

77. Offences not expressly mentioned

78. Less serious offences and their punishment

79. Serious offences and their punishment

80. Non-declaration of goods

81. Prohibition with regard to fiscal mark

82. Irregular export of goods

83. Irregular dealing with or in goods

84. False documents and declarations

85. Beer of higher density than indicated by label on container

86. Certain specified offences

87. Publication of particulars of offenders

88. Goods irregularly dealt with liable to forfeiture

89. Seizure

90. Notice of claim by owner in respect of seized goods

91. Disposal of seized goods

92. Admission of guilt

93. Payment and disposal of fines and penalties

94. Remission or mitigation of penalties and forfeiture

95. Recovery of penalties by process of law

96. Jurisdiction of courts

97. Period for bringing action

PART XI

General

98. Approval of container operators

99. Business accounts, documents, etc. to be available for inspection

100. Sellers of goods to produce proof of payment of duty

101. Liability of company, partnership, etc.

102. Interest on outstanding amounts

103. Samples

104. Expenses of landing, examination, weighing, analysis, etc.
105. Control in respect of manufacturers of certain goods, etc.
106. Destruction of goods and detention of vehicles
107. Instruments and tables
108. Wreck
109. Prohibitions and restrictions
110. Duty constitutes a debt to the State
111. Entries, oaths, etc. made outside Botswana of full force and effect
112. Manufacture of goods solely for use by the manufacturer thereof
113. Statistics
114. Delegation of powers and assignment of duties
115. Substitution of Schedules
116. Regulations
117. Repeal of Cap. 50:01
118. Transitional and savings

Schedules (Schedules to this Act not reproduced, owing to the frequency with which they are amended)

Act 34, 2018.

An Act to provide for the assessment, imposition and collection of Excise Duty; and matters incidental thereto.

[Date of Commencement: 27th August, 2018]

PART I

Preliminary

1. Short title

This Act may be cited as the Excise Duty Act.

2. Interpretation

(1) In this Act unless the context otherwise requires-

"agricultural distiller" means any owner or occupier of land who-

(a) is licensed to keep a still on such land; and

(b) is licensed to distill spirits on such land from grapes or other prescribed fresh fruit grown by him or her on such land;

"Commissioner General" means the Commissioner General of the Botswana Unified Revenue Service;

"common customs area" means the combined areas of Botswana, Lesotho, Namibia, South Africa and Swaziland;

"container depot" means any container depot contemplated in section 7(1)(j);

"container operator" means any person providing international transportation of containerised goods, and approved by the Commissioner General, under section 98, for operating containers in Botswana;

"container terminal" means any container terminal contemplated in section 7(1)(i);

"crew" includes every person, except the pilot, employed in any capacity on board any aircraft;

"depot operator" means the person having charge of any container depot;

"duty" means any excise duty leviable under this Act;

"entry for home consumption" includes entry under any item in Schedule No. 3, 4 or 6;

"excise value" means value as defined in section 69;

"exporter" includes any person who, at the time of exportation-

(a) owns any goods exported;

(b) carries the risk of any goods exported;

(c) represents that or acts as if he or she is the exporter or owner of any goods exported;

(d) actually takes or attempts to take any goods from Botswana;

(e) is beneficially interested in any way whatever in any goods exported; or

(f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e), and, in relation to imported goods, includes the manufacturer, supplier or shipper of such goods or any person inside or outside Botswana representing or acting on behalf of such manufacturer, supplier or shipper;

"fiscal duty" means any duty leviable under Column III of Part 1 to Schedule No. 1 and under Column IV of Part 2 to Schedule No. 1 on goods imported into Botswana;

"fuel levy" means any duty leviable under Part 5 of Schedule No. 1 on any goods which have been manufactured in, or imported into Botswana;

"fuel levy goods" means any goods specified in Part 5 of Schedule No. 1 which have been manufactured in, or imported into Botswana;

"Fund" means the Fund designated by the Minister under the provisions of section 50;

"goods" means all wares, articles, merchandise, animals, currency, matter or things on which excise duty is leviable under this Act;

"home consumption" means consumption or use in Botswana;

"illicit goods", in relation to imported or goods manufactured in Botswana, means any such goods in respect of which any contravention under this Act has been committed, and includes any preparation or other product made wholly or in part from spirits or other materials which were illicit goods;

"importer" includes any person who, at the time of importation-

(a) owns any goods imported;

(b) carries the risk of any goods imported;

(c) represents that or acts as if he or she is the importer or owner of any goods imported;

(d) actually brings any goods into Botswana;

(e) is beneficially interested in any way whatever in any goods imported; or

(f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e);

"impression stamp" means a stamp, mark, sticker, banderol or other similar device that contains security features, as well as a unique and secure identifier code, affixed on goods, indicating that duty has been paid on the goods, and duly imported or manufactured;

"land" includes off-loading from any vehicle;

"L.C.L. container" means any container containing goods consigned from one or more exporters to more than one importer;

"notice" includes an instrument made by statutory instrument;

"officer" means a person employed on any duty relating to excise by order or with the concurrence of the Commissioner General, whether such order has been given or such concurrence has been expressed before or after the performance of the said duty;

"owner" includes any person lawfully acting on behalf of the owner;

"package" means any container, wrapping or outer cover and its contents, or any bundle or single piece in the case of unpacked goods;

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

"plant" includes vessels, utensils, appliances and fittings;

"repealed Act" means the Customs and Excise Act (Cap. 50:01) repealed under section 117;

"State warehouse" means any premises provided by the State for the deposit of goods for the security thereof and of the duties due thereon, or pending compliance with the provisions of any law in respect of such goods;

"still" means any apparatus for, or capable of, distilling spirits and includes any part thereof;

"still maker" means a person who manufactures or imports stills for sale and includes a person who repairs stills for reward;

"surcharge" means any duty leviable under Part 4 of Schedule No. 1 on any goods which have been imported into Botswana;

"surcharge goods" means any goods specified in Part 4 of Schedule No. 1 which have been imported into Botswana;

"unit of account" means a monetary sum equal to a unit of the currency in circulation in the remainder of the common customs area;

"vehicle" means any aircraft, train, motor car, van, truck, cart, barrow or other conveyance of any kind whatsoever, and includes the fitting, furnishings and equipment thereof, and also pack animals and their harness and tackle; and

"wine-grower" means any person who cultivates vines and who produces wine from grapes grown on such vines.

(2) In this section, except in the definition of "package", and in sections 7, 8, 17, 41, 68 and 88(2), "container" means transport equipment-

(a) having an internal volume of not less than one cubic metre; and

(b) designed for the transport of goods by any means of carriage, without intermediate reloading.

(3) In this Act, unless the context otherwise indicates, any reference to excise or matters relating thereto shall be deemed to include a reference to fiscal, sales duty and surcharge on goods or matters relating thereto.

PART II

Duties and Powers of Commissioner General and Officers

3. Powers and duties of Commissioner General

The Commissioner General shall-

(a) administer and enforce this Act;

- (b) establish and maintain administrative, financial, technological, electronic and communicative systems and procedures necessary for the implementation and enforcement of this Act;
- (c) co-ordinate and consult with other Government agencies to establish the most effective methods of working together and sharing information in order to simplify and facilitate the requirements of national legislation;
- (d) conclude Memoranda of Understanding with other Government agencies, trade entities or other institutions to enhance the enforcement of excise and other relevant legislation;
- (e) co-operate with other revenue administrations and seek to conclude mutual administrative assistance agreements; and
- (f) determine the conditions and category of officers who shall have the power to carry out an arrest for the purpose of implementation and enforcement of this Act.

4. Delegation of duties and powers of Commissioner General

- (1) Any duty imposed or power conferred on the Commissioner General may be performed or exercised by the Commissioner General personally or by an officer under a delegation from or under the control or direction of the Commissioner General.
- (2) Any decision made and any notice or communication signed or issued by any such officer may be withdrawn or amended by the Commissioner General or by the officer concerned (with effect from the date of making such decision or signing or issuing such notice or communication or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn, be deemed, except for the purposes of this subsection, to have been made, signed or issued by the Commissioner General.

5. Duties and powers of Permanent Secretary responsible for investment, trade and industry

- (1) Any duty imposed or power conferred by this Act on the Permanent Secretary, in the Ministry responsible for investment, trade and industry may be performed or exercised by him or her personally or by an officer under a delegation from or under the control or direction of the said Permanent Secretary.
- (2) Any decision made under subsection (1) by any such officer may be withdrawn or amended by the Permanent Secretary or by the officer (with effect from the date of making such decision or the date of withdrawal or amendment thereof) and shall until it has been so withdrawn, be deemed, except for the purposes of this subsection, to have been made by that Permanent Secretary.

6. General duties and powers of officers

- (1) Officers employed in the Botswana Unified Revenue Service shall act under the control and direction of the Commissioner General.
- (2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods or fuel levy goods.
- (3) No officer shall disclose any information relating to any person, firm or business acquired in the performance of his or her duties, except-
 - (a) for the purposes of this Act;
 - (b) when required to do so as a witness in a court of law; or

(c) such information in relation to any person as may be required by the Government Statistician in connection with the collection of statistics in complying with the provisions of the Statistics Act (Cap. 17:01) or any regulations made thereunder.

(4) The Government Statistician or any person acting under his or her direction and control shall not disclose any information supplied under subsection (3)(c) to any person or permit any person to have access thereto, except in the exercise of his or her powers or the carrying out of his or her duties under any Act from which such power or duties are derived.

(5) Notwithstanding the provisions of subsection (4), the Commissioner General may from time to time by notice in the *Gazette*, publish a list of the names of persons in respect of whom a penalty of P10 000 or more has been imposed under section 92 for offences referred to in section 79, 82, 83, 84 or 86.

(6) Any list published in terms of subsection (5) shall specify-

(a) the name and address of any person whose name has been included in such list;

(b) such particulars of the offence referred to in subsection (5) as the Commissioner General may think fit; and

(c) the amount of the penalty imposed.

(7) An officer may, for the purposes of this Act-

(a) without previous notice, at any time enter any premises whatsoever and make such examination and enquiry as he or she deems necessary;

(b) while he or she is on the premises or at any other time require from any person the production then and there, or at a time and place fixed by the officer, of any book, document or thing which is required by this Act to be kept or exhibited or which relates to or which he or she has reasonable cause to suspect of relating to matters dealt with in this Act and which is or has been on the premises or in the possession or custody or under the control of any such person or his or her employee;

(c) at any time and at any place require from any person who has or is believed to have the possession or custody or control of any book, document or thing relating to any matter dealt with in this Act, the production thereof then and there, or at a time and place fixed by the officer; and

(d) examine and make extracts from and copies of any such book or document and may require from any person an explanation of any entry therein and may attach any such book, document or thing as in his or her opinion may afford evidence of an offence under this Act.

(8) An officer may take with him or her on to any premises an assistant or a member of the Botswana Police Service.

(9) Any person in connection with whose business any premises are occupied or used, and any person employed by him or her shall at any time furnish such facilities as may be required by the officer for entering the premises and for the exercise of his or her powers under this section.

(10) If an officer, after having declared his or her official capacity and his or her purpose and having demanded admission into any premises, is not immediately admitted, he or she and any person assisting him or her may at any time, but at night only in the presence of a member of the Botswana Police Service, break open any door or window or break through any wall on the premises for the purpose of entry and search.

(11) An officer or any person assisting him or her may at any time break up any ground or flooring on any premises for the purpose of search and if any room, place, safe, chest, box or package is locked and the keys thereof are not produced on demand, may open such room, place, safe, chest, box or package in any manner.

(12) An officer may require any person to appear before him or her at any time and place fixed by the officer and may then and there question that person, either alone or in the presence of any other person, as he or she thinks fit, with respect to any matter dealt with in this Act.

(13) An officer may question either alone or in the presence of any other person as he or she thinks fit, with respect to any matter dealt with in this Act, any person whom he or she finds on any premises entered in terms of this section or whom he or she has reasonable grounds for believing to be or to have been employed on any premises in respect of which any provision of this Act is applicable, or whom he or she has reasonable grounds for believing to be or to have been in possession, custody or control of anything, in respect of which any such provision is applicable.

(14) An officer may stop and board any vehicle in Botswana and may search any such vehicle or any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he or she has reasonable cause to believe that there has been a contravention of any provision of this Act, and may freely remain on such vehicle in pursuance of his duties.

(15) If any vehicle, or any place, safe, chest, box, package or container (as defined in section 2(2)) thereon is locked and the keys thereof are not produced on demand, the officer may open such vehicle, place, safe, chest, box, package or container in any manner.

(16) An officer shall have free access to and the right to rummage every part of any such vehicle and to examine all goods on board, with power to fasten down hatchways and to mark any goods before off-loading, and to lock up, seal, mark or otherwise secure any goods on board the vehicle, including any apparatus thereof, and he may also demand from the driver of any vehicle or the pilot of any aircraft concerned or the person in charge of any other vehicle the production of any document to which any provision of this Act relates.

(17) If any lock, seal or mark placed upon any goods on board a vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered, or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such vehicle are, after having been fastened down by an officer, opened without his consent, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he or she proves that it was not possible for him or her to have prevented the act in question.

(18) An officer may stop any person whom he or she has reason to suspect of having dutiable goods or goods in respect of which a contravention under this Act has been committed, secreted about him or her or in his or her possession and the officer may search such person.

(19) If a person under subsection (18) fails to stop, the officer may take such action, including the use of force, as he or she may deem necessary to stop such person.

(20) Where, on the exportation of any goods from Botswana, any certificate, declaration or other proof has been furnished regarding the origin of such goods to comply with the provisions of any agreement contemplated in section 56 or 57 or any other requirement or any practice, an officer may, for the purposes of verifying or investigating such certificate, declaration or other proof, require-

- (a) the exporter; or
- (b) any other person appearing to the officer to have been concerned in any way with
 - (i) the production or manufacture or exportation of such goods,
 - (ii) any goods from which directly or indirectly such goods have been produced or manufactured, or
 - (iii) the furnishing of such certificate, declaration or other proof,

to furnish such information in such manner and within such time as the officer may determine, and to produce on demand for inspection and to allow the making of copies or extracts from such invoices, bills of landing, bills of entry, books of account or other documents in whatever form, as the officer may specify.

(21) A person may not, without good cause shown, refuse to comply with any such requirement of an officer.

(22) A female shall only be searched by a female.

(23) An officer may lock up, seal, mark, fasten or otherwise secure any warehouse, store, room, cabin, place, vessel, appliance, utensil, fitting, vehicle or goods if he or she has reason to believe that any contravention under this Act has been or is likely to be committed in respect thereof or in connection therewith.

(24) A person shall not be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under this section.

PART III

Importation, Exportation and Transit of Goods

7. Appointment of places of entry, authorised roads and routes, etc.

(1) The Minister may appoint by notice published in the *Gazette*-

- (a) places to be places of entry for Botswana, through which goods may be imported or exported or where goods may be landed for transit, where persons entering or leaving Botswana may disembark or embark or where goods may be entered for excise purposes;
- (b) the roads or routes (including railways) over which persons may enter or leave Botswana or imported goods or goods intended for export or transit carriage may enter or leave Botswana or may be carried from any one point to any other point or the means of carriage of such goods;
- (c) places as warehousing places where excise warehouses may be established;
- (d) places for such particular and limited purposes and for such periods as may be appointed;
- (e) places to be excise airports at which aircraft entering Botswana shall first land, from which aircraft leaving Botswana shall finally depart, through which goods may be imported or exported or where goods may be landed for transit or where persons entering or leaving Botswana may disembark or embark;
- (f) places at appointed places of entry or at excise airports for the landing or embarkation of persons and the landing, loading or examination of goods, including baggage;
- (g) sheds as transit sheds into which goods, before due entry thereof, may be removed from an aircraft or vehicle;
- (h) entrances and exits, general or special, to or from any excise airport;
- (i) container terminals where containers may be landed for transit, delivery to a container depot or, after their contents have been duly entered, delivery to importers, or where containers may be shipped for export;
- (j) places where container depots may be established for the storage, detention, unpacking or examination of containers or the contents of containers, for the delivery to importers of the contents of containers after such contents have been duly entered or for the packing of containers for export; and
- (k) the hours during which any place, road, route, shed, entrance or exit appointed or prescribed under any paragraph of this subsection may be used for the purposes specified in such paragraph.

(2) Any place outside Botswana may be deemed by the Minister to be a place of entry for Botswana through which goods may be imported or exported, where goods may be landed for transit or removal through contiguous territories or where goods may be entered for excise purposes.

(3) If any places, roads, routes, means of carriage, sheds, entrances, exits or container terminals, as the case may be, have been appointed or prescribed by the Minister under any paragraph of subsection (1), only such places, roads, routes, means of carriage, sheds, entrances, exits or container terminals so appointed or prescribed may, subject to the provisions of subsections (4) and (5), be used or employed for the purposes for which they have been so appointed or prescribed under such paragraph, and if any hours have been prescribed under paragraph (k) of subsection (1) during which any place, road, route, shed, entrance or exit referred to in the said paragraph (k) may be used, such place, road, route, shed, entrance or exit shall be used only during such hours.

(4) The owner or occupier of a transit shed appointed in terms of this section shall, if required by the Commissioner General, provide accommodation to the satisfaction of the Commissioner General for any officer whom the Commissioner General considers it necessary to station at such shed.

(5) Notwithstanding anything contained in this section where the Minister has appointed places of entry for Botswana he or she may in writing permit any person to enter Botswana, subject to such conditions as he or she may impose, at a place other than a prescribed place.

8. Report of arrival or departure of aircraft

(1) The pilot of any aircraft arriving in Botswana, whether with or without goods or passengers, shall within three hours after landing at any place appointed as an excise airport in terms of section 7 or within such further time as the proper officer may allow-

- (a) make due report in writing of the arrival, with as many duplicates or extracts as the Commissioner General may require;
- (b) make and subscribe to a declaration as to the truth of the report before the Commissioner General and answer all such questions concerning the aircraft, the cargo and stores, and the crew, passengers and flight as may be put to him by the Commissioner General; and
- (c) produce, if required, the official log books for the flight, the stowage plans and any other documents in his possession relating to the cargo, stores, crew, passengers and flight.

(2) If any report required in terms of this section is found to be in any way incomplete or incorrect, the Commissioner General may, if he or she is satisfied that there was no fraudulent intention, permit the pilot to amend his or her report.

(3) The pilot of an aircraft may, with the permission of the Commissioner General and subject to such conditions as he or she may impose, retain on board goods consigned to any airport for landing at any other airport or land at any airport goods not consigned thereto.

(4) The Minister may, subject to such conditions as he or she may impose, exempt any aircraft or any class or kind of aircraft from all or any of the provisions of this section.

9. Sealing of goods on board aircraft

(1) The Commissioner General may permit surplus stores to be entered for home consumption or for warehousing.

(2) For the purposes of this section "sealable goods" means-

- (a) tobacco, cigars, cigarettes and any other preparations of tobacco or substitutes therefor;
- (b) any spirits or alcoholic beverages;
- (c) opium, preparations of opium, in any form and opium outfits;
- (d) cocaine, preparations of cocaine and other habit-forming drugs;

- (e) saccharin, sweetening substances containing saccharin, and substitutes for saccharin;
- (f) articles brought or intended as gifts for or for sale to or exchange with any person;
- (g) all non-duty-paid imported goods and all goods shipped at a place in Botswana as aircraft stores; and
- (h) any other goods which may from time to time be declared by the Minister by notice in the *Gazette* to be sealable goods.

(3) The Commissioner General may, in addition to sealable goods, seal up any goods which are unconsumed stores of any aircraft or which are in the possession of the pilot of such aircraft or of any member of the crew thereof or of any passenger on board thereof.

(4) While any aircraft remains at any place in Botswana, a person shall not, except in accordance with regulations, break or disturb any seal placed by the Commissioner General on any goods in terms of this section.

(5) Except as provided in subsection (1), no stores of any nature may be landed without the permission of the Commissioner General and all goods acquired on an aircraft shall, if landed, be declared to the Commissioner General for purposes of payment of any duty due thereon.

(6) The Minister may, subject to such conditions as he or she may impose, exempt any aircraft or any class or kind of aircraft from all or any of the provisions of this section.

10. When goods deemed to be imported

(1) For the purposes of this Act, all goods consigned to or brought into Botswana shall be deemed to have been imported into Botswana-

(a) in the case of goods consigned to a place in Botswana in an aircraft, at the time when such aircraft on the flight in question first came within the control area of the airport authority at that place, or at the time of the landing of such goods at the place of actual discharge thereof in Botswana if such aircraft did not on that flight call at the place to which the goods were consigned or if such goods were discharged before arrival of such aircraft at the place to which such goods were consigned;

(b) in the case of goods not consigned to a place in Botswana but brought thereto by and landed therein from an aircraft, at the time when such goods were so landed;

(c) subject to the provisions of subsection (2), in the case of goods brought to Botswana overland, at the time when such goods entered Botswana;

(d) in the case of goods brought to Botswana by post, at the time of importation in terms of paragraph (a), (b) or (c) according to the means of carriage of such goods; and

(e) in the case of goods brought to Botswana in any manner not specified in this section, at the time specified in the General Notes to Schedule No. 1 or, if no such time is specified in the said General Notes in respect of the goods in question, at the time such goods are considered by the Commissioner General to have entered Botswana.

(2) For the purposes of subsection (1), a place outside Botswana appointed in terms of this Act as deemed by the Minister under section 7(2) to be a place of entry for goods consigned to Botswana, shall be deemed to be a place in Botswana in respect of goods consigned to such place for removal to Botswana overland.

11. No landing or loading of goods without permission

(1) All goods imported into Botswana by aircraft shall, if landed before due entry thereof, be placed in a transit shed, container terminal, container depot or State warehouse, or any other place approved by the Commissioner General.

(2) All goods landed from an aircraft before due entry of such goods and placed in a transit shed or other approved place in accordance with the provisions of subsection (1) shall be deemed to be still in the aircraft, and as long as such goods remain in such shed or place, the pilot shall remain responsible therefor in all respects and liable for the duty thereon as if the goods had not been removed from such aircraft.

(3) Subject to the provisions of any regulations, no goods shall, without the permission of the Commissioner General, be loaded into an aircraft for exportation from Botswana.

(4) No goods shall, without the permission of the Commissioner General, be laden at any place in Botswana on an aircraft before all inward cargo for that place has been discharged.

(5) Subject to the provisions of subsection (2) and the provisions of any regulations and to any conditions which he or she may impose, the Commissioner General may permit the landing at any place without due entry of goods not consigned to that place from an aircraft which has sustained damage or is in distress.

12. Goods imported or exported overland

(1) Where any goods are imported by train, the railway authority shall furnish the Commissioner General with such documents as the Commissioner General may require in relation to such goods.

(2) The station master or any other person in control of railway premises shall not permit any such goods to be removed from such premises before due entry thereof unless the Commissioner General allows such goods to be so removed, subject to such conditions as he or she may in each case impose, before such entry.

(3) The conductor, guard or other person in charge of a train shall on demand by any officer furnish him or her with all information at his or her disposal in respect of any goods on such train.

(4) Subject to the provisions of subsection (13), the person in charge of any vehicle (other than aircraft or a railway train) whether or not conveying any goods, which arrives by land at any place in Botswana shall come to the office of the officer nearest to the point at which he or she crossed the border or which is most conveniently situated in relation to that point before unloading any goods or in any manner disposing of such vehicle or goods, and make a full written report to such officer concerning the vehicle or goods, the journey and the destination of the goods, and shall make and subscribe to a declaration as to the truth of the report.

(5) Such person shall fully and truthfully answer all questions put to him or her and produce any waybills or other documents demanded of him or her by such officer.

(6) A person shall not remove a vehicle referred to in subsection (4) from the office referred to in that subsection until due entry has been made of such vehicle and the goods carried thereon or until permission for removal has been granted by the officer.

(7) Every person arriving in Botswana overland, on foot or otherwise shall, whether or not he or she has any goods in his or her possession, come to the office of the officer nearest to the point at which he or she crossed the border or the office of the officer which is most conveniently situated in relation to that point, and there report to the officer the circumstances in which he or she entered Botswana.

(8) If such person has any goods in his or her possession, he or she shall furnish such officer with full particulars thereof, and shall fully and truthfully answer all questions put to him or her by the officer.

(9) Such person shall not in any manner dispose of any goods in his or her possession until they have been released by the officer.

(10) The provisions of subsections (7), (8) and (9) shall not apply to persons arriving in Botswana by train or by air and who pass through or disembark at a place where an officer is stationed.

(11) A person in charge of any vehicle (other than aircraft or a train), whether or not used in the exportation of goods overland shall not remove any such vehicle or goods beyond the borders of Botswana unless due entry has been made of such vehicle and the goods carried thereon, or permission for removal has been granted by the Commissioner General.

(12) The Commissioner General may in his or her discretion grant a general permission to any such person.

(13) The Minister may, by notice published in the *Gazette* and subject to such conditions as he or she may impose, exempt any person from the provisions of subsections (4) and (5).

13. Goods imported or exported by post

(1) For the purposes of entry and collection of duty on goods imported into Botswana by post, any form or label completed by the sender in respect of the postal item in question and on which the particulars necessary for the assessment of duty are set forth, shall be deemed to be an entry made under the provisions of this Act, and the particulars on any such form or label shall, for the purposes of this Act, be taken as the declaration to be made by the importer under section 41:

Provided that the Minister may by regulations exclude from the provisions of this subsection any goods of a class or kind specified in such regulations or any such goods imported in circumstances so specified.

(2) Notwithstanding anything contained in subsection (1), any goods imported by post which the addressee desires to enter for warehousing, or for removal or export in bond, or under any heading or item of Schedule No. 1 which requires that a certificate be given or a condition be complied with, or under any item of Schedule No. 3, or under any item of Schedule No. 4 or 5 specified by the Commissioner General, shall be entered at an excise office before an officer.

(3) Notwithstanding anything contained in subsection (1), any goods imported by post by such class of addressee, or any goods imported by post and of such class or kind, as may be specified by the Commissioner General after consultation with the Commissioner General of Postal Services, shall be entered at an excise office before an officer.

(4) In the case of goods exported by post, any form or label affixed to or completed in respect of a postal item and on which a description of the contents and their value are set forth, shall be defined to be a bill of entry for export as required by this Act.

(5) Notwithstanding anything contained in subsection (1) or in any other law but subject to the provisions of subsection (2), any person importing goods by post shall submit the invoice in respect of such goods to the postmaster concerned, and a person shall not receive, remove, take, deliver or in any manner deal with or in such goods unless the correct duty has been paid to that postmaster.

(6) A postmaster may at any time detain any imported postal item under his or her control and cause such postal item to be removed to the officer who may in his or her discretion examine such postal item, and if the goods therein are found not to agree in all respects with the particulars relating to the

value, description or quality appearing on the form or label referred to in subsection (1) or the invoice concerned, such goods shall notwithstanding anything to the contrary contained in any other law be liable to forfeiture.

14. Persons entering or leaving Botswana

(1) Any person entering or leaving Botswana shall, in such a manner as the Commissioner General may determine, unreservedly declare-

(a) at the time of such entering, all goods (including goods of another person) upon his or her person or in his or her possession which he or she brought with him into Botswana which-

(i) were purchased or otherwise acquired abroad or on any vehicle or in any shop selling goods on which duty has not been paid,

(ii) were remodelled, processed or repaired abroad, or

(iii) are prohibited, restricted or controlled under any law; and

(b) before leaving, all goods which he or she proposes taking with him or her beyond the border of Botswana, and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him or her by such officer and, if required by such officer to do so, produce and open such goods for inspection by the said officer, and shall pay the duty assessed by such officer, if any, to the proper officer.

(2) Any declaration made in terms of subsection (1) shall, for the purposes of this Act, be deemed to be an entry for home consumption or export, as the case may be.

(3) The Commissioner General shall have the power, in all cases where a person is detected or is concerned in or is suspected by him of an attempt to import, export, land, or remove goods illegally or to evade the payment of duties on any goods, forthwith to take the person concerned before a magistrate's court to be summarily or otherwise dealt with, or to secure such person in a police station or other suitable place, until he or she can be taken before such court.

15. Opening of packages in absence of importer or exporter

The Commissioner General may, in the absence of the importer or exporter of any package imported into or landed in or exported from, or suspected by the Commissioner General to have been imported into or landed in, or exported from, Botswana, open and examine such package at the importer's or exporter's risk and expense:

Provided that wherever possible the Commissioner General shall first make all reasonable efforts to ascertain the whereabouts of such importer or exporter and afford the said importer or exporter the opportunity of himself or herself appearing before the Commissioner General and opening the package in question.

16. State warehouse

(1) Whenever any goods are taken to and secured in any State warehouse, the Commissioner General may require rent to be paid for such period as the goods remain therein, at the rates prescribed.

(2) Any officer who has the custody of any goods in any State warehouse may refuse delivery thereof from such warehouse until he or she has been furnished with proof to his or her satisfaction that-

- (a) the person claiming the goods is lawfully entitled to such goods;
- (b) all relevant provisions of this Act or any law relating to the importation or exportation or transit of goods have been complied with; and
- (c) freight and other charges, including landing charges, and rent due in respect of the goods have been paid.

(3) The State or any officer shall in no case be liable in respect of any loss or diminution of or damage to any goods in a State warehouse in respect of any loss or damage sustained by reason of wrong delivery of such goods.

(4) If a warrant or permission for the removal of any goods from a State warehouse has been granted by the Commissioner General, and the person to whom such warrant or permission has been granted does not immediately remove the said goods from the warehouse, they may, notwithstanding any other provisions of this Act, in the discretion of the Commissioner General, be dealt with as if they were goods in respect of which entry has not been made under the provisions of this Act.

17. Removal of goods in bond

(1) Notwithstanding anything to the contrary contained in this Act-

(a) the importer or owner of any imported goods landed in Botswana, or manufacturer, owner, seller or purchaser of any goods manufactured in an excise warehouse or the licensee of an excise warehouse in which dutiable goods are manufactured or stored may remove such goods in bond to any place of entry or warehousing place under this Act or to any place outside Botswana:

Provided that such goods manufactured or stored in an excise warehouse may only be so removed to any such warehousing place in the common customs area for warehousing;

(b) the pilot of an aircraft or person in charge of any vehicle from which any goods were landed at a place in Botswana to which such goods were not consigned may remove such goods in bond to the place to which they were consigned provided evidence is produced to the Commissioner General before entry for removal of the identity of such goods and that the goods in question were consigned to the place to which they are proposed to be removed;

(c) the owner of or any person beneficially interested in any goods which are in transit through Botswana from any other territory in Africa to any place outside Botswana may remove such goods in bond from the place where they entered Botswana to the place where they are destined to leave Botswana;

(d) a container operator may remove any container in bond to the container depot or container terminal to which it was consigned, without furnishing the security provided for in subsection (6), and the manifest in terms of section 8(2) of the goods packed in such container shall be deemed to be due entry for removal in bond of that container; and

(e) the pilot of an aircraft operating a scheduled service may remove in bond any goods landed from an aircraft at a place in the common customs area and for which an air cargo transfer manifest has been completed, to their place of entry or the common customs area, without furnishing the security provided for in subsection (6), and such air cargo transfer manifest shall be deemed to be due entry for removal in bond of such goods.

(2) For the purposes of subsection (1)(a), imported goods landed in Botswana shall include goods in transit through Botswana which are destined for removal to a consignee in any country outside Botswana.

(3) In addition to any liability for duty incurred by any person under any other provision of this Act, the person who removes any goods in bond in terms of subsection (1) shall, subject to the provisions of subsection (4), be liable for the duty on all goods which he or she so removes.

(4) Subject to the provisions of subsection (5), any liability for duty in terms of subsection (3) shall cease when it is proved to the satisfaction of the Commissioner General by the person concerned-

(a) in the case of goods removed to a place in the common customs area, that such goods have been duly entered at that place; or

(b) in the case of goods which were destined for a place beyond the borders of the common customs area, that such goods have been duly taken out of that area.

(5) If the person concerned fails to submit any such proof as is referred to in subsection (6) within a period of 30 days from the date on which the goods in question were entered for removal in bond, he or she shall upon demand by the Commissioner General forthwith pay the duty due on such goods.

(6) Goods shall not be removed in bond in terms of this section from the place where they were landed in Botswana or where they entered Botswana until they have been entered for removal in bond and such entry shall be deemed to be due entry in respect of such goods at that place for the purposes of this Act.

(7) No entry for removal in bond shall be tendered by or may be accepted from a person who has not furnished such security as the Commissioner General may require and the Commissioner General may at any time require that the form, nature or amount of such security shall be altered in such manner as he or she may determine.

(8) The removal in bond of goods shall be subject to such regulations and such conditions as the Minister may prescribe in respect of such goods or any class or kind of such goods or goods removed in circumstances specified by him or her and the Commissioner General may refuse to accept bills of entry for the removal in bond of goods from a remover who has persistently failed to comply with such regulations or conditions or who has committed an offence referred to in section 79.

(9) Goods removed in bond shall not be delivered or removed from the control of the Commissioner General at the place of destination in Botswana except upon due entry according to the first account taken of such goods on landing or on entry for removal in bond thereof or according to the contents of the packages containing such goods as reflected on the invoice issued by the supplier in respect of such goods, and payment of any duty due, including, subject to the provisions of section 71(19), any duty due on any deficiency.

(10) The Commissioner General may refuse the removal in bond of goods in respect of which a provision of this Act has not been complied with or which are liable to forfeiture.

(11) The State or any officer shall in no case be liable for any loss of or damage of whatever nature to any goods removed in bond or for any loss or damage sustained by reason of wrong removal or delivery.

(12) Notwithstanding the provisions of this section, the Commissioner General may, subject to such conditions as he or she may impose, in respect of goods in transit through Botswana from any other territory in Africa to any destination outside Botswana or any class or kind of such goods or any such goods removed in bond in circumstances specified by him or her, allow such goods to be entered for removal in bond at a place other than the place where the goods entered Botswana.

(13) The Commissioner General may determine the roads and routes and the means of carriage of any goods removed in bond or any class or kind of such goods or any such goods carried in circumstances specified by him or her.

(14) A person shall not, without the permission of the Commissioner General, divert any goods removed in bond to a destination other than the destination declared on entry for removal in bond or deliver such goods or cause such goods to be delivered in Botswana except into the control of an

officer at the place of destination.

(15) The Commissioner General may specify the particulars to be reflected on the entry for removal in bond and the documents to be produced by the remover upon entry for removal in bond in respect of any goods removed in bond, or any class or kind of such goods or any such goods removed in circumstances or to a destination specified by him or her.

18. Exportation of goods from excise warehouse

(1) Notwithstanding any liability for duty incurred thereby by any person in terms of any other provision of this Act, any person who exports any goods from an excise warehouse to any place outside the common customs area shall, subject to the provisions of subsection (2), be liable for the duty on all goods.

(2) Subject to the provisions of subsection (3) any liability for duty in terms of subsection (1) shall cease when it is proved to the satisfaction of the Commissioner General by the exporter that the said goods have been duly exported out of the common customs area.

(3) If the exporter fails to submit such proof as is referred to in subsection (2) within a period of 30 days from the date on which the goods concerned were entered for export, he or she shall upon demand by the Commissioner General forthwith pay duty due on the goods.

(4) Goods shall not be exported in terms of this section until they have been entered for export.

(5) No such entry for export shall be tendered by or may be accepted from a person who has not furnished such security as the Commissioner General may require, and the Commissioner General may at any time require that the form, nature or amount of that security be altered in such manner as he or she may determine.

(6) The said exportation of goods shall be subject to the regulations and such conditions as the Commissioner General may impose in respect of the goods concerned or any class or kind of those or those goods exported in circumstances specified by him or her, and the Commissioner General may refuse to accept bills of entry for the said exportation of goods from an exporter who has persistently failed to comply with the said regulations or conditions or who has committed an offence referred to in section 77.

(7) The Commissioner General may refuse the said exportation in respect of which a provision of this Act has not been complied with or which are liable to forfeiture.

(8) The Commissioner General may determine the roads and routes and the means of carriage of any goods so exported or any class or kind of those goods or any such goods carried in circumstances specified by him or her.

(9) A person shall not, without the permission of the Commissioner General, divert any goods so exported to a destination other than the destination entered on entry for exportation.

(10) The Commissioner General may specify the documents to be produced by the exporter upon entry for exportation in respect of any goods so exported or any class or kind of those goods or any such goods exported in circumstances, or to a destination specified by him or her.

PART IV

Excise Warehouses: Storage and Manufacture of Goods in Warehouses

19. Excise warehouses

(1) The Commissioner General may licence at any place appointed for that purpose under the provisions of this Act, warehouses (to be known as excise warehouses) approved by him or her for the storage of such dutiable imported or such dutiable locally-produced goods or for the manufacture of such dutiable goods from such imported or such locally-produced materials or such imported and such locally-produced materials as he or she may approve in respect of each such warehouse.

(2) An excise warehouse under subsection (1) may be licensed either for the storage of dutiable goods (to be known as excise storage warehouses) or for the manufacture of dutiable goods (to be known as excise manufacturing warehouses), but the Commissioner General may licence a storage and a manufacturing warehouse on the same premises provided they are separated in a manner approved by him or her.

(3) The Commissioner General may, in addition to any lock used by the licensee, cause any excise warehouse to be locked with a State lock for such period as he or she deems fit, and a person shall not remove or break such lock or enter such warehouse or remove any goods therefrom without the permission of the Commissioner General while it is so locked.

(4) The Commissioner General may at any time take stock of the goods in any excise warehouse and duty shall, subject to the provisions of section 20(9), be paid.

(5) If the stock is found to be greater than the quantity which should be in such warehouse, the excess shall, subject to the provisions of section 71(19), be debited to stock and the duty thereon paid on entry for home consumption.

(6) The State or any officer shall in no case be liable for any loss or damage of whatever nature to any goods in an excise warehouse or for any loss or damage sustained by reason of wrong delivery of such goods.

(7) In addition to any liability for duty incurred by any person under any other provision of this Act, the licensee of an excise warehouse shall, subject to the provisions of subsection (8), be liable for the duty on all goods stored or manufactured in such warehouse from the time of receipt into such warehouse of such goods or the time of manufacture in such warehouse of such goods, as the case may be.

(8) Subject to the provisions of subsection (9), any liability for duty in terms of subsection (7) shall cease when it is proved to the satisfaction of the Commissioner General by the licensee concerned that the goods in question have been duly entered in terms of section 20(7) and have been delivered or exported in terms of such entry.

(9) If the licensee concerned fails to submit any such proof as is referred to in subsection (8) in respect of any goods in the warehouse in question within the period specified in the regulations for which goods of that class or kind may be stored or kept in an excise warehouse or if the licensee commits an offence under this Act in respect of any goods stored or kept in such warehouse he or she shall upon demand by the Commissioner General forthwith pay the duty due on such goods.

(10) Except in exceptional circumstances with the permission of the Commissioner General in writing and subject to such conditions as the Commissioner General may impose, no imported goods entered for storage or goods manufactured in an excise warehouse, excluding spirits or wine in the process of maturation or maceration, shall be retained in any excise warehouse for a period exceeding five years from the time the imported goods were first entered for storage or from the time goods were deemed to have been manufactured in terms of section 47(2).

20. Goods in excise warehouses

(1) Any dutiable imported or dutiable locally-produced goods and any beverages produced from excisable spirits in pursuance of any permission granted under the provisions of section 31(2), being goods or beverages of a class or kind approved by the Commissioner General in respect of each warehouse, may be entered for storage in an excise warehouse with deferment of payment of duty and no such goods or beverages shall be removed to or placed in an excise warehouse until they have been so entered.

(2) Any entry under subsection (1) shall be deemed to be due entry in respect of such goods at the place of importation or manufacture for the purposes of this Act.

(3) Upon the entry and landing of imported goods for storage in or the transfer of dutiable locally-produced goods to an excise warehouse or the transfer of dutiable manufactured goods from an excise manufacturing warehouse to an excise storage warehouse, the licensee of any such warehouse in which such goods are stored or to which such goods are so transferred shall take and record an accurate account of such goods, which shall include, subject to any deduction that may be allowed under section 71(19), the debiting to stock of any excess found on receipt of such goods at such warehouses.

(4) The licensee referred to in subsection (3) shall immediately upon the receipt of such goods report to the Commissioner General any such excess so found.

(5) Subject to the provisions of section 71(19) and of subsection (9), no allowance for loss or diminution of any nature which occurs while such goods are being transported to or kept in any such warehouse or transported from one warehouse to another or removed in bond shall be allowed.

(6) Goods on which no duty is payable and of a class or kind approved by the Commissioner General in respect of each warehouse, may, subject to such conditions and to the keeping of such records as the Commissioner General may in each case determine, without entry, be taken into an excise warehouse for the purpose of being used in the manufacture of or in conjunction with dutiable goods.

(7) Goods which have been stored or manufactured in an excise warehouse shall not be taken or delivered from such warehouse except in accordance with any regulations and upon due entry for one or other of the following purposes-

- (a) home consumption and payment of any duty due thereon;
- (b) re-warehousing in another excise warehouse or removal in bond as provided in section 17; or
- (c) export from an excise warehouse, including supply as stores for foreign-going aircraft.

(8) A person shall not, without the permission of the Commissioner General, divert any goods entered for removal from or delivery to an excise warehouse, except goods entered for payment of duty due thereon, to a destination other than to a destination declared on entry of such goods or deliver or cause such goods to be delivered in Botswana except in accordance with the provisions of this Act.

(9) The duty on any deficiency in an excise warehouse shall be paid forthwith on demand after detection of such deficiency:

Provided that in the case of goods manufactured in any excise manufacturing warehouse or in the case of goods in the process of manufacture and removed from one excise manufacturing warehouse to another such warehouse, the Commissioner General may, allow working, pumping, handling, processing and similar losses and losses due to natural causes, between the time when liability for duty first arises and the time of removal of such goods from the warehouse in which the goods are so manufactured or in which such process of manufacture is completed, to the extent specified in Schedule No. 4 or 6, if he or she is satisfied that no part of such loss was wilfully or negligently caused.

(10) Goods packed for retail sale shall not be entered for storage in a storage warehouse unless they are packed in outer containers normally used in the wholesale trade in respect of such goods.

21. Special excise warehouses

(1) The Minister may, subject to such conditions as he or she may in each case impose, licence at any place in Botswana special excise warehouses for such special purposes and for such period as he or she may specify, provided such security as he or she may require is furnished.

(2) Unless the Minister otherwise indicates when licensing a special excise warehouse for the storage or manufacture of goods, the provisions of this Act in respect of excise storage or manufacturing warehouses or the storage or manufacture of goods in such warehouses, shall apply to such special warehouse and to the storage or manufacture of goods therein, as the case may be.

22. Samples of goods in excise warehouse

The Commissioner General may, subject to regulations if any, made by the Minister, permit samples of goods in an excise warehouse to be taken by the owner of such goods and may permit payment of duty thereon to be deferred until the goods from which such samples have been taken are entered for delivery from that warehouse for any purpose.

23. Storage or manufacture of prohibited goods

The Commissioner General may allow the storage or manufacture in an excise warehouse of goods the importation, manufacture or disposal of which is prohibited or restricted under any law, provided such goods are stored or manufactured in such warehouse for export or supply as stores for foreign-going aircraft only.

24. Aircraft stores consumed in Botswana

If any goods shipped as stores for any foreign-going aircraft from an excise warehouse under the provisions of section 20(7) or any goods shipped as stores for such aircraft outside Botswana are consumed, sold or disposed of on such aircraft at any place in Botswana when the aircraft is not airborne, or on such aircraft on a flight between any places in Botswana or between a place in Botswana and any other place in the common customs area, the pilot of such aircraft shall be liable for the duty on such goods so consumed, sold or disposed of and shall upon demand by the Commissioner General forthwith pay the duty due on such goods.

25. Sorting, packing, etc., in excise storage warehouses

Subject to the provisions of this Act, the Commissioner General may permit the licensee of an excise storage warehouse or the owner of any goods in such warehouse to sort, separate, pack or repack any goods in such warehouse and to make such alterations therein or such arrangements as may be necessary for the preservation of those goods or for the sale, exportation or other lawful disposal thereof.

26. Transfer of ownership or pledging or hypothecation of warehoused goods

(1) Except with the prior permission of the Commissioner General-

(a) the owner of any dutiable goods in an excise warehouse may not enter into any agreement whereby-

- (i) his or her ownership of such goods is transferred to any other person, or
 - (ii) such goods are pledged or otherwise hypothecated in favour of any other person; and
- (b) any person in whose favour such goods have been pledged or hypothecated may not enter into any agreement whereby any rights obtained by him by virtue of such pledging or hypothecation are ceded to any other person.

(2) Any agreement entered into contrary to the provisions of subsection (1) shall for the purposes of this Act be deemed to be null and void.

27. Special provisions in respect of excise manufacturing warehouses

(1) Subject to the provisions of this Act, goods liable to duty may not be manufactured except in terms of this section and except in an excise manufacturing warehouse licensed under this Act:

Provided that spirits distilled by agricultural distillers shall be excluded from the requirement of manufacture in an excise manufacturing warehouse and that goods may, with the permission of the Commissioner General, be manufactured in a special excise warehouse licensed under this Act.

(2) Subject to the provisions of this Act, the Minister may, on such conditions as he or she may impose, permit the manufacture under the provisions of this Part of any goods in any excise manufacturing warehouse if any of the goods used in such manufacture are liable to duty or if the goods so manufactured are dutiable.

(3) Any dutiable goods brought into and intended for use in an excise manufacturing warehouse in the manufacture of goods liable to duty shall be entered for home consumption and any duty due thereon shall be paid prior to such use.

(4) The manufacturing of goods shall not take place in an excise manufacturing warehouse until all premises and plant intended for use in connection with such manufacturing and the purpose for which they are to be used have been approved by and registered with the Commissioner General.

(5) Plans of the premises and plant to be used in connection with such manufacturing and of the location of the plant on such premises and particulars of any identifying numbers or marks on any plant shall be submitted to the Commissioner General before the commencement of manufacturing and no alteration to such premises or plant shall be made without the prior permission of the Commissioner General.

(6) All operations in excise manufacturing warehouses shall be subject to the right of supervision by officers.

(7) The Commissioner General, may in writing, require every licensee of an excise manufacturing warehouse to provide suitable office accommodation, board and lodging for any officer stationed at or visiting such warehouse for the purposes of investigating that warehouse in terms of the Act.

(8) A person so providing board and lodging for an officer shall be entitled to fair remuneration therefor.

(9) The Commissioner General may give instructions in writing to any licensee specifying in what part of the warehouse-

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

(10) A licensee shall not, without the written permission of the Commissioner General, in an excise manufacturing warehouse carry on any business except that for which the warehouse is licensed and the premises and plant are registered.

(11) A person shall not, except with the written permission of the Commissioner General-

- (a) use any premises or plant required to be registered in terms of the provisions of this Part for any purpose other than that detailed in such registration;

- (b) effect any alteration to any structure on such premises or to any such plant;
- (c) bring into or have on such premises, any plant other than that detailed in such registration or remove any plant from such premises; or
- (d) place below the surface of the ground any pipe or tube for conveying any material or product in a warehouse unless such pipe or tube is enclosed in casing capable of being easily opened so that the pipe or tube is exposed to view.

(12) The Commissioner General may, by notice published in the *Gazette*, appoint the days on which and the hours during which all or any of the operations in an excise manufacturing warehouse (including the removal of goods) shall be carried out.

(13) A distilling operation shall not be commenced until the whole or any part of the distilling system or plant, as the Commissioner General may require, has been provided, at the expense of the licensee, with fittings, and requirements to permit of the insertion or affixing of excise meters, gauges, rods, locks and seals according to the regulations, for the purpose of securing such system or plant, and until such system or plant has been duly secured by an office.

(14) If any meter, rod, lock or fitting is tampered with or damaged, or if any pipe, cock, fastening or fitting connected with a still, vessel or other manufacturing or marking equipment is pierced or damaged, the licensee shall forthwith repair or renew the article in question or an officer may effect the repair or renewal at the expense of the licensee.

(15) If any such tampering, damage or piercing has been directly or indirectly caused by the wilful act, or by the neglect or with the connivance of the licensee or his or her employee, such licensee, in addition to liability for the cost of the repair or renewal, shall be guilty of an offence.

(16) The burden of showing that any such tampering, damage or piercing was not caused as specified in subsection (15) shall rest upon the licensee.

(17) The Minister may, subject to such conditions as he or she may impose, exempt the manufacture of any class or kind of goods from any provision of this section.

28. Ascertaining quantity of spirits by measuring the mass or volume

(1) The quantity of spirits in any container may be calculated by measuring the mass or volume.

This section of the article is only available for our subscribers. Please [click here](#) to subscribe to a subscription plan to view this part of the article.

Please [click here](#) to login
