

## EXCISE (CONTROL OF DISTILLATION) ACT

(The following extracts from this Act are reproduced below: sections 11 – 13, 16 – 18)

### ARRANGEMENT OF SECTIONS

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## EXCISE (CONTROL OF DISTILLATION) ACT

### (EXTRACTS)

**An Act to make provision for the control and licencing for excise purposes of the distillation of spirits.**

[1964 No. 22.]

[Commencement: 1st April, 1964]

### 11. Power to prohibit use of certain substances in excisable goods

(1) If it appears to the satisfaction of the Board that any substance or liquor is used, or is capable of being used, in the manufacture or preparation for sale of any goods chargeable with a duty of excise, and that that substance or liquor is of a noxious or detrimental nature or, being a chemical or artificial extract or product, may affect prejudicially the interests of the revenue, the Board may by notice in the *Federal Gazette* prohibit the use of that substance or liquor in the manufacture or preparation for sale of any goods specified in the notice.

(2) If, while any such notice is in force, any person knowingly uses a substance or liquor thereby prohibited in the manufacture or preparation for sale of any goods specified in the regulations he shall be guilty of an offence punishable on conviction by a fine of one hundred naira.

(3) Any substance or liquor the use of which is for the time being prohibited by any such notice found in the possession of any person licensed for the manufacture or sale of any goods specified in the notice, and any goods in the manufacture or preparation of which any substance or liquid has been used contrary to any such prohibition, shall be liable to forfeiture.

## 12. Payment of duty by excise traders

(1) Every licensee shall pay any duty of excise payable in respect of his trade at or within such time, at such place and to such person as the Board may direct, whether or not payment of that duty has been secured by bond or otherwise.

(2) If any duty payable is not paid as aforesaid, it shall be paid on demand made by the Board either to the licensee personally or by delivering the demand in writing at his place of abode or business, and if it is not paid on demand the licensee shall in addition be liable to a penalty of double the amount due.

## 13. Liability of ostensible owner

Any person who acts ostensibly as the owner or who is a principal manager of the business of a licensee under this Act in respect of which entry of any premises or article has been made or who occupies or uses any entered premises or article shall, notwithstanding that he is under the age of twenty-one years, be liable in like manner as the real and true owner of the business for all duties charged and all penalties incurred in respect of that business.

## 16. Power to seize goods in particular cases

Where spirits subject to excise duty become liable to forfeiture under this Act but spirits are not available in sufficient quantity for forfeiture, the Board may seize from the stock of the licensee, any quantity of spirits available or goods capable of conversion into spirits of such quantity, as would attract up to the same amount of duty as that on the spirits liable to forfeiture.

## 17. Forfeiture and condemnation of spirits seized

(1) In the application of this section, the provisions of the First Schedule to this Act shall have effect for the purposes of forfeiture, and all proceedings for the condemnation of any thing as being forfeited, under the excise laws.

[First Schedule.]

(2) Any officer, police officer, or person authorised in that behalf by the Board, may at any time seize or detain any spirits liable to forfeiture under this Act or which such officer, police officer or person so authorised has reasonable grounds to believe is liable to forfeiture under the excise laws.

(3) Spirits so seized or detained shall forthwith be delivered to the Board; and pending determination by the Board as to forfeiture or disposal, things delivered to the Board may be condemned as forfeiture or otherwise dealt with as the Board may direct.

**18. Power to levy distress**

(1) Where any excise duty remains unpaid on spirits distilled under licence after the time within which the same is payable, the Board may authorise the levying of a distress—

- (a) upon the goods, chattels and effects of the licensee in respect of which the duty remains unpaid; and
- (b) upon all equipment, plant, tools, ships, vehicles, animals, goods and effects used in the distillation, sale or distribution of spirits found in the premises or on any land in the use or possession of such manufacturer or of any person on his behalf, or in trust for him.

(2) The authority to distrain under this section shall be in the form in the Second Schedule to this Act, and shall be a warrant and authority to levy by distress the amount of any duties due.

[Second Schedule.]

(3) For the purpose of levying any distress under this section, any person authorised in writing by the Board may execute a warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress.

(4) The person so authorised under subsection (3) of this section may call to his assistance any police officer, who shall, when required, aid and assist in the execution of the warrant of distress and in levying the distress.

(5) Where distraint is made, the burden of proof that the goods or things are not liable to seizure shall lie upon the person claiming they are not so liable, and the goods or things seized may, at the cost of the owner thereof, be kept for fourteen days; and if the amount due in respect of duty and the cost and charges of and incidental to the distress are not then paid, the goods or things so seized may be sold.

(6) Out of the proceeds of the sale there shall be paid first the excise duty and thereafter the costs or charges of and incidental to the sale and keeping of the distress; and the residue, if any, shall be paid to the owner of the goods or things distrained, upon demand made by the owner within one year of the date of sale.

(7) In exercise of the power of distress conferred by this section, the person to whom authority to levy duties is given may distrain upon all goods or things belonging to the licensee wherever the same may be found.