

MOTOR SPIRIT (RETURNS) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Registration of importers and distributors.
4. Certain persons may be registered distributors.
5. Importation only by registered importer.
6. Restriction on disposal by importer.
7. Registered importer to supply information.
8. Registered distributor to furnish information.
9. Cancellation of registration.
10. Death or incapacity of registered persons.
11. Prescribed authority may direct keeping of accounts.
12. Penalties for non-compliance with requirements under sections 7 and 8.
13. Supplying false information.
14. Information not to be disclosed.
15. Dutiable motor spirit to be deemed regulated goods.
16. Recovery of penalties.

An Act to make provision for making returns of motor spirit imported into Nigeria for purposes incidental to the allocation of revenue derived from customs import duties on the said spirit, and for purposes connected therewith.

[1952 No. 5. L.N 131 of 1954. 1 of 1955.76 of 1955. 107 of 1955.]

[27th March, 1952]

[Commencement.]

1. Short title

This Act may be cited as the Motor Spirit (Returns) Act.

1. Interpretation

In this Act, unless the context otherwise requires-

“distributor” means a person who, in accordance with a written contract with an importer, carries on in Nigeria a business of selling motor spirit belonging to that importer or purchased from that importer;

“dutiable motor spirit” means motor spirit in respect of which customs duties of import are chargeable under the Customs, Excise Tariff, etc. (Consolidation) Act;

[Cap. C49.]

“financial year” means a period of twelve months commencing on the 1st day of January in any year;

“import” means to bring or cause to be brought into Nigeria;

“importer” means a person who carries on in Nigeria a business of importing motor spirit;

“prescribed authority” means the Nigerian Customs Service; and shall include the officer or authority thereafter appointed by the President;

“quarter” means a quarter of a financial year;

“registered distributor” means a person registered in accordance with subsection (2) of section 3 of this Act;

“registered importer” means a person registered in accordance with subsection (1) of section 3 of this Act.

1. Registration of importers and distributors

(1) Every person whose business includes the business of importer shall be registered under this Act.

(2) Every person whose business includes the business of distributor shall be registered under this Act.

(3) Every person carrying on business under such circumstances that he is required under subsections (1) or (2) of this section to be registered shall, within one month after the commencement of this Act, make application for registration to the prescribed authority who shall, for the purposes of this Act, be the Board of Customs and Excise.

(4) If any person fails to comply with any of the requirements of the last preceding subsection, he shall be liable to a penalty of two hundred naira and to a further penalty of twenty naira for each day during which the failure continues.

(5) The prescribed authority shall register every person who is required by subsections (1) or (2) of this section to be registered and shall, on his registration, issue to him a certificate that he is a registered importer or a registered distributor, as the case may be.

(6) Where a person who is registered ceases to be required by this Act to be registered, the prescribed authority shall cancel his registration.

(7) Not less than fourteen days before registering a person otherwise than in accordance with an application for registration made by him or cancelling the registration of a registered person, the prescribed authority shall serve notice on him of his intention to register him or cancel the registration, as the case may be.

1. Certain persons may be registered as distributors

Where the prescribed authority is satisfied that a person who is not an importer or a distributor makes for the purposes of a business carried on by him purchases of motor spirit from an importer or a distributor which in value and quantity are such as in the ordinary course of trade are made by distributors he shall be registered under subsection (2) of section 3 of this Act.

1. Importation only by registered importer

No person shall import dutiable motor spirit unless he is a registered importer:

Provided that the provisions of this section shall not apply to the importation of motor spirit in the tank of a mechanically propelled vehicle entering Nigeria by road in such quantities as are necessary for the normal use of that vehicle.

1. Restriction on disposal by importer

(1) No importer shall in Nigeria sell or dispose of motor spirit, except-

- (a) in the course of any retail business of selling motor spirit carried on by him; or
- (b) through the agency of a registered distributor; or
- (c) to a registered distributor; or
- (d) to a registered importer; or
- (e) to the Government of Nigeria (including any State thereof).

(2) If any importer sells or disposes of motor spirit contrary to the provisions of subsection (1) of this section, he shall for each offence be liable to a penalty of two hundred naira.

1. Registered importer to supply information

(1) Every registered importer shall furnish to the prescribed authority within such time and in such form as he may require in respect of each quarter such information re-

lating to-

- (a) the quantity of motor spirit imported by him;
- (b) the quantity of warehoused motor spirit withdrawn from warehouse for use in Nigeria;
- (c) the quantity of motor spirit delivered by him to distributors;
- (d) the quantity and places of storage of stocks (other than warehoused stocks) of motor spirit stored by him for use in Nigeria;
- (e) the appropriation of motor spirit for the purposes of any business carried on by him, as the prescribed authority may specify.

(2) Every registered importer shall upon demand made by the prescribed authority produce for inspection at such time and place as the prescribed authority may require any books or accounts or other documents of whatever nature relating to the matters in respect of which information may be required in accordance with subsection (1) of this section.

(3) When a person ceases to be registered during any quarter he shall furnish to the prescribed authority within such time and in such form as he may specify such information as is mentioned in subsection (1) of this section in respect of that part of the said quarter during which he was registered.

(4) In this section, "**warehoused**" means deposited in State, Government or private warehouse approved or licensed as the case may be under the Customs, Excise Tariffs, etc. (Consolidation) Act.

[Cap. C49.]

1. **Registered distributor to furnish information**

(1) Every registered distributor shall furnish to the prescribed authority within such time and in such form as he may require in respect of each quarter such information relating to-

- (a) the premises in each State at which the business of distributor is carried on;
- (b) the opening and closing stocks of motor spirit and the quantities received at each set of premises during that quarter;
- (c) the sale or disposal of motor spirit by him from each set of premises during that quarter;

(d) the appropriation of motor spirit for the purposes of any business carried on by him during that quarter,

as the prescribed authority may specify.

(2) Every registered distributor shall upon demand made by the prescribed authority produce for inspection at such time and place as the prescribed authority may require any books or accounts or other documents of whatever nature relating to the matters in respect of which information may be required in accordance with subsection (1) of this section.

(3) When a person ceases to be registered during any quarter he shall furnish to the prescribed authority within such time and in such form as he may specify such information as is mentioned in subsection (1) of this section in respect of that part of the said quarter during which he was registered.

1. Cancellation of registration

(1) If any registered importer fails to comply with any requirement of the prescribed authority under section 7 of this Act or if any registered distributor fails to comply with any requirement of the prescribed authority under section 8 of this Act, the prescribed authority may, in addition to the recovery of any penalty under this Act, cancel the registration of such registered importer or distributor.

(2) The prescribed authority may re-enter upon the register the name of any importer or distributor whose registration was cancelled in accordance with the provisions of subsection (1) of this section on the compliance by the importer or distributor with all requirements imposed upon him.

(3) If any importer or distributor whose registration was cancelled complies with the requirements of the prescribed authority and the prescribed authority refuses to re-enter his name upon the register, such importer or distributor may appeal to the Minister charged with responsibility for Finance who may give such directions as he shall see fit to the prescribed authority.

[L.N. 76 of 1955.]

10. Death or incapacity of registered persons

When a registered importer or a registered distributor dies or becomes subject to any incapacity his personal representative, trustee, receiver or committee as the case may be shall within twenty-one days after the date of the death or incapacity inform the prescribed authority of the death or incapacity, specifying the date of death or the nature of

the incapacity and the date upon which the registered person became subject thereto, and from the date of death or incapacity until the registration of a person carrying on the business shall be treated as a registered importer or distributor as aforesaid, and during that period all the provisions of this Act shall apply to such personal representative, trustee, receiver or committee as if he were a registered importer or distributor.

11. Prescribed authority may direct keeping of accounts

(1) If the accounts, records or books kept by any importer or distributor are in the opinion of the prescribed authority inadequate for the purpose of complying with any requirements of the prescribed authority under section 6 or section 7 of this Act, the prescribed authority may by notice in writing direct that such person shall keep accounts, books and records in such form as he may by the said notice specify relating to the matters in respect of which information may be required.

(2) An appeal shall lie from any direction of the prescribed authority under this section to the High Court.

[L.N. 107 of 1955.]

(3) On hearing such appeal, the court may confirm or modify such direction and any decision.

(4) The Chief Judge of a State may make rules prescribing the procedure to be followed in the conduct of appeals under this section.

[L.N. 107 of 1955.]

12. Penalties for non-compliance with requirements under sections 7 and 8

If any person fails to comply with any requirement of the prescribed authority under section 7 or 8 of this Act, or if any person fails to comply with any direction under section 9 of this Act, he shall be liable to a penalty of one hundred naira and in addition, in the case of a failure to comply with a requirement of the prescribed authority that any act shall be done at a specified time or within a specified period, a further penalty of ten naira for each day after that time or after the end of that period as the case may be during which failure to do the act in question continued.

13. Supplying false information

If any person-

(a) in relation to any requirement of the prescribed authority under section 7 or 8 of this Act knowingly furnishes any statement, information or report which is

false in any material particular, or recklessly makes a statement which is false in any material particular;

(b) with intent to deceive, for the purposes of this Act produces, furnishes or makes use of any book, account or other document which is false in a material particular,

he shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred naira or to both such imprisonment and fine.

14. Information not to be disclosed

If any person-

(a) being a person employed under the prescribed authority for the purposes of this Act publishes or communicates without lawful authority to any person otherwise than in the course of his employment for the purposes of this Act any information furnished under section 7 or section 8 of this Act; or

(b) having in his possession any information furnished under section 7 or section 8 of this Act and disclosed in contravention of paragraph (a) of this section, publishes or communicates that information to any person,

he shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred naira or to both such imprisonment and fine.

15. Dutiable motor spirit to be deemed regulated goods

Dutiable motor spirit shall be deemed to be regulated goods for the purposes of the Customs, Excise Tariff, etc. (Consolidation) Act.

[Cap. C49.]

16. Recovery of penalties

All pecuniary penalties imposed by or incurred under this Act, and not specifically designated fines may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a magistrate's court, which court is hereby invested with the necessary jurisdiction for the purpose, in the name of the prescribed authority as nominal plaintiff; and all such proceedings shall be deemed to be civil proceedings and the ordinary civil procedure of Nigeria shall apply thereto.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

