

CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT) DECREE 1968



Decree No. 46

[See section 10 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1. Section 2 of the Customs and Excise Management Act 1958 (hereafter in this Decree referred to as “the Act”) is hereby amended—

Amendment
of section 2
of the
Customs
and Excise
Manage-
ment Act
1958.

(a) in the definition of “beer” by inserting after the words “one *per cent*” the words “(but not more than ten *per cent*)” and by inserting after the words “of a kind” the words “(made elsewhere than upon the licensed premises of a brewer for sale)”;

(b) in the definition of “spirits” by inserting immediately after the words “from ethyl alcohol” the words “, which on analysis of a sample thereof at any time is found to contain not less than two point five *per cent* of pure alcohol,”; and

1958 No. 55.

(c) by inserting immediately after the definition of “warehouse” the following new definition—

“wine” includes any liquor made or sold as a description of wine or as a substitute for wine and which on analysis of a sample thereof at any time is found to contain not more than twenty-four point five *per cent* of pure alcohol, but does not include palm wine or any other wine of a kind (produced elsewhere than upon the licensed premises of a distiller for sale) which the Board accepts as produced by local methods in or about Nigeria.”

2. Section 67 of the Act (which relates to the power of the Board to give directions as to procedure for boarding and disembarking from any ship or aircraft) is hereby amended—

Amendment
of section 67,
etc.

(a) in section 67 (1) by inserting immediately after the words “any person” the words “, other than a ship chandler”;

(b) by inserting immediately after section 67 a new section 67A—

“Power to
regulate
boarding
etc. by
ship
chandlers.

67A.—(1) The Commissioner may make regulations as to the procedure to be followed by ship chandlers going on board or disembarking from any ship in Nigeria where such boarding or disembarking is for the purpose of trade.

(2) Without prejudice to the generality of the powers to make regulations conferred by subsection (1) of this section, regulations made thereunder may in particular—

(a) enable the Board to specify by notice the manner in which and the period during which any trade may be carried on on board any such ship by ship chandlers;

(b) provide for the inspection by officers of the Board of ship chandlers who are on board a ship for the purpose of trade;

(c) prescribe the form of application for and of the ship chandler's licence to be used for the purposes of this section.

(3) Any person contravening or failing to comply with any regulation made under this section shall be liable to a fine of two hundred pounds, and any goods or article in respect of which the offence was committed shall be liable to forfeiture."

Amendment
of section
74.

3. Section 74 (3) of the Act (which prescribes fees for the licensing of warehouses) is hereby amended by substituting for the word "twenty-four" the word "fifty".

Amendment
of section
107A.

4. Section 107A of the Act (which relates to certain goods subject to duty of excise) is hereby amended by substituting for the words "beer and tobacco.", the words "beer, tobacco and hydro-carbon oils."

Amendment
of section
108.

5. Section 108 of the Act (which relates to excise licences) is hereby amended by substituting for subsection (1), (2) and (3) the following new subsections—

"108.—(1) Subject to the provisions of this Act, an application for an excise licence relating to any premises in which any goods are manufactured, shall be in such form and shall contain such particulars as the Board may direct.

(2) Subject as aforesaid, the Board may for reasonable cause refuse to issue any such excise licence to any person or in respect of any premises.

(3) Where an application for an excise licence (under this or any other enactment) is approved by the Board, it shall—

(a) in the case of an excise licence relating to any premises in which any goods to which Part VIIA of the Act applies are manufactured, on payment of the sum of ten pounds by an applicant, issue the licence;

(b) in the case of an excise licence relating to any goods other than those to which Part VIIA of the Act applies, on payment by an applicant of the relevant fee prescribed, issue the licence."

Amendment
of section
135.

6. Section 135 of the Act (which relates to authorisation of agents), is hereby amended—

(i) in subsection (2) in the second line, by inserting after the words "any goods" the words "or an excise trader", and in paragraph (b), by inserting after the words "customs agent" the words "or excise agent";

(ii) by substituting for subsections (3) and (4) the following new subsections—

"(3) No person shall transact any business relating to customs or excise with any officer on behalf of another person unless the first mentioned person—

(a) is a person authorised under subsection (1) of this section; or

(b) is a person mentioned in subsection (2) thereof.

(4) Any person who acts in contravention of this section shall be liable to a fine of £100."

7. Section 138 of the Act (which deals with customs agents and excise agents) is hereby amended by substituting for that section the following new section—

Amendment
of section
138.

"Customs
agents and
excise
agents.

138.—(1) The Commissioner may make regulations with respect to the licensing of customs agents and excise agents; and without prejudice to the generality of the powers conferred by this subsection, regulations may in particular provide for—

(a) the fees to be paid and the security to be given by such agents;

(b) the form of application for any such licence.

(2) Any person contravening or failing to comply with any regulation made under this section shall be liable to a fine of two hundred pounds, and any goods or article in respect of which the offence was committed shall be liable to forfeiture."

8. Section 155 of the Act (which provides for penalty in lieu of forfeiture of ships or aircraft in certain cases) is hereby amended by the substitution in subsection (5) for paragraph (a) thereof the following new paragraph—

Amendment
of section
155.

"(a) the expression 'responsible officer' includes—

(i) in the case of a ship not carrying a passenger certificate, the master, a mate, the chief steward and an engineer;

(ii) in the case of a ship carrying a passenger certificate, the master, the purser, the chief steward and the chief engineer;

(iii) in the case of an aircraft, the commander, a pilot, a navigator, the chief steward and the chief engineer;"

9. For the avoidance of doubt it is hereby declared that in the application of the Act to ships, the definition of "ship" in section 2 of the Act shall be construed to include hovercraft; and accordingly in the said definition after the word "boat" there shall be inserted the word "hovercraft".

Extension
of the
meaning of
"ship" in
section 2.

10.—(1) This Decree may be cited as the Customs and Excise Management (Amendment) Decree 1968 and shall apply throughout the Federation.

(2) This Decree, except section 9 above (which shall come into force on the date when this Decree is made), shall be deemed to have come into force on 1st January 1967 and acts, matters and things done or omitted or purported to have been done or omitted by the Board or any officer between that date and the making of this Decree shall for all purposes be deemed to have been validly done or omitted.

Citation,
extent,
commence-
ment, etc.

(3) Nothing in this Decree shall permit the conviction of any person in respect of any criminal offence under the Act, the act or omission pertaining to which does not constitute such offence when it took place.

MADE at Lagos this 28th day of August 1968.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*