

CUSTOMS AND EXCISE (MISCELLANEOUS PROVISIONS)

DECREE 1978



Decree No. 8

[1st April 1978]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Customs Tariff (Consolidation) Decree 1973 is hereby amended as follows—

Amendment
of 1973 No. 6.

(a) by renumbering the existing section 3 thereof as subsection (1) and by inserting the following new subsections (2) and (3), that is—

“(2) In addition to import duty chargeable under subsection (1) above, there shall, unless exempted under subsection (3) of this section, be payable a ports reconstruction surcharge at the rate of five *per centum*.

(3) The Federal Executive Council may by order exempt any goods or class of goods from payment of the surcharge imposed under this section or impose a lower rate of surcharge thereon.”; and

(b) by substituting for paragraphs (b) and (c) of section 14 (3) thereof of the following, that is—

“(b) Mixtures, composite goods consisting of different material or made up of different components, and goods put up in sets, which cannot be classified by reference to paragraph (a) above, shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to paragraph (a) or (b) above, they shall be classified under the heading which occurs latest among those which equally merit consideration.”

2.—(1) As from 1st October 1978 it shall be unlawful for any person to sell, agree to sell or offer to sell any goods, not being goods manufactured or otherwise produced in Nigeria, the importation of which is prohibited under or pursuant to the Customs and Excise Management Act 1958.

Prohibition
of sale of
banned
goods, etc.
1958 No. 55.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and shall—

(a) in the case of an individual, be liable on conviction to a fine of not less than ₦1,000 or the value of the goods concerned (whichever is higher) or to imprisonment for not less than six months; and

(b) in the case of a body (whether corporate or unincorporate), be liable on conviction to a fine of not less than ₦5,000 or twice the value of the goods concerned (whichever is higher),

and in addition, the stock of the goods in respect of which the offence was committed shall be forfeited to the Federal Military Government and disposed of as hereinafter provided.

1977 No. 38.

(3) Goods forfeited under this Decree shall, for the avoidance of doubt, not be disposed of whether by way of sale to the public, exportation from Nigeria or otherwise howsoever, but shall be disposed of as provided in section 2 of the Customs and Excise (Special Penal and Other Provisions) Decree 1977.

(4) Where an offence under this section has been committed by a body corporate or firm or other association of individuals—

(a) every director, manager, secretary or other similar officer of the body corporate ;

(b) every partner or officer of the firm ;

(c) every person concerned in the management of the affairs of the association ; or

(d) every person who has purported to act in any such capacity as aforesaid,

shall severally be guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

1958 No. 55.

(5) In this section, "goods" includes any goods lawfully imported into Nigeria at any time before the prohibition of importation of such goods into Nigeria under or pursuant to the Customs and Excise Management Act 1958 the stock of which goods or part thereof remains unsold immediately before the coming into operation of this Decree.

Consequen-
tial amend-
ment of
1977 No. 38.

3. Subsection (3) of section 3 of the Customs and Excise (Special Penal and Other Provisions) Decree 1977 shall be re-numbered as subsection (2) and for subsections (1) and (2) thereof, there shall be substituted the following, that is—

"(1) If any person is found anywhere in Nigeria in possession of any goods which has been imported into Nigeria without the duty chargeable thereon having been paid—

(a) not being goods manufactured or otherwise produced in Nigeria ;
or

(b) not being goods the importation of which is prohibited under the Customs and Excise Management Act 1958 and to which the Customs and Excise (Miscellaneous Provisions) Decree 1978 applies ;

he shall be guilty of an offence unless he proves—

(i) that the duty chargeable thereon has been paid ; or

(ii) in the case of any person other than a seller of those goods, that he had no reason to believe that the duty chargeable thereon had not been paid."

4. This Decree may be cited as the Customs and Excise (Miscellaneous Provisions) Decree 1978 and shall be deemed to have come into operation on 1st April 1978.

Citation and
commence-
ment.

MADE at Lagos this 24th day of April 1978.

LT-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree
but is intended to explain its effect)*

The Decree amends the Customs Tariff (Consolidation) Decree 1973 and introduces a ports reconstruction surcharge of 5% based on the value of imported goods.

It also prohibits the sale of all banned goods in Nigeria after September 30th 1978 and provides stiff penalties for contravention of import prohibition laws.