

EXCISE (CONTROL OF DISTILLATION) ACT

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EXCISE (CONTROL OF DISTILLATION) ACT

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

[1964 No. 22.]

[1st April, 1964]

[Commencement.]

1. Distiller's licence

(1) Subject to the provisions of this Act, no person shall without a distiller's licence under this section make or distill spirits; and application for such licence shall be made to the Board of Customs and Excise in the prescribed manner.

[L.N. 118 of 1964. 1965 No. 27.]

(2) If the Board after due enquiry is satisfied that the premises mentioned in the application and intended to be used by the applicant for the purposes of distillation are in such a state that proper control for excise purposes may be exercised over activities to be carried on therein and that any other condition relating to the premises required by the Board has been complied with by the applicant, it shall, on payment of the sum of two hundred naira issue to the applicant a distiller's licence in the prescribed form in respect of such premises.

(3) A distiller's licence issued under this section shall, unless previously revoked, remain in force until 31 December next following the date of the issue, and shall then expire.

(4) If the Board is not so satisfied and refuses the application it shall notify the applicant of its refusal, and give to the applicant particulars of what the Board considers necessary to be done to the premises.

(5) If at anytime during the currency of a distiller's licence the Board is satisfied that proper control for excise purposes can no longer be exercised over the premises specified in the distiller's licence by reason of the state of the premises, or that the person to whom such licence was issued has failed to comply with any conditions required by the Board relating to the premises or the making or distilling of spirits therein or has ceased to make spirits on such premises, it may revoke the distiller's licence and give notice of the revocation in the prescribed manner.

(6) Any person who makes or distils spirits contrary to the provisions of subsection (1) of this section shall be guilty of an offence, and liable-

(a) on summary conviction to a fine of not less than four hundred naira or more than one thousand naira or to imprisonment for a term of two years, or to both;

(b) on conviction on indictment to a fine of an unlimited amount or to imprisonment for a term not exceeding five years or to both,

and any spirits so distilled shall be liable to forfeiture.

(7) The provisions of this section shall, in any State or the Federal Capital Territory, Abuja be in addition to and not in substitution for any other provisions in force therein which affect the making of spirits, and nothing in the foregoing provisions of this section shall be construed as purporting to authorise the carrying on in any State or the Federal Capital Territory, Abuja of any activity which is prohibited by the law thereof.

2. Still licence

(1) Subject to the provisions of this section, no person shall possess any still unless-

(a) the still is situated on premises specified in a distiller's licence; or

(b) there is in force a still licence issued to him by the Board under this section.

(2) Where an application is made to the Board in the prescribed manner for the issue of a still licence, and the Board is satisfied, it shall issue the licence to the applicant free of charge.

(3) A licence under subsection (2) of this section may be issued subject to such conditions not inconsistent with this Act as to methylation or the denaturing of spirits as the Board for the protection of excise duty may think fit.

(4) If a person gives notice to the Board in the prescribed form of his intention to part with or that he has parted with possession of, or has destroyed any still in respect of which a licence issued to him under this section is in force, the Board shall make such enquiries as it thinks fit; and if it is satisfied, the licence shall cease to have effect as regards the still.

(5) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence and liable-

- (a) on summary conviction, to a fine of not less than four hundred naira or to imprisonment for a term of six months, or to both;
- (b) on conviction on indictment, to a fine of not less than one thousand naira or to imprisonment for a term of two years, or to both.

3. Manufacture of spirits from crude gin

- (1) Any person to whom a distiller's licence has been granted under section 1 of this Act may be approved by the Board for the purposes of this section.
- (2) Any person may, on payment of a fee of twenty naira annually, be registered by the Board as an agent for the supply of crude gin to approved distillers.
- (3) Approval and registration under subsections (1) and (2) of this section shall be applied for and recorded in such form and manner as the Board may deem fit to direct.
- (4) Notwithstanding any other enactment, it shall be lawful-

- (a) for an approved distiller to obtain crude gin from a registered agent and, subject to such regulations for quality control as may be made by the Minister of Industries, to distil or otherwise convert the crude gin into potable spirits for sale;
- (b) for a registered agent to supply crude gin to an approved distiller, and for that purpose a registered agent may-
 - (i) possess a still and distil crude gin; or
 - (ii) obtain crude gin from another person; and
- (c) for the purpose of supplying crude gin to a registered agent, for any person to-
 - (i) possess a still and distil crude gin; or
 - (ii) possesses and deal in crude gin.

- (5) For the avoidance of doubt, it is hereby declared that nothing in this section shall be construed as-
 - (a) authorising any person to sell crude gin to any person other than a registered agent;
 - (b) a registered agent to sell crude gin to any person other than an approved distiller.
- (6) In this section-

"approved distiller" means a distiller approved under subsection (1) of this section;

"crude gin" means spirits distilled from fermented or partly fermented palm wine or from any other fermented or partly fermented liquor produced in Nigeria, with or without flavouring essence;

"registered agent" means an agent registered under subsection (2) of this section.

4. Regulations

(1) The Minister may make such regulations with respect to the conduct of premises specified in a distiller's licence under this Act as appear to the Minister to be appropriate for the purpose of ensuring the payment of excise duty on spirits made on the premises; and without prejudice to the generality of the powers conferred by this subsection, regulations may in particular provide for-

- (a) prohibiting or restricting the carrying on, on the premises or particular parts thereof of such activities as may be prescribed;
- (b) regulating the manner in which and the period during which any activity may be carried on the premises or particular parts thereof;
- (c) providing for the inspection by officers of the Board of the premises and all activates carried on the premises;
- (d) requiring notice to be given of any change or use which may be made of the premises or any part thereof;
- (e) regulating the removal of spirits from the premises;
- (f) prescribing the form of application for and of the distiller's licence to be used for the purposes of this Act;
- (g) regulating the calculation, securing and collection of excise duty on distilled spirits,

and the regulations may provide for the imposition of penalties in respect of any offence against the regulations (not less than two hundred naira or more than five hundred naira in respect of any particular offence or to imprisonment for a term of two years, or to both) and for the forfeiture or disposal of any thing in respect of which such an offence is committed.

(2) The Minister may make such regulations with respect to the custody and use of stills licenced under this Act and the application for and form of any such licence, as appear to the Minister to be appropriate for the purpose of ensuring that the stills are not used to make spirits; and without prejudice to the generality of the powers so conferred, regulations may, in particular, contain provisions requiring the furnishing of information with respect to-

- (a) any change or proposed change in the location or use of stills;
- (b) the disposal of stills or any part of a still by way of sale or otherwise,

and the regulations may provide for the imposition of fines for offences against the regulations of not less than one hundred naira or more than four hundred naira in the case of any particular offence.

5. Making of entries

(1) Where by or under any excise laws a person is required to make entry of any premises or article-

(a) the entry shall be made in such form and manner and contain such particulars; and

(b) the premises or article shall be kept and marked in such manner, as the Board may direct.

(2) No entry shall be valid unless the person by whom it was made-

(a) had at the time of its making attained the age of twenty-one years; and

(b) was at that time and is for the time being a true and real owner of the trade in respect of which the entry was made.

(3) Where any person required to make entry is a body corporate-

(a) the entry shall be signed by a director, general manager, secretary or other similar officer of the body and, except where authority for that person to sign has been given under the seal of the body, shall be made under that seal; and

(b) both the body corporate and the person by whom the entry is signed shall be liable for all duties charged in respect of the trade to which the entry relates.

(4) If any person making entry of any premises or article contravenes or fails to comply with any direction of the Board given under this section with respect thereto, he shall be guilty of an offence punishable on conviction by a fine of two hundred naira.

6. New or further entries of same premises

(1) The Board may at any time, by notice in writing to the person by whom any existing entry was signed addressed to him at any premises entered by him, require a new entry to be made of any premises or article to which the existing entry relates, and the existing entry shall, without prejudice to any liability incurred, become void at the expiration of fourteen days from the delivery of the notice.

(2) Save as permitted by the Board and subject to such conditions as it may impose, no premises or article of which entry has been made by any person shall, while that entry remains in force, be entered by any person for any purpose of the excise laws and any entry made in contravention of this subsection shall be void.

(3) Where the person by whom entry has been made of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, and the Board permits a further entry to be made of the premises by some other person, the former entry shall be deemed to have been withdrawn and shall be void.

7. Proof as to entries

For the purpose of any proceedings before any court, if any question arises as to whether or not entry under the excise laws has been made by any person, or of any premises or article, or for any purpose, then-

(a) if a document purporting to be an original entry made by the person, or of the premises or article, or for the purpose in question is produced to the court by an officer,

that document shall, until the contrary is proved, be sufficient evidence that the entry was so made; and

(b) if the officer in whose custody any such entry, if made, would be, gives evidence that the original entries produced by him to the court constitute all those in his custody and that no such entry as is in question is among them, it shall be deemed, until the contrary is proved, that no such entry has been made.

8. Offences in connection with entries

(1) If any person being the holder of a licence under this Act uses, for any purpose of his trade, any premises or article required by or under the excise laws to be entered for that purpose without entry having been duly made thereof, he shall be guilty of an offence punishable on conviction by a fine of four hundred naira, and any goods found on any such premises shall be liable to forfeiture.

(2) If any person who has made entry of any premises or article fraudulently uses those premises or that article for any purpose other than that for which entry was made thereof, he shall be liable to a fine of four hundred naira.

9. Power to enter for inspection purposes

(1) An officer may at any time enter upon any premises referred to in any licence under this Act for the purpose of inspecting the premises and may search for, examine and take account of any equipment, vessels, utensils, goods or materials belonging to or in any way connected with distillation.

(2) Where an officer, after having demanded admission into any such premises and declared his name and business at the entrance thereof, is not immediately admitted, that officer and any person acting in his aid may break open any door or window of the premises or break through any wall thereof for the purpose of obtaining admission.

10. Power to search for concealed pipes, etc.

(1) If an officer has reasonable ground to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a licensee under this Act, that officer may at any time, but by night only in the company of a police officer, break open any part of the premises of that trader and forcibly enter thereon, and so far as is reasonably necessary break up the ground in or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.

(2) If the officer finds any pipe or other form of conveyance leading to or from the licensee's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary, break up any part of those other premises to trace its course, and may cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty of excise, or any materials used in the manufacture of such goods, in such manner as to prevent a true account thereof from being taken.

(3) Every pipe or other means of conveyance, cock, vessel or utensil referred to in this section, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable to forfeiture, and the licensee shall be guilty of an offence punishable on conviction by a fine of two hundred naira.

(4) If any damage is done in any such search and the search is unsuccessful, the Board shall make good the damage.

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.

14. Effect of variation in balances struck or excess, etc., in stock of materials

If at any time when an account is taken by the proper officer and a balance is struck-

(a) of the quantity of spirits in the possession of the distiller, that quantity differs from the quantity thereof which ought to be in his possession according to any account required by this Act to be kept-

(i) if the former quantity exceeds the latter the excess shall be liable to forfeiture; and

- (ii) if the former quantity is less than the latter, the holder of the distiller's licence shall be liable to a fine of double the excise duty which would be payable on the quantity of pure alcohol equal to that on the deficiency;
- (b) of the stock of materials, any excess is found or goods not authorised for use as materials are discovered in the stock, such excess or goods shall be liable to forfeiture;
- (c) of the stock of materials, any deficiency is found which cannot be accounted for to the satisfaction of the Board, the quantity or value of materials representing such deficiency shall be deemed to have been used in manufacture and, in any particular case, duty shall be charged on the quantity or value of excisable goods reckoned to have been produced with such quantity or value of materials.

15. Power to enter on premises, etc., in case of unlawful distillation

If any officer has reasonable grounds to suspect that distillation contrary to the provisions of this Act is being carried out on any land or premises, he may enter thereon, if need be by force, and dismantle or seize the still or other apparatus used in conjunction therewith.

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 restraint 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.

19. Power to require excise control facilities

(1) The holder of a licence shall provide and maintain at his own expense on premises referred to in the licence-

(a) such office, lavatory and sanitary accommodation, with the requisite furniture, lighting and cleaning, as the Board may reasonably require for the use of the proper officer under this Act; and

(b) such appliances and facilities as may be required to enable the proper officer at any time to examine, or search or to perform any other of his duties at such premises as the Board may direct,

and if the licensee fails to comply with any of the forgoing requirements of this subsection, the Board may revoke or suspend any such licence.

(2) The requirements which the Board is authorised to impose on the holder of a licence by subsection (1) of this section, shall include the requirement to provide at his own expense and lease to the Board, on such reasonable terms as the Board may determine, living accommodation which the Board considers suitable for occupation by, and by the household of, any officer charged with duties which, in the opinion of the Board, make it

desirable that he should reside on or near the premises for which the excise licence in question is granted; and the provisions of that subsection for failure to comply therewith shall have effect accordingly.

(3) The proper officer may affix a lock or seal to any fitting on the premises or on any apparatus or thing whatsoever therein and for such purpose he may require the holder of a distiller's licence to provide and maintain at his own expense any such fitting.

(4) If a licensee fails to comply with the requirements of subsection (3) of this section, the Board may provide and install the fitting, and any expense incurred shall be paid on demand by the licensee.

(5) The failure to pay any expense incurred under subsection (4) of this section, shall be an offence for which the offender shall, in addition to the requirement of payment of any such expense, be liable on summary conviction to a fine of two hundred naira.

(6) If the holder of a distiller's licence or any member of his family or any servant of the holder-

- (a) wilfully destroys or damages a fitting or any lock, key or seal intended for use therewith; or
- (b) improperly obtains access to any place or article secured by any such lock or seal thereon; or
- (c) has any fitting on premises or on any apparatus or thing whatsoever fastened or attached in such fashion that adequate supervision and control by any proper officer for the purposes of this Act is not practicable,

the holder, or member of his family, or the servant, as the case may be, shall on conviction be liable to a fine of one thousand naira.

20. Licensees to keep record books

(1) Every holder of a distiller's licence shall keep on the premises mentioned in the licence such records and make all entries therein relating to the manufacture, storage and delivery of spirits and materials as the Board may require.

(2) Entries shall be made legibly in ink and no cancellation or amendment shall be made save in such manner as the Board may, from time to time, direct; and if the Board requires records to be kept, the proper officer may inspect them at any time and take copies of any entry.

(3) The failure to comply with the requirements of this section is an offence for which the offender shall be liable on summary conviction to a fine of four hundred naira.

21. Power to require information, etc., from licensees

(1) The holder of any licence under this Act shall-

- (a) produce to the Board for inspection as and when required invoices and other books or documents in his possession relating to spirits manufactured by him during the preceding twelve months or any part thereof;
- (b) supply answer to questions relating to the distillation of spirits and related matters as the Board may reasonably require to implement the provisions of any of the excise laws;
- (c) produce to the Board such evidence as it may reasonably require in support of any answer so given;

(d) make returns in such form and at such intervals as the Board may require,

and if any manufacturer fails without excuse to comply with any requirement of this subsection, he shall be liable on summary conviction to a fine of four hundred naira.

(2) The powers conferred on the Board by subsection (1) of this section, in so far as they relate to questions regarding the cost of production and manufacturer's profits in respect of any spirits, shall be exercisable by the Board alone and not by any other person.

(3) The Board may require the holder of a licence under this Act to supply to it in every year or at such other times as it may direct, a certificate of audit by an accountant approved by the Board as to-

(a) the correctness of all the books and records required by or under this Act to be kept by the holder of the licence; and

(b) any matter necessary to implement the provisions of any of the excise laws,

and the holder of a licence who without reasonable excuse fails to supply a certificate of audit when required, shall be liable on summary conviction to a fine of two hundred naira.

(4) For the purpose of this section, "**accountant approved by the Board**" means an accountant who is a member of one of the professional bodies for the time being declared by the Board, by notice in the Federal Gazette, to be approved for such purposes, but does not include any such member if he is the holder of a licence under this Act or is employed by any such holder.

22. Unlawful assumption of office

If, for any of the purposes incidental to the control of distillation under this Act, any person without lawful authority assumes the name, designation or character of an officer he shall, in addition to any other punishment, be liable on conviction to a fine of not less than four hundred naira or more than one thousand naira, or to imprisonment for a term of two years, or to both.

23. Officers to have powers of police officers

For the avoidance of doubt, officers acting under this Act shall have the same powers, authorities and privileges as are given by law to police officers.

24. Offences as to concealing, etc., of spirits on licensed premises

If any person-

(a) conceals any spirits on premises mentioned in a distiller's licence; or

(b) without the consent of the proper officer removes any spirits from such premises; or

(c) knowingly buys or receives any spirits so concealed or removed; or

(d) knowingly possesses, buys, or receives any spirits removed from such premises before duty (if any) has been charged and, as the case may be, paid or secured,

the spirits shall be liable to forfeiture; and such person shall on conviction be liable to a fine of six times the value of the goods or to four hundred naira, whichever is the greater, or to imprisonment for two years, or to both.

25. Condemnation proceedings

- (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under this Act, judgment is given for the claimant, the court before which the case is heard may, if it sees fit, certify that there were reasonable grounds for the seizure.
- (2) Where any proceedings, whether civil or criminal, are brought against the Board or any person authorised by or under this Act to seize or detain anything liable to forfeiture on account of the seizure or detention or anything, and judgment is given for the plaintiff or prosecutor, then if-

- (a) a certificate relative to the seizure has been granted under subsection (1) of this section; or
- (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the excise laws,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment:

Provided that nothing in this subsection or in the next succeeding section shall affect the right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

- (3) Any certificate under subsection (1) of this section may be approved by the production of either the original certificate or a certified copy thereof purporting to be signed by any officer of the court by which it was granted.

26. Compensation in special cases

- (1) Where any spirits on the premises of the holder of a licence under this Act are destroyed, stolen or unlawfully removed by or with assistance or connivance of an officer, and that officer is convinced of the offence, the Board shall, if the licensee was not a party to the offence, pay compensation for any loss caused by any such destruction, theft or removal; and it is hereby declared that in any such case no duty shall be payable on any such spirits by the licensee, and duty (if any) paid thereon by the licensee shall be refunded.

- (2) Subject to the provisions of subsection (1) of this section, compensation shall not be payable by the Board, and no action shall lie against the Board or any officer for any loss or damage caused to any goods by any officer acting in the execution of his duty except where the loss or the damage occurs as the direct result of the unlawful act or negligence of such officer or arises out of any unsuccessful search to which subsection (2) of section 9 of this Act applies.

27. Interpretation

In this Act unless the context otherwise requires-

"**Board**" means the Nigerian Customs Service Board;

"distiller's licence" means a licence to distil spirits granted under section 1 of this Act;

"excise laws" means the Customs and Excise Management Act, and includes any other Act relating to the control of excisable goods;

[Cap. C45.]

"officer" means any person employed in the Nigerian Customs Service, or for the time being performing customs or excise duties;

"proper officer" means any officer whose right or duty it is to require the performance of or do an act;

"pure alcohol" means spirits by volume at fifteen point five six degrees Centigrade or sixty degrees Fahrenheit;

"spirits" means ethyl alcohol and includes all liquors mixed with or compounded with or prepared from ethyl alcohol, but does not include undistilled fermented liquors containing twenty per centum or less of pure ethyl alcohol;

"still" means any apparatus used or capable of being used to produce spirits by distillation;

"still licence" means a licence granted for the purposes of section 2 of this Act.

28. Repeals, etc.

(1) The enactment mentioned in Part A of the Third Schedule to this Act is hereby repealed to the extent therein specified.

[Part A.]

(2) Whereby any enactment reference is made to excise legislation in relation to spirits or to distillation of spirits in Nigeria, the spirits and any equipment shall, for excise purposes, be deemed to be affected by this Act; and references shall be so construed, and the enactments mentioned in Part B of the Third Schedule to this Act shall have effect accordingly.

[Part B.]

(3) Any law in force in any State, other than an enactment repealed by subsection (1) of this section, or a provision of the Customs and Excise Management Act, or of an instrument having effect by virtue of that Act, is hereby repealed in so far as it makes provision with respect to the importation of stills.

[Cap. C45.]

29. Short title

This Act may be cited as the Excise (Control of Distillation) Act.

SCHEMES

FIRST SCHEDULE

[Section 17 (1).]

Provisions relating to forfeiture

Notice of seizure

1. (1) Save where seizure was made in the presence of-
 - (a) the person whose offence or suspected offence occasioned the seizure; or
 - (b) the owner or any of the owners of the thing seized or any servant or agent of his,

the Board shall give notice of the seizure of any thing as liable to forfeiture and of the grounds therefore to any person who to its knowledge was at the time of seizure the owner or one of the owners thereof.

(2) Notice under this paragraph shall be given in writing and shall be deemed to have been duly served on the person concerned-

 - (a) if delivered to him personally;
 - (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at their registered or principal office;
 - (c) in any other case, by publication of notice of seizure in the Federal Gazette.

Notice of claim

2. (1) Any person claiming that anything seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure, or, if no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Board:

Provided that the Board may, at its discretion, extend the period in which notice of a claim may be given.

- (2) The notice shall specify the name and address of the claimant. If a claimant is outside Nigeria the notice shall specify the name and address of a legal practitioner in Nigeria authorised to accept the service of process and to act on behalf of the claimant and where service is effected on such legal practitioner it shall be deemed to be proper service upon the claimant.

Condemnation

3. If, on the expiration of the relevant period aforesaid for the giving of notice of claim, no such notice has been given to the Board or if, in the case of any such notice given, any requirement of paragraph 2 of this Schedule is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.
4. Where notice of claim is duly given in accordance with the forgoing provisions of this Schedule, the Board shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of seizure liable to forfeiture, the court shall condemn it as forfeited.

5. Where any things is in accordance with either of the two last forgoing paragraphs condemned or deemed to have been condemned as forfeited then, without prejudice to any delivery by or sale of the thing by the Board under paragraph 12 of this Schedule, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for condemnation by court

6. Proceedings for condemnation shall be civil proceedings and may be instituted in the same courts as those in which proceedings may be instituted by the Board in respect of things liable to forfeiture and seized accordingly under the provisions of the excise laws.

7. In any proceedings for condemnation, if the claimant or his legal practitioner fails to make oath that the thing seized was, or to the best of his knowledge or belief was, the property of the claimant at the time of the seizure, the court shall give judgment for the Board.

8. If in condemnation proceedings an appeal is lodged against the decision of the court, things seized shall, pending the final determination of the matter, be left in the custody of the Board.

Provisions as to proof

9. In any proceedings arising out of the seizure of anything, the effect, form and manner of the seizure shall be taken to have been as set forth in the process without further evidence thereof, unless the contrary is proved.

10. In any proceedings, the condemnation by a court of anything as forfeited may be proved by the production either of the order or certificate of condemnation or a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special Provisions as to certain claimants

11. For the purposes of a claim to, or proceedings for the condemnation of, anything, where that thing is at the time of the seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and anything required by this Schedule or by the rules of the court to be done by, or by any other person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that is to say-

- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
- (b) where the owners are in partnership, anyone of those owners;
- (c) where the owners are any number of persons exceeding five, not being in partnership, any two of those persons on behalf of themselves and their co-owners.

12. Where anything has been seized as liable to forfeiture, the Board may at any time, at its discretion, and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned as forfeited-

- (a) deliver it up to any claimant upon his paying to the Board such sum as the Board thinks proper, being a sum not exceeding that which, in its opinion represents the value of the thing, including any duty chargeable thereon which has not been paid; or

(b) if the thing seized is in the opinion of the Board of a perishable nature, sell or destroy it.

13. (1) Subject to the provisions of this paragraph, if in the case of anything delivered up, sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Board shall on demand by the claimant tender to him-

- (a) an amount equal to any sum paid by him under sub-paragraph (a) of paragraph 12 of this Schedule; or
- (b) where the Board has sold the thing, an amount equal to the proceeds of sale; or
- (c) where it has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure.

(2) If any such amount includes any sum on account of duty chargeable on the thing which had not been paid before its seizure, the Board may deduct so much of that amount as represents that duty.

(3) If the claimant accepts any amount tendered to him under this paragraph, he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

SECOND SCHEDULE

[Section 18 (2).]

Form of warrant of distress

To

The Nigerian Customs Services Board, by virtue of the powers vested in it by section 18 of the Excise (Control of Distillation) Act, hereby authorises you to collect and recover the sum of..... due for excise duty from..... (manufacturer)

..... Having his premises at

.....; and for

the recovery thereof further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary), which assistance he is hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels or other distrainable things of the said manufacturer wherever the same may be found and on all equipment, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Nigeria in the manufacture, sale or distribution of excisable goods which you may find in any premises or on any land in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised if necessary, with such assistance as aforesaid, to break open any building or place in the daytime.

Signed or and on behalf of the Nigerian Customs Service Board at.....

this.....day of.....20.....

.....
Collector (or as the case may be)

THIRD SCHEDULE

[Section 28.]

PART A

Enactments repealed

PARTB

Enactments affected

<i>Chapter or Number</i>	<i>Short Title</i>	<i>Extent to which affected</i>
Cap.105 of 1958 Edition	The Liquor Act	So much of sections 8, 9, and 10 as relate to the distillation of spirit in the Regions, and of section 11 relating to the possession of metal tubing for use in connection with distillation of spirits in Nigeria
No.49 of 1957	The Distillation of Spirits Act 1957	The whole Act

EXCISE (CONTROL OF DISTILLATION) ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Excise (Distillation of Spirits) Regulations.
2. Still Regulations.
3. Manufacture of Spirits Regulations.

EXCISE (DISTILLATION OF SPIRITS) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
 2. Interpretation.
 3. Restriction on licences.
 4. Spirits for certain limited purposes.
-

EXCISE (DISTILLATION OF SPIRITS) REGULATIONS

[L.N. 118 of 1958.]

under section 4

[24th July, 1958]

[Commencement.]

1. Short title

These Regulations may be cited as the Excise (Distillation of Spirits) Regulations.

2. Interpretation

In these Regulations, and for the purpose of any excise duty levied on spirits, unless the context otherwise requires-

"**proof**" means the strength of proof as ascertained by Sykes hydrometer;

"**spirits**" means ethyl alcohol of any description and includes all liquors made by mixing with ethyl alcohol and, all mixtures, compounds or preparations made with ethyl alcohol.

3. Restriction on licences to manufacture spirits, etc.

(1) Except as provided by regulation 4 of these Regulations, no licence shall be granted by the Board under section 1 of the Act to any person to manufacture spirits at any premises unless the largest still to be used by such person for such purpose at such premises is of at least four hundred gallons capacity.

(2) The importation, distribution, sale, disposal and possession of stills, and of all apparatus or portions of apparatus suitable for the distillation of alcohol or the rectification or re-distillation of spirits, are prohibited except in accordance with the terms of a licence issued under section 1 of the Act or these Regulations.

4. Spirits for certain limited purposes

The Board may, subject to such conditions as it may consider necessary, grant a licence to manufacture spirits if the spirit to be produced by the holder is to be used exclusively for scientific, medical, surgical or pharmaceutical purposes.

STILL REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
 2. Interpretation.
 3. Permit to import.
 4. Approval, licence and entry of premises.
 5. Information to be given by licensed still users.
 6. Persons keeping stills solely for sale.
 7. Glass flasks, etc., for laboratory work.
 8. Offences and penalties.
-

STILLS REGULATIONS

[L.N. 67 of 1965.]

under section 4

[1st June, 1965]

[Commencement.]

1. Short title

These Regulations may be cited as the Stills Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"still" includes any part of a still.

3. Permit to import

No person shall import a still unless he is in possession of a permit issued by the Board.

4. Approval, licence and entry of premises

No person shall possess or use a still unless-

- (a) he has submitted to the Board a written application in the form prescribed in the First Schedule to the Act for a licence to possess or use a still, specifying particulars of the still, the premises in which it is to be kept and the purpose for which it is to be used, and has received a licence in the form prescribed in the Second Schedule to the Act;
- (b) he has furnished to the Board, if it so requires, in the case of a still of greater capacity than five gallons, a drawing or description of the still showing its construction and all pipes, valves, fitments and connections associated therewith; and
- (c) he has made entry, in accordance with the provisions of the excise laws, of the premises in which the still is to be kept and used;
- (d) in the case of a distiller manufacturing alcohol, the largest still to be used is of at least four hundred gallons capacity.

5. Information to be given by licensed still users

Every person to whom a licence has been granted shall-

- (a) within fourteen days after a still has been broken up, removed from the premises or otherwise disposed of, inform the Board in writing accordingly, and shall furnish particulars of the manner of disposal and of the name of the person, if any, to whom it has been disposed and the address of the premises to which the still has been removed;
- (b) on request, furnish any information required by the proper officer relating to the materials for distillation and to the distillate, residue and effluent resulting from distillation;
- (c) allow the proper officer at any reasonable time to examine and take samples of any such materials and any products of distillation;
- (d) comply with such other conditions regarding the still as the Board may impose.

6. Persons keeping stills solely for sale

Nothing in the foregoing regulations shall apply to a person who imports, makes or keeps stills solely for the purpose of sale, but every such person shall-

- (a) keep a record in such manner as the Board shall approve, of each still imported, manufactured, received, sent out or delivered by him, together with the particulars of the name and address of the person to whom the still is sent or delivered;

(b) if so required by an officer, produce to him such record and permit him to inspect and to make copies thereof and take extracts therefrom and to make entries therein.

7. Glass flasks, etc., for laboratory work

Nothing in these Regulations shall apply to glass flasks and glass condensers which in the opinion of the Board are of a kind intended to be used solely for ordinary laboratory purposes.

8. Offences and penalties

Any person contravening or failing to comply with any of these Regulations shall be liable to a fine of not less than one hundred naira or more than four hundred naira in respect of any particular offence.

FIRST SCHEDULE

[Regulation 4 (a). Form Sale 40.]

CUSTOMS AND EXCISE (NIGERIA)

Application for still licence

Date..... 20

The Secretary,

Nigerian Customs Services Board, Abuja.

1. *I/We..... whose *registered/head office is at (Office address-Post Office Box or Mail No. NOT acceptable) hereby apply for a licence to possess

*and/or use*my/our business premise..... (*address of premises*)

2. The correct particulars of the still, the description of the premises in which it is to be kept and the purpose for which the still is to be used are specified hereunder-

(a) Still

.....

.....

.....

(b) Premises.....

.....
.....
.....
.....
(c) Purpose.....
.....
.....
.....

3. *I/We annex hereto, in quadruplicate, the plans and drawings distinctly showing the premises and the description, construction and course of the still and all the pipes, valves, fitments and connections therewith-

Annex A- *Plan/Drawing No.....

Annex B-

Annex C-.....

etc.....
.....
.....

4. *I/We undertake to make entry of the premises and to comply with the provisions of the excise laws relating to the possession *and/or use of still.

Office
Date
stamp

.....

Applicant

*(a) Application approved.

Still licence to be issued under the following special conditions:

*(b) Application rejected for the following reasons:

Office
Date
stamp

.....
For the board

Still licence No..... of..... issued.

Office
Date
stamp

.....
for Comptroller-General of Customs

Area.....

*Delete where inapplicable. (206/0/148)

TO BE COMPLETED IN DUPLICATE

SECOND SCHEDULE

[Regulation 4 (a). Form Ex. 5.]

CUSTOMS AND EXCISE (NIGERIA)

No..... 20

Pursuant to section 2 of the Excise (Control of Distillation) Act (Cap. E16) and the Regulations made thereunder,

.....
*(Name of still *possessor/user)*

*holder of distiller's licence No..... of

whose "registered/head office is at.....
.....

*is/are hereby licensed as a *possessor/user of *still/stills, of the following descriptions

.....
.....

at *his/their entered premises at

.....

subject to the following conditions-

- (1) The licensee shall comply with the provisions of the excise laws relating to the possession or use of a still.
- (2) The *still/stills shall not be disposed of or removed from the entered premises without the written approval from the Board.
- (3) The licensee shall display this licence in a conspicuous place at *his/their entered premises.
- (4) This licence is not transferable.
- (5) This licence expires on the 31st December..... but may at any time be revoked in accordance with the provision of the excise laws.
- (6) Special conditions (if any).....

.....

DATED at.....this..... day of..... 20.....

Office

Date

Stamp

.....
for the board

This licence is accepted by *me/us subject to the conditions stated hereon.

Office

Date

Stamp

.....
Licence

*Delete where inapplicable.

(206/0/146)

MANUFACTURE OF SPIRITS REGULATIONS

ARRANGEMENT OF REGULATION

A. General

REGULATION

1. Short title.
2. Interpretation.

B. Application for licence, entry and security of premises and vessels

3. Licence to manufacture spirits.
4. Entry of premises.
5. Signboard.
6. Distiller's warehouse.
7. Vessels, pipes, fittings, etc.
8. Varying of process, plant, etc.

C. Distilling Operations

9. Use and possession of materials.

REGULATION

10. Register of and removal of sugar or other materials.
11. Notice to commence or re-commence brewing.
12. Period of manufacturing operation.
13. Notice to mash or brew.
14. Declaration of worts collected.
15. Addition of yeast, etc.

16. Notice to make bub, etc.
17. Declaration before removing wash from fermenting vessel.
18. Mixing of wort, etc., and declaration after mixing.
19. Removal and declaration of wash removed.
20. Ascertainment of gravity.
21. Difference in original gravity wort, etc.

D. Charge of excise duty on spirits, etc.

22. Ascertainment of strength of spirits.
23. Charge of excise duty.
24. Duty on spirits by attenuation charge.
25. Disposal of feints.
26. Notice to remove feints.
27. Return of materials and spirits produced.
28. Drawing off water from worm, etc.

E. Warehousing of spirits

29. Warehousing of spirits.
30. Spirits which may be deposited in a distiller's warehouse.
31. Hours of opening distiller's warehouse.
32. Vats, etc., in distiller's warehouse.
33. Approval, vessels, etc., and operations in distiller's warehouse.
34. Racking of spirits, marking of casks, drums, etc.
35. Bottling of absolute alcohol.
36. Stock book.

F. Deliveries

37. Delivery of spirits from warehouse.
38. Spirits not to be removed to another distillery.
39. Spirits not to be returned to warehouse.

40. Offences and penalties.
 41. Application of Regulations.
-

MANUFACTURE OF SPIRITS REGULATIONS

[L.N. 79 of 1965.]

under section 4

[1st June, 1965]

[Commencement.]

A. General

1. Short title

These Regulations may be cited as the Manufacture of Spirits Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"**approved**" means approved by the Board;

"**bub**" means a preparation of concentrated and actively working yeast for addition to wort;

"**distiller's warehouse**" means a place of security for the time being approved and licensed by the Board;

"**feints**" means spirits conveyed into a feints receiver;

"**locked**" means locked with a revenue lock or otherwise secured by an officer;

"**low wines**" means spirits of the first extraction conveyed into a low wines receiver;

"**period**" means the period prescribed for the purpose of taking account of feints and spirits produced;

"**still**" includes any part of a still;

"**wash**" means wort to which yeast has been added;

"**wort**" means any material which, by a process of fermentation, produces alcohol;

"**written notice**" means a written notice in the form approved by the Board.

B. Application for licence, entry and security of premises and vessels

3. Licence to manufacture spirits

(1) An application for a licence to manufacture spirits shall be made in writing to the Board in the form prescribed in the First Schedule to the Act and shall include a description of the processes and of all vessels, utensils, pipes and fittings intended to be used in the manufacture of spirits, together with a drawing distinctly showing the course, construction and use of all fixed pipes to be used and of every branch thereof and cock thereon and every place, vessel or utensil with which any pipe connects.

(2) The Board may approve such processes, vessels, utensils, pipes and fittings and may issue a licence in the form prescribed in the Second Schedule to the Act subject to the acceptance of a bond security and such other conditions as it may specify.

(3) The Board may refuse to grant a licence-

- (a) in respect of premises on which from their situation in relation to other premises used by a rectifier, blender, methylator or brewer, it deems it inexpedient to allow the manufacture of spirits;
- (b) where a licence is sought for the manufacture of spirits by distillation of a fermented liquor in respect of a still which has less than 400 gallons capacity, or subject to such conditions as it deems fit;
- (c) for any other reasons whatsoever.

4. Entry of premises

(1) No person shall begin to manufacture spirits until he has made entry, in accordance with the provisions of the excise laws, of all rooms, plants, equipment and places in which any part of his trade is carried on or any spirits are to be kept and of all vessels, utensils, pipes, and fittings therein.

(2) Every entry shall be accompanied by-

- (a) a plan in quadruplicate of each building, room or place to which the entry relates and of the situation of such building, room or place in relation to other buildings, rooms or places in the vicinity; and
- (b) specifications and particulars, in quadruplicate, of each item of plant to be used in the manufacture, preparation for sale or storage of materials or spirits.

(3) A distiller shall not, save as permitted by the Board-

- (a) make entry of a room or place for more than one purpose; or
- (b) withdraw his entry whilst there remains in any place mentioned therein any still, or in any place, vessel or utensil mentioned therein any materials prepared or fit for distillation, or any spirits liable to duty.

5. Signboard

Every distiller shall affix and maintain to the satisfaction of the Board in a conspicuous position outside his distillery a signboard showing the name, or if that name is different from the business name, the business name of the distiller, and a statement that he is the holder of a distiller's licence.

6. Distiller's warehouse

(1) A distiller may provide, in association with his distillery, a place of security for the deposit of spirits manufactured at that distillery and, if that place is approved and licensed by the Board and entry is made thereof by the distiller, may deposit therein without payment of duty any spirits as manufactured:

Provided that if the place of security provided under this regulation is outside the distillery premises, the Board may attach to its approval such conditions as it sees fit, and if the distillery fails to comply with any of such conditions, that place shall be deemed not to have been approved by the Board.

(2) A distiller shall not, after the approval and licensing of a distiller's warehouse provided by him, make without the previous consent of the Board, any alteration or addition thereto.

(3) The Board may specify conditions-

- (a) for warehousing of spirits in a distiller's warehouse;
- (b) for securing the duty on spirits so warehoused.

(4) The Board may at any time for reasonable cause revoke or vary the terms of its approval and licensing of a distiller's warehouse.

7 . Vessels, pipes, fittings, etc.

(1) A distiller shall, to the satisfaction of the Board-

- (a) place and keep each vessel and utensil on his premises in a convenient situation, easy of access for official examination and account, and fixed so as to admit of the contents being accurately gauged;
- (b) under the supervision of the proper officer, gauge any such vessel and provide for the use of the officer any necessary tables and implements so that the quantity of liquid in the vessel at any time may be determined in the manner required by regulation 14 (c) of these Regulations;

- (c) fix and place every pipe used by him, unless used exclusively for the discharge of water or spent wash, so as to be capable of being examined for the whole of its length; and
- (d) paint and maintain so painted each pipe in oil colours as follows, according to the purpose for which it is to be used-

wort or wash.....red;
low wines or feints..... blue;
spirits..... black;
water white.

(2) A distiller shall not use any still, vessel, utensil, pipe or cock, unless it can be secured to the satisfaction of the Board, and he shall provide all such fittings as may be required by the Board for the attachment of revenue locks to secure the distillery premises and plant for excise purposes.

(3) A distiller shall not cause or procure any cover, fastening, cock, plug, pump or pipe to be made or used so that any vessel or utensil may be employed, opened, removed, filled or emptied in any manner not approved.

8. Varying of process, plant, etc.

A distiller shall not vary any process, alter, move, add to or use in any way otherwise than in accordance with the prescribed conditions, the vessels, utensils, pipes or fittings in his distillery, unless he has given prior written notice in that behalf to the proper officer, and has delivered to him such further drawing or description as may be required, and has obtained the Board's written approval of all such variations, alterations or additions, and made fresh entry if so directed.

C. Distilling operations

9. Use and possession of materials

Except with the consent of the Board and subject to such conditions as it may prescribe, a distiller shall not-

- (a) use in the brewing or making of wort or wash any material of such nature that the gravity of the wort or wash produced therein cannot be ascertained by the approved saccharometer; or
- (b) have in his possession any wort, wash, low wines, feints or spirits, or fermented liquor not brewed, made or distilled in his distillery.

10. Register of and removal of sugar or other materials

(1) A distiller shall keep in such manner as the Board may direct a register showing the quantity of sugar and other materials for use in manufacture received and utilised, and the balance in stock of each kind of sugar and other materials at the close of each working day.

(2) Except with the written authority of the Board-

- (a) all sugar and other material for use in manufacture must be accompanied by full suppliers' invoices and be immediately deposited in the sugar or other materials store;
 - (b) no store may be used for the deposit of any materials other than those materials for the storage of which it is entered.
- (3) A distiller shall not, without the consent of the Board, remove any sugar, molasses or other materials for fermentation from the place entered as a sugar store, molasses store or other materials stores, except for use in the manufacture of spirits.
- (4) Before removing any sugar, molasses or other materials for the purpose mentioned in paragraph (3) of this regulation, the distiller shall give the proper officer written notice, specifying the time of the intended removal and the quantity to be so removed.
- (5) At the time so specified, the distiller shall convey the specified sugar, molasses or other materials immediately from the sugar store, molasses store or other materials store to the mash tun, sugar cane crusher or other entered vessels or utensil to be immediately used there in the manufacture of spirits.
- (6) The distiller shall forthwith deposit again in the sugar store, molasses store or other materials store, all sugar, molasses or other materials so removed and not so used, and shall immediately give the proper officer written advice of the quantity so deposited.

11. Notice to commence or re-commence brewing

A distiller shall, at least six days before commencing to brew wort or, if he has discontinued brewing wort for more than a month, before re-commencing to brew wort, give to the proper officer a written notice specifying the day on which he intends to begin brewing or re-commence brewing.

12. Period of manufacturing operation

- (1) For the purpose of the charge of duty on spirits made in the distillery, a distiller shall conduct his manufacturing operations in periods which shall terminate at intervals not exceeding a month from the date of commencement of brewing or from the date of termination of the last preceding period, whichever is the later.
- (2) A distiller shall give to the proper officer written notice of his intention to terminate a period, with a declaration on the approved form specifying the wort or wash to be included therein, and except as otherwise approved, such wort or wash shall thereupon be distilled and the stills shall be worked off and notice given to the proper officer to take account of the feints and spirits produced.
- (3) A period shall be deemed to terminate when all the wort or wash specified in the distiller's declaration has been distilled and the feints and spirits produced therefrom conveyed into the respective receivers.

13. Notice to mash or brew

A distiller shall, before he mashes any materials, or brews for making wort, give to the proper officer twenty-four hours' written notice specifying the day and hour when the mashing or brewing is to be commenced.

14. Declaration of worts collected

Immediately the collection of wort in any fermenting vessel is completed, the distiller shall deliver to the proper officer a written declaration in the approved form specifying-

- (a) the number of the vessel in which the wort is contained;
- (b) the true original gravity of the wort; and
- (c) the quantity thereof as measured by the number of dry inches and tenths of one inch, that is to say, by the number of inches and tenths of one inch between the dipping plate of the vessel and the surface of the wort contained therein,

and after the declaration has been delivered the quantity or gravity shall not be increased except as provided for in these Regulations.

15. Addition of yeast, etc.

No yeast or other matter capable of causing fermentation shall be added to wort or wash in any vessel other than a fermenting vessel except with the consent of the Board and subject to such conditions as it may impose.

16. Notice to make bub, etc.

A distiller shall, before beginning to make bub or any other composition for promoting the fermentation of wort or wash, give to the proper officer twenty-four hours' written notice specifying the time when, and the vessel in which, the composition is to be made, the fermenting vessel into which it is to be put, and the quantity to be put into such vessel.

17. Declaration before removing wash from fermenting vessel

(1) A distiller shall not remove any wash from a fermenting vessel unless immediately prior to such removal he has given to the proper officer a declaration in an approved form specifying-

- (a) the vessel from and to which wash is to be removed;
- (b) the day and hour of commencing removal; and
- (c) the gravity of the wash at that time.

(2) If in any instance a distiller has removed wash to a wash charger other than for immediate distillation, he shall immediately before commencing to remove such wash for distillation, give to the proper officer a further declaration specifying the like particulars as required by this regulation.

18. Mixing of wort, etc., and declaration after mixing

(1) A distiller shall not mix wort or wash, other than wash removed for immediate distillation, unless-

- (a) he has previously delivered the declaration required by regulation 14 of these Regulations;
 - (b) the mixing takes place in a fermenting vessel or wash charger; and
 - (c) he has delivered to the proper officer written notice of his intention to mix the wort or wash specifying the vessels which will be affected.
- (2) Immediately after the mixing has been completed, the distiller shall deliver to the proper officer a declaration specifying as regards each vessel affected, the dip and original gravity immediately before the operation and the dip and gravity immediately after the operation.

19. Removal and declaration of wash removed

- (1) A distiller shall not dispose of wash removed from a fermenting vessel for the recovery of yeast except in such manner as may be approved by the Board.
- (2) A distiller shall give written notice to the proper officer specifying the quantity and original gravity of the wash so removed and the vessel from which it has been removed.

20. Ascertainment of gravity

- (1) The gravity of the wort or wash shall be ascertained by the approved saccharometer.
- (2) When fermentation has commenced in any wort or wash so that the original gravity of the worts from which the wort or wash is made cannot be ascertained by the approved saccharometer, such gravity may be determined by such means as the Board may approve.

21. Difference in original gravity wort, etc.

A distiller shall not have in his possession any wort or wash the original gravity of which, as ascertained from any sample thereof taken from a fermenting vessel or wash charger, differs by more than two degrees from the original gravity thereof as declared by him.

D. Charge of excise duty on spirits, etc.

22. Ascertainment of strength of spirits

- (1) The strength of spirits shall be ascertained by means of Tralles' Alcoholometer and its associated table as deposited by the Board with the Federal Government Chemist.

[L.N. 80 of 1968.]

(2) The strength of spirits shall be taken to be the percentage by volume of pure alcohol contained in those spirits determined at a temperature of fifteen point five six degrees Centigrade or sixty degrees Fahrenheit.

(3) Where the indicated strength at any given temperature on the Tralles' Alcoholometer falls between two consecutive numbers appearing in the table, a proportionate adjustment shall be added to the lesser of the two numbers and the amount so determined shall be deemed to be the strength of the spirits.

(4) Where the spirits contain any substance other than ethyl alcohol and water, the Board may, if it sees fit, either-

(a) cause to be removed from the spirits any such substance to the extent which it considers necessary by distillation or such other process as it may direct and may, after the addition of water to replace the quantity so removed, ascertain the strength of the spirits by means authorised by this regulation; or

(b) treat the spirits as though they contain ethyl alcohol and water only.

23. Charge of excise duty

Excise duty, at the rate prescribed in the Customs, Excise Tariff, etc. (Consolidation) Act shall be charged on the actual quantity of spirits produced, but where that quantity is less than the quantity of spirits capable of being produced from the materials used, calculated in accordance with regulation 24 of these Regulations, on the higher quantity; and the said duty shall be payable at the time the spirits are finally collected unless the spirits are-

[Cap. C49. L.N. 80 of 1968.]

- (a) transferred immediately to an approved bonded warehouse; or
- (b) removed for an approved use or purpose, without payment of duty; or
- (c) subjected to a denaturing process approved by the Board.

24. Duty on spirits by attenuation charge

Where spirits are manufactured by distillation of a fermented liquor, the quantity of spirits deemed to be manufactured from the materials used shall be calculated in respect of each distillation period in accordance with the following provisions of this regulation-

(a) there shall be calculated the quantity of spirits of the strength of fifty per centum by volume of pure alcohol capable of being produced from any wort and wash made at the distillery on the assumption that from every 100 gallons of wort and wash, one gallon of spirits at the strength of fifty per centum by volume of pure alcohol will be produced for every five degree of difference between the highest gravity of the wort and the lowest gravity of the wash before distillation, and so in proportion for any less number of gallons of wort and wash and any less number of degrees of attenuation;

(b) the gravity of wort or wash for the purposes of paragraph (a) of this regulation, shall be taken as that declared by the distiller; provided that if either gravity is found by the proper officer before distillation and the gravity so found is, in the case of wort, higher or, in the case of wash, lower than that declared by the distiller, the gravity to be taken shall be that so found by the proper officer;

- (c) there shall be ascertained the quantity of spirits and feints computed at the strength of fifty per centum by volume of pure alcohol produced at the distillery after deducting the feints remaining at the end of the last preceding distillation period;
- (d) if the quantity calculated under paragraph (a) of this regulation exceeds the quantity ascertained under paragraph (c) of this regulation, the excise duty on spirits shall be charged and become payable immediately on the excess:

Provided that the Board may make such allowance as in its opinion is reasonable from any charge under this regulation on proof to its satisfaction that the charge arises wholly or in part on account of the removal of wort for the separation of yeast or on account of the loss or destruction of wort or wash by unavoidable accident.

25. Disposal of feints

(1) Subject to the provisions of paragraph 2 of this regulation as to feints remaining from a previous distillation, or as may be approved in any case, a distiller shall keep all the produce of a period unmixed with any other matter and separate from all other produce until account has been taken by the proper officer.

(2) Any feints produced by and remaining from a previous distillation may be mixed with the low wines or feints produced by a subsequent distillation and the process of re-distilling feints may be repeated as often as the distiller thinks fit.

26. Notice to remove feints

Not less than four hours before the removal of any low wines or feints from a receiver, a distiller shall give to the proper officer written notice specifying the date and hour of intended removal, and immediately after the officer has taken account of the contents of the receiver they shall be removed forthwith into the proper charger:

Provided that where the distiller has secured his low wines and feints pumps to the satisfaction of the Board, he may at any time, without notice, remove low wines and feints from the receiver to a charger and re-distil them.

27. Return of materials and spirits produced

At the end of each period the distiller shall sign and deliver to the proper officer a return, in duplicate, in an approved form specifying-

- (a) the quantity of each description of material used in the making of wort or wash during the period;
- (b) the quantity of wort or wash decreased or distilled during the period;
- (c) the quantity of spirits computed at the strength of fifty *per centum* of pure alcohol as ascertained by Tralles' alcoholometer produced during the period;
- (d) the quantity of feints remaining at the end of the period.

28. Drawing off water from worm, etc.

At any time when distillation is not in progress, the distiller shall, if so required by the proper officer, draw off water from the worm tubs or refrigerators, and these vessels shall remain empty until the officer completes his examination of the spirit pipes therein.

*E. Warehousing of spirits***29. Warehousing of spirits**

(1) Not less than four hours before he intends to warehouse any spirits, a distiller shall give a written notice to the proper officer to take account of such spirits, specifying the day and hour of intended warehousing and the vessel in which the spirits are contained.

(2) When such spirits are contained in a spirit receiver which is not also entered as a warehouse vat, the distiller shall remove them to the distiller's warehouse immediately after the account has been taken by the officer.

(3) When such spirits are contained in a receiver which is also entered as a warehouse vat, they shall be deemed to be warehoused immediately the account has been taken by the officer.

(4) The quantity found in the spirit receiver shall in all cases be deemed to be the quantity warehoused.

(5) All the spirits produced in a period shall be warehoused within ten days from the end of that period.

30. Spirits which may be deposited in a distiller's warehouse

Save as permitted by the Board, and subject to such conditions as from time to time it sees fit to impose, a distiller shall not deposit any spirits in his distiller's warehouse other than spirits manufactured in the distillery to which the warehouse is attached.

31. Hours of opening distiller's warehouse

A distiller's warehouse shall not be opened except during such hours as the Board shall approve and such hours may be varied at any time at the discretion of the Board.

32. Vats, etc., in distiller's warehouse

With the consent of the Board and subject to such conditions it may impose, a distiller may keep receivers or vats in the distiller's warehouse or in a room on his entered premises for the storage of spirits and while such spirits are stored in such receiver or vat they shall be deemed to be in a distiller's warehouse.

33. Approval, vessels, etc., and operations in distiller's warehouse

The Board may specify-

- (a) the type and description of vessels and other containers which may be used in a distiller's warehouse;

- (b) such conditions as it may consider necessary to ensure proper excise control in respect of operations in a distiller's warehouse;
- (c) conditions for, and limitations in respect of, the dilution of spirits.

34. Racking of spirits, marking of casks, drums, etc.

In connection with the first racking of spirits from vat, the distiller shall comply with the following provisions-

- (a) he shall before spirits are racked give notice thereof in writing to the officer in charge of the warehouse;
- (b) he shall not, except with the consent of the Board, reduce spirits with water unless the reduction takes place prior to or at the time of-
 - (i) their removal from the warehouse vat for immediate delivery; or
 - (ii) their first racking into cask;
- (c) he shall not warehouse casks or drums whether full or on ullage, which contain less than nine gallons, provided that a vat remnant of any quantity not exceeding 150 gallons may be temporarily warehoused in one ullage cask or drum for inclusion in a subsequent racking;
- (d) he shall cause to be legibly cut, branded or painted with oil paint on the outside of each end of every cask or drum the following particulars-
 - (i) the name of the distiller;
 - (ii) the name of the distillery or place;
 - (iii) the mark and number of the cask or drum;
 - (iv) the number of gallons the cask or drum is capable of containing, and if that number is less than eighty, the quarter or quarters of a gallon of capacity above the number of entire gallons; and
 - (v) the year in which it is warehoused;
- (e) he shall cause to be consecutively numbered all the casks or drums warehoused in anyone year, beginning with number one in each year;
- (f) he shall arrange casks or drums in warehouse so that the marks thereon are at all times easily visible.

35. Bottling of absolute alcohol

Subject to the approval of the Board, a distiller may bottle absolute alcohol in an approved compartment of his warehouse and pack the bottles into cases and may warehouse the bottles so packed in accordance with the following provisions-

- (a) the minimum quantity of absolute alcohol which may be warehoused at anyone time must not be less than nine bulk gallons;
- (b) absolute alcohol may be warehoused in approved vessels each containing not less than four and one half bulk gallons, or in bottles of a uniform size of a capacity not less than one reputed quart, packed in cases each containing not less than one point seven than two liquid gallons; eight nor more
- (c) cases and vessels shall, if so required by the Board, be secured and marked by the distiller in such manner as the Board may direct.

36. Stock book

A distiller shall provide a stock book in the form and manner approved by the Board and shall-

- (a) each day enter therein the particulars of all spirits manufactured and received into stock and of all spirits sent out of stock and such other particulars as the Board may require;
- (b) keep the stock book in such part of the entered premises as the Board may require, available at all times for inspection by an officer and permit an officer at any time to inspect it and make extracts therefrom;
- (c) send to the proper officer on or before the seventh day of each month a transcript in duplicate of the stock book showing all transactions entered therein during the previous month.

F. Deliveries

37. Delivery of spirits from warehouse

(1) Spirits shall not be delivered from the distillery in which they were distilled, whether from the distiller's warehouse or direct from the receivers or vats provided in accordance with regulation 32 of these Regulations except-

- (a) on payment of duty for home use in accordance with the provisions of the Customs, Excise Tariff, etc. (Consolidation) Act; or

[Cap. C49.]

- (b) for exportation or loading as aircraft or ships stores; or
- (c) for removal under bond for re-warehousing in an approved bonded warehouse; or
- (d) for removal for approved use in accordance with the provisions of customs and excise laws without payment of duty.

(2) Except as permitted by the Board, all spirits delivered in accordance with the provisions of paragraph (1) of this regulation, shall be accompanied by an approved removal permit and shall be subject to such limitations and conditions as may be specified in such permit.

(3) The distiller shall give written notice in the approved form to the proper officer before any spirits are delivered in accordance with this regulation and shall attach to such notice any removal permit or other document which may be required by these Regulations to cover such delivery.

(4) Deliveries under this regulation shall only be made in casks, containers, or by other means approved by the Board and secured to the satisfaction of the Board.

(5) The Board may limit the hours during which deliveries may be made under this regulation.

38. Spirits not to be removed to another distillery

Except with the permission of the Board, upon its being satisfied as to the necessity, and subject to such conditions as it may impose, a distiller shall not remove spirits from his distiller's warehouse to another distillery.

39. Spirits not to be returned to warehouse

(1) Except with the permission of the Board and in accordance with any conditions which it may impose, no spirits delivered in accordance with regulation 37 of these Regulations shall be returned to the distillery in which they were manufactured or to any other distillery.

(2) Except as provided in paragraph (1) of this regulation, a distiller shall not have on, bring to, or store in his entered distillery premises or distiller's warehouse any spirits which he has not himself distilled or on which duties of customs and excise have been paid.

(3) Spirits for home use on which excise duty has been paid or secured shall forthwith be removed from the entered distillery premises or distiller's warehouse.

40. Offences and penalties

Any person or distiller contravening or failing to comply with any of these Regulations shall in respect of any particular offence against the Regulations be liable to a fine of not less than two hundred naira or more than one thousand naira, or to imprisonment for a term of two years, or to both, and anything in respect of which such an offence is committed shall be liable to forfeiture or to disposal as the Board may direct.

41. Application of Regulations

These Regulations shall apply only to the manufacture of spirits by distillation of a fermented liquor.

FIRST SCHEDULE

[Regulation 3 (1). Form Sale 39.]

CUSTOMS AND EXCISE (NIGERIA)

Application for distiller's licence

Date..... 20

The Comptroller-General of Customs,

Nigerian Customs Services Board, Abuja .

.....
1. *I/We..... whose *registered/head office is at.....

(Office address-Post Office Box or Mail No. NOT acceptable) hereby apply for a distiller's licence to enable *me/us carry on business as a distiller at

.....
(address of premises)

2. The correct description of the premises and all vessels, utensils, pipes, fittings and equipments intended to be used in the manufacture of spirits and the processes of manufacture are as follows-

(a) Premises

.....
.....
.....
.....

(b) Vessels, equipments, etc.....

.....
.....
.....
.....

..... (c)
Processes of manufacture.....

.....
.....
.....
.....

3. *I/We annex hereto, in quadruplicate, the plans and drawings distinctly showing the premises and the construction, course, description and use of all equipment, and fixed pipes to be used together with the branches, connections, fitments, utensils and vessels thereon-

Annex A- *Plan/Drawing No.....

Annex B-

Annex C-.....

etc.....
.....
.....

*I/We undertake to make entry of the premises and to comply with the provisions of the excise laws relating to the distillery industry and the manufacture of spirits

Office
Date
stamp

.....

Applicant

*(a) Application approved.

Distiller's licence to be issued under the following conditions:

*(b) Application rejected for the following conditions

Office
Date
stamp

.....

for the board

Distiller's licence No..... of issued.

Office
Date
Stamp

.....

for Comptroller-General of Customs

Area.....

*Delete where inapplicable. (206/0/147)

TO BE COMPLETED IN DUPLICATE

SECOND SCHEDULE

[Regulation 3 (2). Form Ex. 5.]

CUSTOMS AND EXCISE (NIGERIA)

Distiller's Licence

No..... 20

Pursuant to section 1 of the Excise (Control of Distillation) Act (Cap. E16) and the Regulations made thereunder,

.....
(Name of distiller)

whose *registered head office is at.....
.....

*is/are hereby licensed as a maker or distiller of spirits on *his/their premises at.....
.....

under the Excise Factory No.....subject to the following conditions:

(1) The licensee shall comply with the provisions of the excise laws relating to the making or distillation of spirits and any conditions prescribed by the Board under those laws.

(2) The licensee shall display this licence in a conspicuous place at *his/their licensed premises. (3) This licence is not transferable.

(4) This licence expires on 31st December, 20.....but may at any time be revoked in accordance with the provisions of the excise laws.

(5) Special conditions (if any).....

Fee of ₦200 (two hundred naira) paid on Customs and Excise Receipt No

Of.....

Dated at..... This..... day of..... 20.....

Office

Date

Stamp

For the Board

Office
Date
Stamp

.....

License

*Delete where inapplicable
(206/01/139)