



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

EXCISE (SPECIAL PROVISIONS)

ACT, No. 13 OF 1989

[Certified on 12th October, 1989]

Printed on the Orders of Government

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AN ACT TO PROVIDE FOR THE LEVY AND CHARGE OF EXCISE DUTY ON ARTICLES PRODUCED OR MANUFACTURED IN, OR IMPORTED INTO, SRI LANKA; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Excise (Special Provisions) Act, No. 13 of 1989, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*. Different dates may be appointed in respect of different provisions of this Act.

Short title
and date of
operation.

PART I

ADMINISTRATION

2. (1) There may be appointed by name or by office, for the purpose of this Act—

Appointment
of Director-
General of
Excise & c.

(a) a Director-General of Excise (hereinafter referred to as the "Director-General");

(b) a Director of Excise and such number of excise officers as may be necessary for the implementation of the provisions of this Act; and

(c) such number of clerical and minor staff as may be necessary to assist the aforesaid officers.

(2) The act of appointment of any excise officer shall specify the area for which he is appointed. The area so specified is hereinafter referred to as "the area of his appointment".

(3) The Director of Excise may, subject to the general direction and control of the Director-General, exercise, perform or discharge all or any of the powers, duties or functions conferred or imposed on, or assigned to, the Director-General by or under this Act.

(4) Every excise officer may, subject to the general direction and control of the Director-General, exercise, perform or discharge within the area of his appointment, all or any of the powers, duties or functions conferred or imposed on, or assigned to, the Director-General, by or under this Act.

PART II

EXCISE DUTY

Determina-
tion
of rates of
excise duty.

3. (1) There shall be charged, levied and paid on every article manufactured or produced in Sri Lanka, or imported into Sri Lanka, an excise duty at such rate or rates as may be specified by the Minister, by Order published in the *Gazette*. Every such article in respect of which an Order is made under this section is hereafter referred to as "an excisable article".

(2) The rate or rates of excise duty levied in respect of articles may be determined by reference to the class or description of the articles and accordingly, different rates of excise duty may be determined in respect of different classes or descriptions of articles.

(3) The rate or rates of excise duty determined under subsection (2) may, from time to time, be varied by the Minister by Order published in the *Gazette*.

(4) Every Order made by the Minister under this section shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such Order and shall be brought before Parliament within a period of four months from the date of its publication in the *Gazette* or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order be approved.

(5) Any Order which Parliament refuses to approve shall be deemed to be revoked as from the date of such refusal, but without prejudice to the validity of anything done thereunder and the notification of the date on which such Order is deemed to be revoked shall be published in the *Gazette*.

(6) Any excisable article imported into or produced or manufactured in Sri Lanka by or on behalf of the Government shall be liable to the payment of the excise duty leviable on such excisable article under this Act.

Notifica-
tion of
removal.

4. (1) Where the manufacturer of any excisable articles intends to remove or to cause the removal of any quantity of such excisable articles from the factory or other place at which such excisable articles were produced or manufactured, he shall give at least forty-eight hours notice of that fact to the Director-General or an excise officer designated by the Director-General for that purpose.

(2) Where the importer of any excisable articles intends to remove or to cause the removal of, any quantity of such excisable articles from the Customs warehouse or such other place as is authorized by the Director-General of Customs, at which such excisable articles were stored after their import, he shall give at least forty-eight hours notice of that fact to the Director-General or an excise officer designated by the Director-General for that purpose.

5. (1) The excise duty levied under section 3 on any excisable article shall— Payment of excise duty.

(a) in any case where such excisable article has been produced or manufactured in Sri Lanka, be paid by the producer or manufacturer of that excisable article, in the prescribed manner, prior to its removal from the factory or other place in which such excisable article was produced or manufactured; or

(b) in any case where such excisable article was imported into Sri Lanka, be paid by the importer prior to its removal from the Customs, warehouse or other place at which such excisable article was stored immediately after its importation into Sri Lanka.

(2) Where the excise duty payable on any excisable article is not paid in accordance with the provisions of subsection (1), such excise duty shall be deemed to be in default.

6. No person shall remove or permit the removal of any excisable article from—

(a) any factory or other place in which such excisable article has been produced or manufactured; or

(b) any Customs warehouse or other place at which such excisable article was stored after it was imported into Sri Lanka,

unless and until the excise duty has been paid on such excisable article in accordance with the provisions of this Act or a bond executed for the payment of such duty or adequate security is provided to the satisfaction of the Director-General, for the payment of such duty:

Payment of duty to precede removal of excisable articles.

Provided that, an excisable article which has been produced or manufactured in Sri Lanka may be removed from the factory or place in which such excisable article was produced or manufactured for the purpose of export, without payment of excise duty, if a bond is executed for the landing of such excisable article at the port of destination.

Mode of
ascertaining
value
of
excisable
articles.

7. (1) Where under this Act, excise duty is levied on any excisable article with reference to value, such value shall be deemed to be—

(a) the normal price thereof, that is to say, the price at which such excisable articles are ordinarily sold by an assessee to a buyer in the course of wholesale trade for delivery at the time and place of removal, where the buyer is not a related person and the price is the sole consideration of sale :

Provided that—

(i) where in accordance with the normal practice of wholesale trade in such excisable articles, such excisable articles are sold by the assessee at different prices to different classes of buyers, not being related persons, each such price shall be deemed to be the normal price of such excisable articles in relation to each such class of buyers ;

(ii) where such excisable articles are sold by the assessee in the course of wholesale trade for delivery at the time and place of removal at a price fixed under any law, for the time being or the maximum price fixed under such law, then, notwithstanding anything in sub-paragraph (iii) of this proviso, the price or the maximum price, as the case may be, so fixed shall, in relation to the excisable articles sold, be deemed to be the normal price thereof ;

(iii) where such excisable articles are not sold by the assessee in the course of wholesale trade except to or through a related person, the normal price of the excisable articles sold by the assessee to or through such related person shall be deemed to be the price at which they are ordinarily sold, in the course of wholesale trade at the time of removal to dealers, not being related persons or where such excisable articles are not sold to such dealers, to dealers being related persons who sell excisable articles in retail ; or

(b) the nearest ascertainable equivalent price of such excisable articles determined in such manner as may be prescribed, where the normal price of such excisable articles is not ascertainable for the reason that such excisable articles are not sold or for any other reason.

(2) Where, in relation to any excisable article the price thereof for delivery at the place of removal is not known and the value thereof is determined with reference to the cost of transportation from the place of removal to the place of delivery shall be excluded from such price.

(3) In this section—

(a) “assessee” means the person who is liable to pay excise duty under section 5 and includes his agent ;

(b) “place of removal” means—

(i) a factory or any other place of production or manufacture of excisable articles ; or

(ii) a Customs warehouse or place authorized by the Director-General of Customs wherein excisable articles have been stored or kept, after importation thereof ;

(c) “related person” means a person who is so associated with the assessee that they have a direct interest in the business of each other and includes a holding company, a subsidiary company, a relative and distribution of the assessee or any sub-distributor of such distributor ;

(d) "value" in relation to any excisable articles which are delivered at the time of removal in a packed condition, includes the cost of such packing which is of a durable nature and is returnable by the buyer to the assessee but does not include the amount of the excise duty, turnover tax and other taxes, if any, payable on such excisable articles and the trade discount, allowed in accordance with the normal practice of the wholesale trade at the time of removal, in respect of such excisable articles sold or manufactured or produced for sale;

(e) "wholesale trade" means sales to the Government, Local Authorities, dealers, industrial consumers, and other buyers who or which purchase their requirements otherwise than in retail.

Remission
of excise
duty.

8. (1) The Minister may, by regulation, made under this Act, provide for the remission of excise duty leviable on any excisable articles which are found to be deficient in quality by reason of any natural cause or otherwise.

(2) Any such regulations may, having regard to the nature of the excisable article or of processing or of curing thereof, and the period of their storage or transit, fix the limits of percentage beyond which no such remissions shall be allowed.

PART III

RECOVERY

Non-
payment of
excise
duty.

9. (1) Where any excise duty has not been levied or paid on any excisable article or has been levied or paid only in part on such excisable article or where it has been erroneously refunded, an excise officer may, within a period of one year from the relevant date serve notice on the person chargeable with excise duty which has not been levied or paid or which has not been levied or paid in full or to whom a refund has been erroneously made, requiring him to show cause why he should not pay the amount so specified in the notice:

Provided that where any excise duty has not been levied or paid at all or has been levied or paid only in part in contravention of any of the provisions of this Act or any regulations made thereunder or has been erroneously refunded, by reason of fraud, collusion or any wilful misstatement or suppression of facts, the period referred to in this subsection shall extend to ten years from the date on which detection thereof was made.

(2) The Director-General shall, after considering the representations, if any, made by the person on whom notice is served under subsection (1), determine the amount of excise duty due from such person, not being an amount in excess of the amount specified in the notice, and notify him accordingly, and thereupon such person shall pay the amount so determined.

(3) In this section—

- (i) "refund" includes rebate of excise duty on excisable articles exported from Sri Lanka;
- (ii) "relevant date" in relation to excisable articles on which excise duty has not been levied or paid or has been levied or paid only in part or has been erroneously refunded means—
 - (a) in any case where a return showing particulars of the duty paid on the excisable articles removed during the prescribed period to which the return relates, is required to be furnished under this Act, by a manufacturer or producer or importer of excisable articles or an owner of a warehouse, the date on which such return is furnished;
 - (b) in any case where no return as aforesaid is furnished, the last date on which such return is to be furnished under this Act;
 - (c) in any case where the excise duty on excisable articles has been erroneously refunded, the date of such refund; and
 - (d) in any other case, the date on which the duty is to be paid under this Act or the regulations made thereunder.

10. (1) Any person may, if he is dissatisfied with any determination made in respect of him under section 9, appeal against such determination to the Director-General, within thirty days after the service of notice of such determination on him. Such person shall, notwithstanding the appeal, pay the excise duty payable on such determination:

Appeals
to the
Director-
General.

Provided that, the Director-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) An appeal preferred under subsection (1) shall be rejected by the Director-General if it is made after the expiry of the period allowed under subsection (1) for the making of an appeal.

(3) The Director-General shall, before reaching his decision on any appeal made to him under subsection (1), give the appellant an opportunity of placing his case before the Director-General either in person or by his authorized representative.

(4) The Director-General may, upon any appeal made to him under subsection (1), affirm, vary or annul the determination against which such appeal was made.

(5) Any person aggrieved by the decision of the Director-General upon any appeal made to him under subsection (1) may appeal therefrom to the Court of Appeal.

(6) Sub-sections (3), (4) and (5) of section 31D of the Industrial Disputes Act shall appeals from a decision of the Director-General to the *mutatis mutandis*, apply to tin specified in this Act against the determination of the Court of Appeal.

Excise duty determined on appeal to be final.

11. Where no valid appeal has been lodged within time specified in this Act against the determination of the Director-General in respect of the excise duty or where the amount of such excise duty has been determined on appeal, the amount determined by the Director-General or the amount as reduced, or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of the excise duty payable.

Proceedings for recovery before a Magistrate.

12. (1) Where the payment of any excise duty is in default, the Director-General may issue a certificate containing particulars of the amount of the excise duty in default and the name and last known place of business or residence of defaulter to a Magistrate having jurisdiction in the division in which such place of business or residence is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the excise duty shall not be taken against him, and in default of sufficient cause being shown, the excise duty in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d), and (i) thereof)

of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine impose for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence :

Provided that, nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Director-General.

(2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979 shall apply in any case referred to in subsection (1) of this section.

(3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made by instalments.

(4) The court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (3) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(5) Where payment in instalments is directed under subsection (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(6) In any proceeding under subsection (1), the Director-General's certificate shall be sufficient evidence that the excise duty is in default, and any plea that the excise duty is excessive, incorrect, or under appeal shall not be entertained :

Provided that, where any person proceeded against has not appealed within the proper time against the determination determining the excise duty charged and alleges that the excise duty is in excess of the sum which would have been charged if he had so appealed, the court may adjourn the matter for a period not exceeding thirty days to enable such person to submit to the Director-General his objection to the excise duty.

(7) The Director-General shall, notwithstanding anything in this Act, consider any objection made under subsection (6) and give his decision thereon, which shall be final, and shall be certified by him to the Magistrate, and proceedings under this section shall thereupon be resumed to enforce payment of the excise duty as reduced or confirmed under such decision. Where no objection has been made to the Director-General within the period for which the matter was adjourned under that subsection, the Director-General shall issue a certificate to that effect and proceedings under this section shall be resumed to enforce payment of the excise duty.

Refund of
excise
duty.

13. (1) Any person claiming a refund of any excise duty may, before the expiry of twelve months from the relevant date, make an application for the refund of such duty to the Director-General on the ground that—

- (a) the amount of excise duty paid is in excess of the amount payable under this Act; or
- (b) the article in respect of which the excise duty was paid was not subject to duty:

Provided that, the limitation of twelve months referred to in this subsection shall not apply where the excise duty has been paid by any person under protest.

(2) If upon receipt of any such application the Director-General is satisfied that the whole or any part of the excise duty paid by the applicant should be refunded to him, he may make order accordingly.

(3) Where the Director-General decides to refuse to grant a refund, he shall communicate to the applicant his decision with the reasons therefor.

(4) Any person who is aggrieved by a decision of the Director-General refusing to grant a refund of excise duty under subsection (3) may appeal against the decision to the Deputy Secretary to the Treasury within one month of the date on which the decision is communicated to him.

(5) The Deputy Secretary to the Treasury may on an appeal under subsection (4)—

- (a) to allow the appeal and direct the Director-General to refund the excise duty paid by the applicant to him; or
- (b) disallow the appeal.

(6) The Director-General shall comply with any direction issued to him under subsection (5).

PART IV REGISTRATION

14. (1) On and after the expiration of a period of two months from the date on which any article becomes an excisable article in pursuance of an order made under section 3 no person shall engage in—

Registra-
tion.

- (a) the production or manufacture of any such excisable article ;
- (b) the wholesale purchase or sale whether on his own account or as a broker or commission agent, or the storage of any such excisable article for the purpose of wholesale trade ;
- (c) the importation of any such excisable articles, unless such person is registered for the purpose of this Act with the Director-General.

(2) (a) An application for registration shall be made to the Director-General in the prescribed manner in the prescribed form and shall be accompanied by the prescribed fee.

(b) The Director-General shall issue to every person registered under this Act a certificate of registration in the prescribed form.

(3) Every person who is registered under this Act shall furnish to the Director-General in the prescribed form and at prescribed intervals—

(a) in any case where such person is the producer or manufacturer of an excisable article, returns setting out—

(i) the number of excisable articles produced or manufactured by him at the factory or other place at which such excisable articles are produced or manufactured by him, during a prescribed period ;

(ii) the number of excisable articles removed from such factory or other place during that period ; and

(iii) the excise duty paid on such excisable articles ;

(b) in any case where such person is an importer of an excisable article, returns setting out—

(i) the number of excisable articles imported by him during a prescribed period ;

- (ii) the Customs warehouse or place at which such excisable articles have been stored or kept and the number of excisable articles removed from such warehouse or place during that period ; and
- (iii) the excise duty paid on such excisable articles ;
- (c) in the case of a wholesale dealer of excisable articles, returns setting out—
 - (i) the number of excisable articles purchased or stored by him during a prescribed period, and the names of the persons from whom he has purchased these excisable articles ;
 - (ii) the number of excisable articles sold by him on retail during that period and the names of the persons who have purchased those excisable articles ; and
 - (iii) the number of excisable articles removed from the place at which such excisable articles had been stored or kept and the names of the persons who have removed those excisable articles ;
- (d) in the case of the owner of a registered warehouse, returns setting out—
 - (i) the number of excisable articles stored in that warehouse ; and
 - (ii) the number of excisable articles removed from that warehouse during the prescribed period, and the names of the persons who have removed those excisable articles.

Counterpart
agreement
to be
executed by
certain
persons.

15. Every person applying for registration under this Act shall be required to execute a counterpart agreement in the prescribed form and to give such security for the performance of his agreement as the Director-General may require.

Suspension
of registra-
tion.

16. (1) Where the Director-General is satisfied that an person who is registered under this Act has—

- (a) defaulted in the payment of any excise duty payable by such person under this Act ;
- (b) been convicted of an offence under this Act ;

(c) made any false statement in any return furnished to the Director-General, Director of Excise or any Excise Officer ; or

(d) failed to furnish any return to the Director-General, Director of Excise or any Excise Officer in contravention of any requirement imposed on him by or under this Act

he may, by order, suspend the registration for such period not exceeding one year as may be specified in the order.

(2) No order under subsection (1) shall be made against any person except after notice to him to show cause, within such time as may be specified in the notice, why such order should not be made, and except on his failing to show cause within such period, or on his not showing sufficient cause.

(3) Any person against whom an order is made under subsection (1), may prefer an appeal in writing to the Deputy Secretary to the Treasury before the expiry of ten days after the date on which such order is communicated to him by the Director-General and the Deputy Secretary to the Treasury may, on such appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

(4) An order made under subsection (1) shall come into force on the date on which such order is communicated to the person concerned by the Director-General and shall continue to be in force notwithstanding that an appeal against such order has been preferred to the Deputy Secretary to the Treasury.

(5) Any order referred to in subsection (4) shall be deemed to have been communicated to the person concerned after the expiry of a period of three days from the date of posting of such communication by letter sent by registered post addressed to the usual place of business of such person.

Maximum
quantity

17. (1) For the purpose of preventing evasion of payment of excise duty and having regard to the purposes for which an excisable article is ordinarily used, the Minister may prescribe the maximum quantity of that excisable article which a person who is not registered under section 14 may have in his possession or under his control.

(2) The quantity prescribed under subsection (1) in respect of an excisable article may be either a definite amount or an amount determined according to a prescribed method of calculation.

(3) No person who is not registered under section 14 shall have in his possession, or under his control, any quantity of excisable articles in excess of the maximum quantity prescribed in respect of that excisable article.

Surrender of
certificate.

18. Any person registered under section 14 may surrender his certificate of registration on the expiration of one month's notice in writing given by him to the Director-General of his intention to do so and on payment of the excise duty due on the excisable articles manufactured, or imported into Sri Lanka, by him.

PART V

POWERS AND DUTIES OF EXCISE OFFICERS

Powers of
inspection.

19. (1) Any excise officer authorized by the Director General in writing may, accompanied by a peace officer within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979, enter and inspect a factory, warehouse or other place in which an excisable article is produced, manufactured or stored or kept and do all or any of the following acts thereon :—

(a) make an inventory of any of the excisable articles found thereon ;

(b) open and examine any receptacle wherein any book of account, register, record or any other document may be found ;

(c) examine and make copies of, or take extracts from, any such book of account, register, record or other document ;

- (d) make such inquiries from any person whom he finds in such factory, warehouse or other place, as may be necessary to ascertain whether the provisions of this Act are being complied with or for verifying the accuracy of any return made under this Act ; or
- (e) make such other investigations at such factory, warehouse or other place as may be necessary for that purpose or for verifying the accuracy of any return made under this Act.

(2) Before authorizing any excise officer to exercise any powers under subsection (1), the Director-General shall record the circumstances which necessitate the exercise of those powers by such officer.

20. (1) Where a peace officer has reasonable grounds for believing that any person has committed an offence under this Act, he may—

Powers of arrest and search.

- (a) require such person to produce for his inspection, any excisable article in his possession, or certificate of registration, or other document, issued to him, or required to be kept by him, under the provisions of this Act ;
- (b) stop and search any person or any boat, vessel or vehicle and open and examine any package or container found on such person or carried in such boat, vessel or vehicle ;
- (c) seize any excisable article in the possession of any such person and appearing to such officer to be an article in respect of which an offence is being committed ;
- (d) seize any document in the possession of any such person which may be produced in evidence of the offence ;
- (e) unless he is satisfied that such person will appear and answer any charge preferred against him, arrest and detain such person without warrant and seize anything in his possession which may be produced in evidence of his offence ; or
- (f) seize any boat, vessel, vehicle, or any other article or equipment which appears to such officer to have been used in the commission of the offence, or which may be produced in evidence of the offence.

(2) In this section—

(i) “vehicle” includes any carriage, coach, car, motor car, motor cycle, omnibus, tractor, lorry, bicycle or other mechanically propelled vehicle; and

(ii) “vessel” includes an aircraft.

Arrests,
searches
&c. how to
be made.

21. The provisions of the Code of Criminal Procedure Act, No. 15 of 1979 relating to arrests searches, search warrants, the release of persons arrested on bail or on the execution of bonds, the production of persons arrested and the investigation of offences shall be applicable to all action taken in these respects under this Act.

Officers of
certain
departments
bound to
report
offences
and to
assist.

22. Every officer of the Police, Customs Department and the Department of Inland Revenue and every Grama Seva Niladhari shall be bound to give immediate information to an excise officer appointed under this Act of all breaches of any of the provisions of this Act which may come to his knowledge, and to aid such excise officer in carrying out the provisions of this Act upon request made by such officer:

Provided that, nothing in this section shall be read or construed as requiring any such officer or Grama Seva Niladhari to give any information to an excise officer, which such officer or Grama Seva Niladhari is prohibited from giving under the provisions of any other law.

Offences
to be
cognizable
and
bailable.

23. Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, [No.] 15 of 1979, every offence under this Act shall be a cognizable offence and a bailable offence with in the meaning of that Act.

PART VI OFFENCES

Offences.

24. (1) Any person who contravenes the provisions of section 4 or section 6 or section 14 shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person who resists or obstructs an excise officer authorized by the Director-General in the exercise of the powers conferred on such excise officer by section 19, or fails, without cause, to answer any inquiry made of him under that section shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(3) Any person who—

- (a) fails or refuses to stop any boat, vessel or vehicle when called upon to do so by a peace officer ;
- (b) does not allow the search of any boat, vessel or vehicle by a peace officer ; or
- (c) refuses to be searched by obstructs or resists, or escapes or attempts to escape from the custody of a peace officer,

acting under the provisions of section 20 shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(4) Any officer of the Police, Customs Department or the Department of Inland Revenue or any Grama Seva Niladhari who fails to comply with the provisions of section 22, shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees.

(5) Any person who contravenes any regulation made under this Act shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees.

(6) Any person who, not being a person registered under this Act, has in his possession any quantity of excisable articles in excess of such maximum quantity as may be prescribed by regulation in respect of such excisable articles, shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding twenty five thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

Offences by
bodies of
persons.

25. Where an offence under this Act is committed by a body of persons then—

(a) if that body is a body corporate, every person who at the time of the commission of the offence was the Director, Secretary or other similar officer of that body; or

(b) if that body is not a body corporate, every person who, at the time of the commission of the offence was a member or partner of that body,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

Power of
court to
order
forfeiture.

26. (1) Where any person is convicted of an offence under this Act, any boat, vessel, vehicle or article (whether excisable or not) used in, or in connection with, the commission of the offence shall, by virtue of such conviction, be forfeited to the State.

(2) Any boat, vessel, vehicle or article forfeited to the State by the operation of subsection (1) shall vest absolutely in the State. Such vesting shall take effect—

(a) after the expiration of the period within which an appeal may be preferred to the Court of Appeal or a High Court established by Article 154P of the Constitution against the conviction; or

(b) where an appeal has been preferred to the Court of Appeal or a High Court established by Article 154P of the Constitution against the conviction, upon the determination of such appeal, affirming or upholding the conviction.

(3) The Director-General or a person authorized by the Director-General shall take possession of any boat, vessel, vehicle or article vested in the State under subsection (2) any may sell or otherwise dispose of it as he may think fit.

Compound-
ing of
offences.

27. The Director-General may, having regard to the circumstances in which the offence was committed and with the approval of the Secretary to the Ministry of the Minister, compound any offence under this Act for a sum of money equal to not less than one-fifth of the maximum fine imposable for such offence, and may, as part of the compounding of the offence, with the approval of such secretary, order the release of any boat, vessel, vehicle or

article seized under section 20 on payment of a sum of money not exceeding the aggregate of the estimated value of the boat, vessel, vehicle or article. All sums received by the Director-General for the composition of an offence shall be applied in the manner set out in section 28.

PART VII GENERAL

28. The amount—

- (a) of all sums referred to in section 27 ; and
- (b) of the proceeds of all such articles as may be disposed of by the Director-General under section 26,

Disbursement
of forfeitures
and
penalties
recovered
under
this Act.

shall be paid into the hands of the Director-General and shall (after deducting and expenses incurred) be applied as follows :—

- (i) one half to the Deputy Secretary to the Treasury, and which shall be credited to the Consolidated Fund ;
- (ii) fifty *per centum* of the other half into a Rewards Fund under the control of the Director-General for distribution, in accordance with a scheme to be approved by the Minister, among excise officers and informers ; and
- (iii) the balance fifty *per centum* of the other half, for the acquisition and maintenance of vehicles required by the Director-General and excise officers for the discharge of their functions under this Act.

29. (1) The Minister may make regulations for and in respect of all or any of the following matters :—

Regulations.

- (a) prescribing the procedure in appeals from the orders of the Director-General to the Deputy Secretary to the Treasury ;
- (b) prescribing the manner in which excise duty recovered under this Act shall be credited to revenue and the security to be provided for payment thereof ;
- (c) prescribing the fees payable in respect of registration under this Act ;
- (d) the manner of payment of excise duty by manufacturers, producers and importers of excisable articles ;

- (e) prescribing the accounts to be kept, relating to the import, export, manufacture, storage or sale of excisable articles, by a person registered under this Act and the returns to be made to the Director-General by such registered persons;
- (f) requiring a person registered under this Act to provide accommodation within a factory or a warehouse to excise officers for the discharge of their functions under this Act;
- (g) providing for the registration, management and supervision of bonded warehouses and the procedure to be followed for the receipt or removal of articles from such warehouses;
- (h) providing for the procedure for the grant of a rebate of the duty paid on excisable articles exported from Sri Lanka; and
- (i) providing for any matter which is required to be prescribed or in respect of which regulations are authorized to be made under this Act.

(2) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to the validity of anything previously done thereunder.

(4) Notification of the date on which any regulation shall be deemed to be rescinded shall be published in the *Gazette*.

**Protection
of action.**

30. (1) No action shall lie against the Director-General, Director of Excise or any excise officer for damages in any civil court for any act done in good faith in pursuance or supposed pursuance of any provision of this Act.

(2) No prosecution against the Director-General, Director of Excise or any excise officer in respect of any act done by him in pursuance or supposed pursuance of any provision of this Act, shall be entertained by any court unless such action is instituted within one year of the date of the act complained of.

31. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

32. In this Act, unless the context otherwise requires—

Interpretation.

“export” means to take out of the limits of Sri Lanka, to sea or to a foreign territory;

“factory” means any premises, including the precincts thereof, wherein or in any part of which, excisable articles are manufactured, or wherein or in any part of which any manufacturing process connected with the production of any such articles is being carried on or is ordinarily carried on; and includes any store, warehouse or other place maintained in connection with any premises where any such articles are manufactured or stored or kept in;

“import” means to bring into Sri Lanka, by sea or air, from any place outside or beyond the limits of Sri Lanka;

“manufacture” means every process, whether natural or artificial, by which an excisable article is produced, prepared or adapted;

“prescribed” means prescribed by regulations made under this Act;

“sale or purchase” with their grammatical variations and cognate expressions, means any transfer of the possession of an excisable article by one person to another in the ordinary course of trade or business for cash or deferred payment or for other valuable consideration;

“transport” means to move from one place to another within Sri Lanka;

“wholesale dealer” means a person who buys or sells excisable articles wholesale for the purpose of trade or manufacture and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of such excisable articles for others, stocks such excisable articles belonging to others as an agent for the purpose of sale.

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