

EXCISE

AN ACT TO PROVIDE FOR THE LEVYING AND COLLECTING OF EXCISE DUTIES ON GOODS MANUFACTURED IN FIJI AND FOR RELATED PURPOSES ¹

Act No. 13 of 1986

[1st November 1986]

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¹ *This Law was made through Act No. 13 of 1986 and substituted the Excise Act 1978 edition. The Law came into force on 1st November through Legal Notice No. 107 of 1986.*

The Law was subsequently amended by Acts Nos. 27 of 1986, 4 of 1987, 19 of 1987, 33 of 1989, 36 of 1990, Decree No. 34 of 1992, Acts No. 3 of 1994, 27 of 1994, 22 of 1996, 29 of 1996, 9 of 1998, 34 of 1999, Decree No. 34 of 2000, Acts No. 8 of 2000, 33 of 2002, 22 of 2003, 20 of 2004, 25 of 2005 and No. 26 of 2005, 5 of 2007, 10 of 2007, 15 of 2007, 42 of 2007, 17 of 2008, 20 of 2008, 7 of 2010, 12 of 2011, 5 of 2012, 68 of 2012.

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Part 1—Preliminary

Short title a

1.— This Act may be cited as the Excise Act.

Interpretation

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

"Comptroller" means the Comptroller of Customs & Excise as provided by the Customs Act, 1986;

(Amended by Act No. 9 of 1998 Ssh.2)

"carriage within Fiji" in relation to excise, means the transfer by air, land or sea of excisable goods under Customs control from one port to another port or to another customs area within Fiji; *(Amended by Decree No.15 of 2007)*

"distillery" means an excise factory in which spirits are produced;

"drawback" means a refund of all or a part of excise duty paid in respect of goods;

"excisable goods" means goods liable to excise duty;

"excise duty" means the duty leviable under this Act;

"excise factory" means premises specified in a licence issued under paragraph 6(1)(b);

"excise warehouse" means a place specified in a licence issued under subsection 17(1);

"export warehouse" means a place appointed by the Comptroller for the deposit, keeping and security of imported and Fiji manufactured goods for sale to a relevant traveller leaving Fiji from an approved airport or seaport. Export warehouses may be called duty free shops;

(Inserted by Act No. 22 of 1996 s. 3)

"manufacture" means to—

(a) make or produce excisable goods;

(b) carry out an intermediate or uncompleted process in the making or production of excisable goods; or

(c) modify, blend or vary excisable goods;

"manufacturer" means a person who holds a licence issued under paragraph 6(1)(a); "officer" means a person appointed, employed or authorised to carry out or to assist in carrying out the administration of this Act;

"owner" in respect of excisable goods, materials, aircraft, ship, vehicle, plant, land, or other thing, includes a person (other than an officer acting in his official capacity) being or holding himself out to be the owner, manufacturer, agent, or the person in possession of, or beneficially interested in, or having control of, or power of disposition over, those goods, materials, aircraft, ship, vehicle, plant or other thing;

"package" includes every means by which goods may be cased, covered, carried, contained, enclosed or packed;

"proper officer" in respect of a matter, means the officer authorised by the Comptroller to carry out the provisions of this Act in respect of that matter;

"spirits" includes alcohol, brandy, rum, gin and every other spirituous liquor;

"still" means an apparatus for or capable of distilling spirits;

"warehouse keeper" means a person who holds a licence issued under subsection 17(1).

(2) Any term used in this Act but defined in another customs carries the same meaning given to it under that customs law, unless expressly defined for the purpose of this Act. *(Amended by Decree No.15 of 2007)*

Part 2—Administration

Functions of Comptroller and officers

3.—(1) The Comptroller is responsible for the administration of this Act subject to any directions given to him by the Minister under subsection (2).

(2) The Minister may give the Comptroller general or special directions on the administration of this Act, not inconsistent with this Act.

(3) An officer shall perform his duties and shall follow procedures in accordance with the Comptroller's instructions.

(4) The Comptroller may authorise an officer—

(a) to exercise a power conferred; or

(b) to perform a duty imposed, by this Act on the Comptroller.

(5) An officer employed on a duty or service relating to this Act by the order or with the concurrence of the Comptroller is deemed to be the proper officer for that duty or service.

(6) An act required by this Act to be done by, or with a specified officer, if done by or with a person appointed by the Comptroller to act for that specified officer, is deemed to be done by or with the specified officer.

Authority to be produced by person acting for another person

4.—(1) Subject to subsection (3), if a person makes an application to an officer to transact business in accordance with this Act on behalf of another person, that officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and if that authority is not produced the officer may refuse to transact the business.

(2) Where this Act requires that a document should be signed by a particular person and it is signed by a person authorised on behalf of that person in accordance with subsection (1) that document is deemed to have been correctly signed.

(3) The Comptroller may refuse to allow an application under subsection

Authority to be produced by officer

5. If an officer is acting against a person under this Act and is not in uniform, he shall, on being asked to do so by that person—

(a) declare his office; and

(b) produce to that person such document establishing his identity as the Comptroller directs to be carried by that officer.

Part 3—Manufacture of Excisable Goods

Licence to manufacture excisable goods

6.—(1) Subject to this Act, a person shall not manufacture excisable goods except—

(a) under and in accordance with a licence issued by the Comptroller; and

(b) at the place of manufacture specified in that licence.

(2) A licence under subsection (1) shall be issued on payment of the prescribed fee and shall expire on the 31 December next following its issue.

(3) A licence issued under subsection (1) may be issued subject to conditions which shall be specified in the licence.

(4) The Comptroller may refuse to issue a licence under subsection (1).

(5) The holder of a licence Issued under subsection (1) may apply to the Comptroller for a transfer of that licence to other premises, and the Comptroller, on payment of the prescribed fee, may grant that transfer by endorsement on the licence.

(6) A licence, upon being endorsed under subsection (5)—

(a) authorises manufacture of the excisable goods on the substituted premises; and

(b) no longer authorises manufacture of those goods on the premises originally specified in the licence.

(7) A licence issued under subsection (1) does not authorise the person to whom it is granted to manufacture excisable goods except in the premises specified in the licence.

(8) Premises shall not—

(a) be specified in a licence issued under subsection (1); or

(b) substituted in a licence in accordance with subsection (5), unless those premises are adjoining and held together for the same purpose.

(9) The Minister may, by order, exempt a class of persons from complying with subsection (1), subject to any conditions he considers appropriate.

(10) The Comptroller may require a person before being granted a

licence under subsection (1) to give such security as the Comptroller thinks appropriate to ensure that that person complies with this Act, and generally to protect the revenue.

(11) Pending the giving of any security required under subsection (10) the Comptroller shall refuse to issue a licence under subsection (1). Notwithstanding subsection (2), the Comptroller may amend the conditions of a licence issued under subsection (1) or suspend, cancel or refuse to renew such a licence.

(12) Where the Comptroller—

- (a) refuses to issue a licence under subsection (1);
- (b) amends the conditions of such a licence; or
- (c) suspends, cancels or refuses to renew such a licence, he shall forthwith give notice of that fact to the applicant, licensee, or past licensee, as the case may be.

(14) Where the Comptroller takes any action referred to in subsection (13), the person given notice of that action in accordance with that subsection may, within 28 days of the receipt by him of that notice, appeal to the Minister against that action and the Minister's decision in respect of the appeal shall have effect as if it were the decision of the Comptroller.

(15) If a licence is amended, cancelled or suspended, in accordance with subsection (12) the licensee is not entitled to a refund of the licence fee paid by him.

(16) When a licence issued under subsection (1) is cancelled or suspended or expires the licensee shall—

- (a) forthwith cease to manufacture the goods specified in the licence;
- (b) forthwith pay any outstanding duty payable on the excisable goods manufactured under the licence; and
- (c) not dispose of any materials in the premises specified in the licence except in accordance with any conditions imposed by the Comptroller.

Transfer of licence

7.—(1) Subject to subsections (2) and 9(1), the Comptroller may transfer a licence issued under subsection 6(1) to another person.

(2) The Comptroller shall not transfer a licence under subsection (1) to another person unless he receives an application for the transfer signed by the holder of the licence and the person to whom it is proposed to transfer the licence.

(3) Subject to subsection 9(1), on the death of a person who holds a licence issued under subsection 6(1), the licence may be transferred, by endorsement by the Comptroller, to—

- (a) that person's personal representative;
- (b) the person beneficially entitled to the deceased's business;
- (c) the Public Trustee; or
- (d) the appointee of the Public Trustee, as the case may be.

(4) The holder of a licence granted under subsection 6(1) may apply to transfer his factory to another place.

(5) If the Comptroller approves an application under subsection (3), he shall, on surrender to him of the existing licence and on payment of any prescribed fee—

- (a) endorse the licence accordingly; or
- (b) issue a fresh licence, as he considers appropriate.

Penalty for manufacture without a licence, etc.

8.—(1) A person is guilty of an offence if he manufactures or starts to manufacture excisable goods in contravention of this Act, or of any licence issued to him under subsection 6(1), and is liable on conviction to a fine not exceeding \$10,000.

(2) Goods in respect of which an offence under subsection (1) was committed and all machinery, utensils and materials in the manufacturer's possession, which, in the opinion of the Comptroller, are capable of being used in the manufacture of excisable goods, are liable to be forfeited.

Disqualification from obtaining a licence (excise factory)

9.—(1) Subject to subsection (2), a licence shall not be granted to a person under subsection 6(1) and such a licence shall not be transferred to a person under subsection 7(1) or (3) if the person seeking the grant of the licence or the proposed transferee—

- (a) has been convicted of an offence under this Act;
- (b) is under 21 years old; or
- (c) is a person who has had a licence issued under this Act cancelled.

(2) A licence may be granted or transferred to a person to whom paragraph (1) (a) or (c) applies with the Minister's consent.

Description of proposed excise factory to be delivered to Comptroller

10.—(1) A manufacturer shall—

- (a) before commencing to manufacture excisable goods; and
- (b) on request by the Comptroller at any subsequent time, deliver to the Comptroller, in a form and manner approved by the Comptroller, a written description and plans of the manufacturer's excise factory and of every machine, apparatus, utensil or vessel contained in that excise factory as the Comptroller may require.

(2) A manufacturer shall not use any new, or substantially alter, a machine, apparatus, utensil or vessel in his excise factory without giving the Comptroller at least 2 weeks' written notice of his intention to do so.

(3) A manufacturer is guilty of an offence if he fails to comply with subsection (1) or (2) and is liable on conviction to a fine not exceeding \$10,000.

Comptroller may station officer in excise factory

11.—(1) The Comptroller may station an officer in an excise factory—

- (a) to watch the process of manufacture in the excise factory; and
- (b) to enforce compliance with this Act.

(2) If requested to do so by the Comptroller, a manufacturer shall provide office accommodation to the Comptroller's satisfaction at or adjacent to the manufacturer's excise factory for an officer referred to in subsection (1).

(3) A manufacturer is guilty of an offence if he fails to comply with a request made to him in accordance with subsection (2) and is liable on conviction to a fine not exceeding \$10,000.

Part 4—Special Provisions Relating to the Manufacture of Spirits

Exemptions

- 12.** This Act does not apply to the distillation or denaturation of spirits—
- (a) by a registered medical practitioner; or
 - (b) by a registered pharmacist, where the Comptroller is satisfied that the spirit is to be for medical or scientific purposes.

Provisions relating to denaturing of spirits

- 13.**—(1) Spirits shall not be denatured for sale as denatured spirits—
- (a) except in accordance with a prescribed formula; or
 - (b) unless they are either methylated or specially denatured spirits.
- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Strength of spirits

- 14.**—(1) A manufacturer shall not manufacture spirits except to a strength within prescribed limits.
- (2) A manufacturer who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Part 5—Storage and Removal of Excisable Goods

Storage and possession of excisable goods

- 15.**—(1) A person shall not, without lawful authority, store or keep or have in his possession or under his control excisable goods in respect of which duty and tax (including Value Added Tax) has not been properly paid, except—
- (a) in an excise factory;
 - (b) in an excise or export warehouse; in such other place as may be specially authorised by the Comptroller.

(Substituted by Act No. 22 of 1996 s. 4)

- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Places deemed excise warehouses

- 16.**—(1) A licence issued under subsection 6(1) to manufacture excisable goods, authorises the holder of that licence to store those goods within the premises specified in the licence and, to that extent, those premises shall be deemed to be an excise warehouse.
- (2) Regulations made under section 86 in respect of the control of excise warehouses shall apply to places deemed to be excise warehouses under subsection (1) to such extent as the Comptroller directs.

Excise warehouse licence

- 17.**—(1) The Comptroller may, on payment of any prescribed fee, issue to a person, a licence to warehouse excisable goods on which excise duty has not been paid in a place specified in the licence.
- (2) A licence issued under subsection (1) expires on the 31 December

next following its issue.

(3) A licence issued under subsection (1) may be issued subject to conditions which shall be specified in the licence.

(4) The Comptroller may refuse to issue a licence under subsection (1).

(5) The Comptroller may require a warehouse keeper to enter into a bond for the security of the excise duty on goods that may at any time be warehoused in his excise warehouse.

(6) Notwithstanding subsection (2), the Comptroller may at any time cancel a licence issued to a warehouse keeper by giving to that keeper written notice of the cancellation, and that notice, if addressed to the warehouse keeper at his excise warehouse, is notice of the cancellation to all persons interested in excisable goods in that excise warehouse or any other contents of the excise warehouse.

(7) The Comptroller may suspend, or refuse to renew a licence issued under subsection (1).

(8) Where the Comptroller refuses to grant a licence under subsection (1) or suspends, or refuses to renew such licence he shall forthwith give notice of that fact to the applicant, licensee or past licensee, as the case may be.

(9) Where the Comptroller takes any action referred to in subsection (7), the person given notice of that action under subsection (8) may, within 28 days of the receipt by him of that notice, appeal to the Minister against that action and the Minister's decision in respect of the appeal shall have effect as if it were the decision of the Comptroller.

(10) If, within 3 months from the date on which—

(a) notice is given under subsection (4); or

(b) a licence issued under subsection (1) is not renewed, excisable goods in the excise warehouse have not been—

(c) removed to another excise warehouse;

(d) returned to the excise factory of their manufacturer;

(e) shipped as stores;

(f) exported; or

(g) delivered for use within Fiji in the manner provided by law, the warehouse keeper shall forthwith pay to the Comptroller the excise duty payable in respect of those goods.

(11) The holder of a licence issued under subsection (1) may apply to the Comptroller—

(a) to transfer that licence to another person; or

(b) to transfer his excise warehouse to any other place.

(12) An application under paragraph (11) (a) shall be made by the holder of the licence and the person to whom it is proposed to transfer the licence.

(13) Where the Comptroller grants an application under paragraph (11) (b), he shall, on surrender to him of the existing licence and on payment of any prescribed fee—

(a) make the necessary endorsement on the licence; or

(b) issue a fresh licence, as he considers appropriate.

(14) Subject to subsection (15), a licence shall not be granted under subsection (1) and such a licence shall not be transferred to a person on an application made under paragraph (11) (a) if the person seeking the grant of the licence or the proposed transferee—

(a) has been convicted of an offence under this Act;

(b) is under 21 years old; or

(c) is a person who has had a licence issued under this Act cancelled.

(15) A licence may be granted or transferred to a person to whom paragraph 14 (a) or (c) applies with the Minister's consent.

Removal to and from excise warehouses

18.—(1) Subject to subsection (3), goods warehoused under this Act may—

(a) without payment of excise duty, be removed to another excise warehouse or export warehouse; or

(b) be returned to the excise factory of the manufacturer of those goods, subject to the same regulations and provisions as govern the removal of excisable goods from an excise factory to an excise or export warehouse.

(Substituted by Act No. 22 of 1996 s. 5)

(2) Subject to sub-section (3), excisable goods may be removed without the payment of excise duty from one excise factory to another excise factory subject to the same regulations and provisions as govern the removal of excisable goods from an excise factory to an excise warehouse or export warehouse.

(Substituted by Act No. 22 of 1996 s. 5)

(3) Goods shall not be removed or returned under subsection (1) or (2) except with the Comptroller's written consent.

(4) A person is guilty of an offence if he removes or returns excisable goods contrary to subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

Alteration of excisable goods

19.—(1) A person shall not alter excisable goods stored in:—

(a) an excise factory;

(b) an excise warehouse; or

(c) an export warehouse except in accordance with regulations made under Section 86.

(Substituted by Act No. 22 of 1996 s. 6)

(2) A person is guilty of an offence if he contravenes subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

(3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Packing of warehoused goods

20.—(1) A person shall not pack, sort or carry out similar operations with respect to excisable goods stored in an excise or export warehouse except in accordance with regulations made under Section 86.

(Substituted by Act No. 22 of 1996 s. 7)

(2) A person is guilty of an offence if he contravenes subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

(3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Samples for owner

21.—(1) The owner of excisable goods in—

(a) an excise factory;

(b) an excise warehouse; or

(c) an export warehouse, may take samples of those goods in a manner and subject to such conditions as the Comptroller may

specify.

(Substituted by Act No. 22 of 1996 s. 8)

(2) A person is guilty of an offence if he contravenes subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

(3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Delivery of excisable goods

22.—(1) A person shall not deliver excisable goods from an excise factory, excise warehouse or an export warehouse—

(a) unless the delivery is recorded in the prescribed manner; and except in accordance with regulations made under Section 86.

(Substituted by Act No. 22 of 1996 s. 9)

(2) A manufacturer or warehouse keeper is guilty of an offence if he contravenes subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

(3) Goods in respect of which an offence under subsection (2) was committed are liable to be forfeited.

Part 5A – Transfer of Excise under Bond Goods between Excise

Factories, Excise Warehouses and Ports Within Fiji

Transfer of Excisable Goods

22A. – (1) The Comptroller –

- (a) may, subject to such conditions and restrictions as he sees fit to impose, permit excisable goods to be transferred between excise factories or excise warehouses or ports in Fiji; and
- (b) shall ensure that such goods are transferred before due entry of the goods has been made, to another aircraft, vehicle or ship as transfer to a bonded warehouse, a customs warehouse, an Excise warehouse, an export warehouse, aircraft's or ship's stores, a consol freight station.

for export of such goods from an airport or seaport.

(2) Excisable goods which have been transferred under this section shall not be unloaded before due entry of such goods has been made except if such goods are unloaded for deposit in a customs area and duly deposited in such area.

(3) The master of an aircraft or a ship or the agent of such aircraft or ship that –

- (a) deals with excisable goods contrary to a condition or restriction imposed under subsection (1); or
 - (b) unloads excisable goods contrary to subsection (2).
- commits an offence.

Failure to produce excisable goods transferred within Fiji

22B. – (1) Excisable goods required to be transferred under section 22A are deemed to have been removed for use within Fiji, if the owner, the operator or agent of an aircraft, vehicle or ship to which excisable goods are to be transferred to under that section, fails to produce such goods to the proper officer at –

- (a) a bonded warehouse;
- (b) customs warehouse;
- (c) excise warehouse;
- (d) bonded export warehouse;
- (e) aircraft's or ship's stores;
- (f) consol freight station,

for export from any airport or seaport to which such goods have been consigned.

(2) Subsection (1) is without prejudice to any other remedy arising out of breach of this Law or any other written law in respect of such goods.

(3) For the purpose of subsections (1) and (2), the owner, operator or agent of aircraft, vehicle or ship shall, if so required by the proper officer, within one year from the expected date of arrival of the aircraft, vehicle or ship at such airport, seaport or export freight station, pay on demand any excise duty chargeable on the goods.

(4) Section 23 applies for the purpose of determining any excise duty payable under subsection (1).

(5) The owner, operator or agent of an aircraft, ship or vehicle that fails to produce excisable goods authorized to be transferred under section 22A for export pursuant to subsection (1) commits an offence.

Penalties

22C. –(1) A person who is convicted of an offence under section 22A(3) or 22B(5) is liable –

- (a) to a fine not exceeding 3 times the total excise duty component at subsisting rates for home consumption on such goods or \$200,000, whichever is greater, or to imprisonment for a term not exceeding 12 years, or both; and
- (b) to an order that such goods are to be forfeited to the State.

(2) A person who is convicted under section 22A(3) or 22B(5) shall not carry out any further excise transaction until the fine imposed on such person is paid in full.

Part 6—Levying of Excise Duties

Imposition and variation of excise duty

23.—(1) Subject to this Act, there is imposed and levied and shall be collected and paid on goods manufactured in Fiji of a description set out in Schedule 1, an excise duty at the appropriate rate specified in Part 1 of Schedule 2.

(2) Notwithstanding subsection (1), the goods specified in Part 2 of Schedule 2 are exempt from excise duties.

(3) Where a Bill for an Act of Parliament contains a provision which—

(a) alters any of the excise duties specified in Part 1 of Schedule 2; or

(b) imposes excise duty on goods not previously subject to that duty, the Comptroller shall, with effect from—

(c) the date of publication of the Bill; or

(d) if a later date is specified in the Bill—that later date, collect excise duties in accordance with the terms of that Bill.

(4) If a Bill referred to in subsection (3) is not passed by Parliament within 6 months of its introduction or is passed with amendment, any excise duty collected in excess of that authorised by this Act or this Act as amended by that amending Act, as the case may be, shall be repaid to—

(a) the manufacturer; or

(b) other person, who paid the duty, as the case may be.

Regulations in respect of the valuation of excisable goods

24. The method of valuing excisable goods for the purposes of this Act shall be prescribed.

Assessment of excise duty

25.—(1) The proper officer may value, weigh, measure or otherwise examine excisable goods for the purpose of ascertaining the amount of excise duty leviable on them.

(2) When a valuation of excisable goods has been made by the proper officer, that valuation shall be presumed to be correct unless the contrary is proved.

(3) Necessary operations relating to the weighing, measuring and examination of excisable goods under subsection (1) shall be performed by

or at the expenses of the owner of those goods.

Excise duty in general

26.—(1) Subject to subsection (2), excise duty on excisable goods becomes due and is chargeable at the rate in force when those goods—

- (a) are removed for consumption in Fiji from an excise factory or an excise warehouse; or
- (b) are used in an excise factory or an excise warehouse, otherwise than as materials in the production of excisable goods, and that excise duty, subject to any exemption, rebate, remission, or drawback of that duty which may be granted in accordance with this Act, shall be paid by the owner of those goods at the time the excise duty becomes due.

(2) The Comptroller may, if an owner of excisable goods gives such security by bond or otherwise, as the Comptroller requires, defer the payment of excise duty, and in that case all excise duties which would have become due within a duty accounting period shall be paid to the Comptroller within 3 working days or such longer period, as the Comptroller may approve, of the last day of such duty accounting period or other prescribed period.

(Substituted by Act No. 22 of 2003 s. 2)

(3) For the purposes of subsection (2), the expression "duty accounting period" in relation to manufacturers of excisable products means a period of one week from Monday to Sunday in which goods may be manufactured, exported, transferred or entered into home consumption.

(Substituted by Act No. 22 of 2003 s. 2)

Excise duty to be paid at rate in force on delivery

27. Excisable goods made or deposited in an excise factory or an excise warehouse without payment of excise duty, are, upon—

- (a) being delivered from that excise factory or excise warehouse for consumption in Fiji; or
- (b) being used in that excise factory or excise warehouse, subject to the rate of excise duty in force at the time those goods are delivered or used.

Returns to be submitted by manufacturer

28.—(1) A manufacturer shall, within 3 working days or such longer period as the Comptroller may approve of the close of a accounting duty period or other prescribed period, deliver to the Comptroller, in a form approved by the Comptroller, a duly signed account of—

(Substituted by Act No. 22 of 2003 s. 3)

- (a) all materials in or received into the manufacturer's excise factory;
- (b) all excisable materials manufactured in, delivered to, used in that factory, or, removed to or from that excise factory, to or from another excise factory or to or from an excise warehouse, lost in that excise factory by evaporation, leakage or otherwise disposed of; and
- (c) pay all excise duties, on an approved form, which became due from that excise manufacturer during that week or other prescribed period.

(2) A manufacturer that contravenes subsection (1) commits an offence and is liable on a conviction to a fine not exceeding \$10,000.

(Substituted by Act No. 22 of 2003 s. 3)

Remission of excise duty payable on goods exported or shipped as stores

29.—(1) Subject to subsection (2), on application by the owner of excisable goods to the Comptroller, and subject to any conditions he may impose, excise duty is not payable on those goods if they are—

- (a) shipped as stores for consumption outside Fiji on an aircraft or ship proceeding to a place outside Fiji; or
- (b) exported by the owner of those goods.

(2) Goods shall not be deemed to have been shipped as stores or exported unless they are shipped as stores or exported in accordance with the customs laws within 7 days, or such further period as the proper officer, by written notice, allows, of the date of delivery of those goods from an excise factory or an excise warehouse.

Minister may remit or refund excise duty in certain cases

30.—(1) The Minister may, after receiving a recommendation to do so from the Comptroller and subject to such conditions as the Minister considers necessary, remit or refund the whole or part of any excise duty payable or paid by a person in respect of excisable goods if the Minister is satisfied that—

- (a) the goods were or are being used for a purpose that will benefit the country;
- (b) the supply of those goods from an excise factory or an excise warehouse is or was of an exceptional nature;
- (c) the imposition of excise duty would involve serious hardship.

(2) A person is guilty of an offence if he fails to comply with a condition imposed on him under subsection (1) and is liable on conviction to a fine not exceeding \$10,000.

Refunds—general

31.—(1) Where—

- (a) any excise duty, fee or other charge has been levied and paid and repayment of that excise duty, fee or other charge, or any portion of it is claimed on the ground that it was levied or paid through inadvertence or from any other error; and
- (b) the Comptroller is satisfied that the claim is correct, the excess excise duty, fee or charge shall be refunded and any sum to be so refunded is a charge on the Consolidated Fund.

(2) A repayment referred to in subsection (1) shall not be made by the Comptroller where the claim in respect of the refund is made more than 1 year after the date of the payment.

(3) If a refund is erroneously made under subsection (1) the Comptroller may, within 1 year of the date of the refund, demand repayment of that refund and may recover the amount of the refund as a debt due to the Government in a court of competent jurisdiction.

31A —(1) The Comptroller shall require that any applicant for refund of any duty, charge or fee must have a bank account in a commercial trading bank in the Fiji Islands.

(2) The Comptroller shall refrain from refunding any duty, charge or fee directly to claimants.

Remission

32.—(1) Subject to this Act, the Comptroller may remit excise duty payable in respect of excisable goods if he is satisfied—

- (a) that the goods were by natural causes or unavoidable accident, lost, damaged, or destroyed while they were under excise control; or
- (b) that the goods have, with the prior permission of the

omptroller, been destroyed under the supervision of the Comptroller while the goods were still under excise control.

(2) A remission of excise duty under subsection (1) shall not be granted unless the person claiming the remission presents to the Comptroller a claim within 1 year of the date when the excise duty would otherwise have become due.

No remission, rebate or refund after removal from excise control

33. Where excisable goods have been removed from excise control, a remission, rebate or refund of excise duty shall not be allowed in respect of those goods on account of—

- (a) damage or deterioration; or
- (b) any claim that the weight, measure, volume or value, as determined by the proper officer for the purpose of ascertaining the excise duty on the goods, is incorrect, unless written notice of the damage, deterioration, or claim was given at or before the time of the removal of the goods from excise control.

Minister may prescribe granting of drawback

34. The Minister may from time to time prescribe on which goods a drawback of the whole or any part of excise duties paid may be granted and the conditions under which that drawback shall be allowed.

Power to allow drawback on locally manufactured goods

35.—(1) This section applies to goods or articles manufactured in Fiji and exported.

(2) Subject to any prescribed conditions, a drawback of excise duty equal to the excise duty paid may be allowed on the quantity of any excisable goods which has been used in the manufacture of goods to which this section applies.

Excisable goods liable to excise duty on re-importation

36.—(1) Where—

- (a) an exemption, remission, rebate, refund, or drawback of excise duty has been granted in respect of goods which have been—
 - (i) exported; or
 - (ii) shipped for use as stores for an aircraft or ship; and
 - (b) those goods are subsequently brought back into Fiji, those goods shall be deemed to have become excisable goods at the time when they were brought back into Fiji.
- (2) Duty on goods referred to in subsection (1) shall—
- (a) be charged at the rate in force; and
 - (b) subject to subsection 26(1), be paid, when the goods are brought back into Fiji.

Excise duty to apply proportionately

37. Where excise duty is imposed, or exemption, remission, rebate, refund or drawback is allowed on excisable goods according to a specified weight, measure, number, or quantity, then that duty, or exemption, remission, rebate, refund, or drawback is deemed to apply in the same proportion to a greater or lesser weight, measure, number or quantity, as the case may be, unless specific provision is made by this Act to the contrary.

Recovery of excise duty

38.—(1) The correct amount of excise duty, charge or fee due and payable under this Act may be demanded by the Comptroller within 1 year of the date when that

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duty, charge or fee should have been paid and shall constitute a debt payable to the Government from the owner of the goods, and may be sued for in a court of competent jurisdiction in the name of the Comptroller.

(2) Excisable goods belonging to a manufacturer, owner or warehouse keeper, while stored in an excise factory or an excise warehouse or otherwise under excise control, shall be subject to a lien for any debt referred to in subsection (1) and due from that manufacturer, owner or warehouse keeper, and may be detained until that debt is paid.

(3) The owner, directors, partners, and shareholders shall be held personally responsible for payment of correct amount of any duty, charge or fee due and payable under this Act.

(4) The Comptroller, may execute section 143(c) of the Customs Act 1986.

(5) Excise duty recoverable under this section in respect of goods shall have priority over all claims of whatsoever nature upon those goods.

Comptroller may distrain for excise duty

39.—(1) Where excise duty remains unpaid after the time within which it is payable, the Comptroller may authorise the levying of a distress—

(a) upon the goods, chattels and effects of the owner of the goods in respect of which the excise duty remains unpaid; and

(b) upon all machinery, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Fiji in the manufacture, sale or distribution of excisable goods found in premises or on lands in the use or possession of that owner or of a person on his behalf or in trust for him.

(2) The authority to distrain under subsection (1) shall be in the form specified in Schedule 3 and that authority is a warrant and authority to levy by "distress the amount of excise duties due.

(3) For the purpose of levying distress under subsection (1) a person expressly authorised by writing signed by the Comptroller may execute a warrant of distress and if necessary break open a building or place in the day time for the purpose of levying the distress and may call to his assistance a police officer.

(4) A police officer shall, when required to do so under subsection (3), aid and assist in the execution of a warrant of distress and in levying the distress.

(5) The distress taken under subsection (1) may, at the cost of the owner, be kept for 14 days and at the end of that time, if the amount due in respect of excise duty and the cost and charges of and incident to the distress are not paid, may be sold.

(6) Where goods are sold under subsection (5), the proceeds of the sale shall be applied, in the following order, in discharge of—

(a) any excise duty;

(b) the expenses of sale reasonably incurred; and

(c) any rent and charges due to the Government in respect of the goods.

(7) If, after the proceeds of sale have been applied in accordance with subsection (6), there is a balance, that balance shall be payable to the person who was the owner of the goods immediately prior to the sale if he makes application for that balance within 6 months of the date of the sale or such further period as the Comptroller allows.

(8) The powers of distress conferred by this section permit the person to whom authority to distrain is given to distrain upon all goods, chattels and effects belonging to the owner wherever they may be found including premises not in

the owner's occupation or use.

Disputes as to excise duty payable

40. If a dispute arises as to the proper rate or amount of excise duty or drawback payable or allowable on goods, the owner of those goods shall deposit with the Comptroller the excise duty demanded of him, or receive from the Comptroller the drawback allowed by him, as the case may be, and the amount so paid or received shall be deemed to be the proper excise duty or drawback unless the Supreme Court, upon application to it by the owner of the goods within 3 months after that deposit or receipt, otherwise decides.

Part 7—Powers of Officers

Access to excise factories or excise warehouses

41.—(1) The proper officer shall for the purposes of this Act at all reasonable times have access to an excise factory or an excise warehouse.

(2) Where the proper officer enters upon premises "in accordance with subsection (1) he may—

- (a) require the licensee to produce, either forthwith or at a time to be fixed by the officer, the licence issued to the manufacturer or warehouse keeper and any book, document, or thing, which relate to excisable goods or materials;
- (b) examine a book, document or thing referred to in paragraph (a) and take copies of it;
- (c) seize and detain a book, document or thing referred to in paragraph (a), if, in his opinion, it may afford evidence of the commission of any offence under this Act;
- (d) require the manufacturer or warehouse keeper or a person employed by him to answer questions relating to a book, document or thing referred to in paragraph (a), or to an entry in such a book or document, or relating to excisable goods or materials;
- (e) require a container, envelope, or other receptacle, in the premises to be opened;
- (f) at the risk and expense of the manufacturer or warehouse keeper, open and examine a package, or excisable goods or materials, in the premises;
- (g) take and retain reasonable samples of excisable goods or materials necessary for the performance of his duties; and
- (h) lock up, seal, mark or otherwise secure—
 - (i) a building, room, place, receptacle, or item of plant, in an excise factory; and
 - (ii) excisable goods or materials in an excise factory.

(3) Where the proper officer, acting in accordance with this section, is unable to obtain free access to premises referred to in subsection (1), or to a receptacle contained in those premises, he may, at any time, enter those premises, and open the receptacle, in such manner, if necessary by force, as he thinks necessary.

(4) Where, an excise factory or an excise warehouse is entered in accordance with this section and excisable goods, materials, or plant are found in relation to which an offence under this Act has been committed, those excisable goods, materials, and plant, are liable to be forfeited.

Officer may examine stock of vendor

42.—(1) An officer may, during daylight hours, enter premises used by a person selling or offering for sale excisable goods and may take an account of the excisable goods in the custody or possession of that person, and may take, at any time, samples of those goods, after paying the usual price for them..

(2) A person who sells or offers for sale excisable goods on his premises is guilty of an offence if he does not, with a sufficient number of his servants, aid and assist to the utmost of his power an officer referred to in subsection (1) in measuring and taking an account of excisable goods in or upon those premises, and is liable upon conviction to a fine not exceeding \$10,000.

Magistrate may issue search warrant

43.—(1) Without prejudice to any other power under this or any other written law, where an officer declares on oath before a Magistrate, that there is reasonable cause for him to believe that in a dwelling house, shop, or other building or place, or on board an aircraft or ship, there are concealed or deposited goods—

- (a) liable to be forfeited under this Act; or
- (b) in respect of which an offence under this Act has been committed, the Magistrate may issue warrant authorising an officer named in the warrant, at any time, and with or without assistance to enter the dwelling house, shop or other building, place, aircraft or ship and there to search for and seize any goods suspected of being liable to be forfeited under this Act, or as to which an offence under this Act is suspected to have been committed, as the case may be, and any books or documents which may reasonably be believed to have a bearing on the matter.

(2) An officer to whom a search warrant has been granted under subsection (1) may, if it is necessary so to do—

- (a) break open any outer or inner door of the dwelling house, shop or building, place, aircraft or ship referred to in the warrant and enter every part of the dwelling house, shop or building, place, aircraft or ship, if necessary forcibly;
- (b) remove by force any obstruction to the entry to search, seizure and removal as he is empowered to effect; and
- (c) detain a person found in the dwelling house, shop or building, place, aircraft or ship referred to in the warrant until the search has been completed.

Powers of entry, detention and seizure without search warrant

44. When an officer observes an act being committed which is an offence under this Act, that officer may enter a building or place where that offence is being committed, using whatever force may be necessary to secure entry, and may—

- (a) detain any person found to be in the building or place who may be reasonably suspected of being involved in the commission of the offence;
- (b) seize any goods which may be the subject of the offence; and
- (c) seize any documents relating to the goods which are the subject of the Offence.

Power to stop vehicle, boat, etc. suspected of conveying excisable goods, etc.

45.—(1) A proper officer, if he has reasonable grounds to believe that a vehicle, boat or other means of conveyance, is conveying excisable goods contrary to this Act, may stop and search the vehicles, boat or other means of conveyance.

(2) For the purposes of a search under subsection (1), the proper officer may require any goods in the vehicle, boat or other means of conveyance, to be unloaded at the expense of the owner of the vehicle, boat or other means of conveyance.

(3) A proper officer who is unable to obtain free access to a place or container in the course of search under this section may, if necessary, use force.

(4) Where, on the search of a vehicle, boat or other means of conveyance under this section, goods are found in relation to which an offence under this Act has been committed, those goods shall be liable to be forfeited.

(5) A person in charge of a vehicle, boat or other means of conveyance is guilty of an offence if he refuses to stop or to permit the vehicle to be searched in accordance with this section, and is liable on conviction to a fine not exceeding \$10,000.

Power to take samples

46.—(1) Subject to subsection (3), the proper officer may at any time, if his duties so require, take samples of goods to ascertain—

(a) whether they are goods of a description liable to excise duty; or

(b) the excise duty payable on the goods, or for such other purposes as he may deem necessary.

(2) Samples taken under subsection (1) may be disposed of in such manner as the officer who took the sample may direct.

(3) Payment shall be made for a sample taken under subsection (1), and the proper officer shall give a receipt for the sample.

Power to require certificate of audit

47.—(1) The Comptroller may require a manufacturer to submit to him annually, or at any other time specified by the Comptroller, a certificate of audit by an accountant approved by the Comptroller.

(2) A certificate of audit submitted under subsection (1) shall certify the correctness of all the books and records required by or under this Act to be kept by the manufacturer.

(3) A manufacturer is guilty of an offence if, without reasonable excuse, he fails to submit a certificate of audit in accordance with subsection (1), and is liable on conviction to a fine not exceeding \$10,000.

Power to detain and search persons

48.—(1) Subject to subsections (2) and (3), the proper officer may, if he has reasonable grounds to suspect that a person has in his possession, whether upon his person or in his baggage, excisable goods contrary to this Act, detain and search that person.

(2) The proper officer may, for the purpose of a detention and search under subsection (1), use reasonable force, if necessary.

(3) A female shall not be searched in accordance with subsection (1) except by a female.

(4) A person who is to be searched under subsection (1) may require to be taken, as soon as reasonably possible, before an officer of no lesser rank than that

of supervisor, who shall consider the grounds for suspicion and direct whether or not the search is to take place.

(5) Where, on the search of a person under subsection (1), excisable goods are found in his possession contrary to this Act, whether upon his person or in his baggage, those goods are liable to be forfeited.

Power to arrest

49.—(1) The proper officer may, if he has reasonable grounds to believe that a person is committing, or has committed an offence under this Act, arrest that person.

(2) The proper officer may, for the purpose of effecting an arrest under subsection (1), use all reasonable force.

(3) A person arrested under subsection (1) shall, as soon as reasonably possible, be taken before a magistrate or to a police station, to be dealt with in accordance with applicable law.

Power to patrol freely

50.—(1) The officer in charge of an aircraft, ship or vehicle employed in the enforcement of this Act—

- (a) may take the aircraft, ship or vehicle to any place in Fiji; and
- (b) keep the aircraft, ship or vehicle at any place in Fiji for such time as he deems necessary, and that officer shall not be liable to prosecution or action at law for so doing.

(2) Subject to subsection (3), an officer engaged in the enforcement of this Act may for that purpose patrol upon and pass freely over and enter any place, and that officer shall not be liable to prosecution or action at law for so doing.

(3) This section does not authorise entry into a dwelling house or other building.

Assistance to be afforded to officers

51.—(1) A manufacturer or warehouse keeper shall, when requested to do so by an officer, provide safe and convenient ladders of a length sufficient to enable the officer to ascend to and examine a vessel or utensil in the manufacturer's or warehouse keeper's excise factory or excise warehouse, or to gauge or ascertain the contents or capacity of any such vessel or utensil.

(2) A manufacturer or warehouse keeper is guilty of an offence if he fails to comply with a request made to him under subsection (1), and is liable on conviction to a fine not exceeding \$10,000.

Part 8—General Offences and Penalties

Penalty for making incorrect statements and falsifying documents

52. A person is guilty of an offence if he—

- (a) wilfully makes, orally or in writing, or signs a statement, certificate or other document required for the purposes of this Act, which is untrue or incorrect in any particular;
- (b) wilfully makes, orally or in writing, or signs a statement or document, for consideration of an officer on an application presented to him, which is untrue or incorrect in any particular;
- (c) wilfully counterfeits or falsifies, or uses, when counterfeited or falsified; a document which is or may be required under this

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Act or a document used in a transaction of any business or matter relating to the administration of this Act;

- (d) fraudulently alters a document or counterfeits the seal, signature, initials or other mark of, or used by, an officer for the verification of a document or for the security of goods or any other purpose in the conduct of business relating to the administration of this Act; or
- (e) knowingly obtains a remission, rebate or refund, of excise duty which he is not entitled to obtain,

and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 4 years or both.-

Penalty for refusing to answer questions, etc.

53. A person is guilty of an offence if he refuses—

- (a) to answer a question lawfully put to him under this Act; or
- (b) to give information, which it is in his power to give, in response to a question lawfully put to him under this Act, and is liable on conviction to a fine not exceeding \$10,000.

Penalty for evasion of excise duty and for illegal manufacture of excisable goods

54. A person is guilty of an offence if, with intent to evade payment of excise duty—

- (a) contrary to this Act, he receives into or has in his possession, custody or control, excisable goods or goods manufactured in contravention of this Act;
- (b) he assists or is otherwise concerned in the illegal removal or withdrawal of excisable goods from the place of manufacture of the excisable goods or from a place in which excisable goods may have been deposited;
- (c) he buys, receives, harbours, keeps, conceals or permits, causes or procures to be bought, received, harboured, kept or concealed excisable goods which have been illegally removed under paragraph (b);
- (d) he is in any way concerned in conveying, removing, depositing or dealing with excisable goods with intent to defraud the Government of excise duties on those goods, or to evade any provision of this Act;
- (e) he is in any way concerned in manufacturing excisable goods, in contravention of this Act; or
- (f) except by authority, he opens, breaks, alters, or in any way interferes with, a lock, seal, mark, or other fastening, placed by a proper officer in accordance with paragraph 41 (2) (h), on a building, room, place, receptacle, item of plant, excisable goods, or materials, and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding 1 year, or to both.

Excess or deficiency in stocks of excisable goods

55.—(1) If, when an account is taken by the proper officer and a balance is struck of the excisable goods in the stock of a manufacturer or warehouse keeper, excisable goods in excess of what should be in stock, are found, unless the manufacturer or warehouse keeper explains the reasons for such excess to the Comptroller's satisfaction, that manufacturer or warehouse keeper is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, and the excess of

those excisable goods is liable to be forfeited.

(2) Subject to subsection (3), if, when an account is taken and a balance is struck in accordance with subsection (1), a deficiency in the excisable goods which should be in stock is found which cannot be accounted for to the Comptroller's satisfaction, the manufacturer or warehouse keeper is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, and the excise duty on the deficient excisable goods is then due and shall, notwithstanding any other provision of this Act, be forthwith paid.

(3) The Comptroller may, where a deficiency in excisable goods is found under subsection (2), make such allowance for losses in manufacture or in transit as he may consider reasonable.

Persons not to keep stills, etc.

56.—(1) Subject to this Act and to subsection (4), a person, other than the holder of a licence issued under subsection 6(1) shall not knowingly keep or have in his possession—

(a) a still, utensil, or other apparatus for distilling, denaturing, fermenting, or manufacturing spirits; or

(b) a machinery for manufacturing any other excisable goods.

(2) The owner or occupier of land or premises upon which—

(a) a still, utensil or other apparatus for distilling, denaturing, fermenting, or manufacturing spirits; or

(b) machinery for the manufacture of excisable goods, is found, shall each be deemed, until the contrary is proved, knowingly to have kept or had in his possession the still, utensil or machinery, as the case may be.

(3) A person is guilty of an offence if he contravenes subsection (1), and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding 2 years, or to both, and the—

(a) still, utensils or other apparatus for distilling, denaturing, fermenting or manufacturing spirits; or

(b) machinery for the manufacture of excisable goods, is liable to be forfeited.

(4) Subsections (1) and (2) do not apply where the goods to be distilled, denatured, fermented or manufactured are exempted from excise duty by virtue of clause (4) of Part 2 of Schedule 2.

Obstruction of officers, etc.

57. A person is guilty of an offence if he—

(a) obstructs, hinders, molests or assaults or uses threatening language to, or attempts to intimidate or endeavours to bribe a person duly engaged in the performance of a duty or the exercise of a power imposed or conferred on him by this Act or a person acting in that person's aid;

(b) does anything which impedes or is intended to impede the carrying out of a search for anything liable to be forfeited under this Act or the detention, forfeiture or removal of any such thing;

(c) rescues, damages or destroys anything liable to be forfeited, under this Act, or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is so liable to

be forfeited; or

- (d) prevents the arrest of a person by a person duly engaged in the performance of a duty or the exercise of a power imposed or conferred on him by this Act or a person acting in that person's aid, or rescues a person so arrested, and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding 2 years, or to both.

Penalty for abuse of authority

58. An officer or other person employed in the administration of this Act is guilty of an offence if he—

- (a) accepts or agrees to accept a bribe, gratuity, recompense or reward for the neglect or non-performance of his duty;
- (b) conspires or connives with another person to do an act or thing whereby the excise revenue is or may be defrauded, or which is contrary to this Act or the proper execution of his duty;
- (c) makes an agreement to deliver up or not to seize an aircraft or ship or other means of conveyance or goods liable to seizure;
- (d) knowingly demands from another person an amount in excess of the authorised excise duty;
- (e) withholds for his own use or otherwise, the whole or any portion of the amount of any excise duty collected by him;
- (f) renders a false return, whether orally or in writing, of the amount of excise duty collected or received by him;
- (g) defrauds another person, embezzles money, or otherwise abuses his position; or (h) not being authorised under this Act to do so, collects or attempts to collect excise duty, and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding 3 years, or to both.

Unlawful assumption of character of an officer

59. A person is guilty of an offence if, not being an officer, he assumes the name, designation or character of an officer, for the purpose of—

- (a) obtaining admission to a building or other place or to an aircraft or ship;
- (b) doing or procuring to be done an act which he would not be entitled to do or procure to be done of his own authority; or
- (c) for any other unlawful purpose, and is liable on conviction to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 2 years, or to both.

Forfeiture of aircraft, ships, etc., used in connection with goods liable to forfeiture

60.—(1) Without prejudice to any other provision of this Act, where goods or things are liable to be forfeited under this Act—

- (a) an aircraft, ship, vehicle, living creature, container (including an article or passenger's baggage) or anything whatsoever which has been used for the carriage, handling, deposit or concealment of the goods or things so liable to be forfeited either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and

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(b) any other thing mixed, packed or found with the goods or things so liable, is also liable to be forfeited.

(2) Where an aircraft, ship, vehicle or living creature is liable to be forfeited under this Act, whether by virtue of subsection (1) or otherwise, all tackle, apparel or furniture of the aircraft, ship, vehicle or living creature is also liable to be forfeited.

Ships, etc., constructed for concealing excisable goods

61. An aircraft or ship which is found—

- (a) to be engaged in;
- (b) to have been engaged in; or
- (c) to be about to depart on, a flight or voyage while constructed, adapted, altered or fitted in any manner for the purpose of concealing excisable goods is liable to be forfeited.

Ships jettisoning cargo

62.—(1) If any part of the cargo of a ship is—

- (a) thrown overboard;
- (b) staved; or
- (c) destroyed, to prevent seizure after the ship has been summoned to bring to by a ship employed in the enforcement of this Act, the ship from which that cargo was thrown overboard, staved or destroyed is liable to be forfeited.

(2) For the purpose of subsection (1) and section 63, a ship is deemed to have been properly summoned to bring to if the ship making the summons did so by means of an international signal code or other recognized means and while flying the customs flag specified in the Customs Act, 1986.

Special provision as to forfeiture of aircraft and of large ships

63.—(1) Notwithstanding any other provision of this Act—

- (a) an aircraft; or
- (b) a ship having a registered tonnage of 250 tons or more, is not liable to be forfeited under or by virtue of this Act unless the offence in respect of, or in connection with which, the forfeiture is claimed—
- (c) was substantially the object of the flight or voyage in connection with which the offence was committed; or
- (d) in the case of a ship—was committed while the ship was under chase of a ship employed in the enforcement of this Act after failing to bring to when properly summoned to do so.

(2) The exemption from forfeiture of an aircraft or ship provided by subsection (1) does not affect any liability for forfeiture of goods carried in that aircraft or ship.

63A – (1) The Comptroller shall require that any applicant for refund of any duty, charge or fee must have a bank account in a commercial trading bank in the Fiji Islands; and

(2) The Comptroller shall refrain from refunding any duty, charge or fee directly to claimants.

- 64.—(1).** The owner of an aircraft or ship is guilty of an offence if—
- (a) he knowingly allows his aircraft or ship to be used in the unlawful exportation or conveyance of excisable goods;
 - (b) goods on his aircraft or ship are thrown overboard, staved or destroyed to prevent seizure under this Act;
 - (c) his aircraft or ship is found within a port—

- (i) having on board or attached to it; or
- (ii) conveying or having conveyed, goods in a manner such as to be in contravention of this Act where a responsible officer of the aircraft or ship is implicated either actually or by neglect, and is liable on conviction to a fine not exceeding \$10,000.

(2) An aircraft or ship referred to in subsection (1) may be detained until any penalty imposed in respect of an offence specified in that subsection has been paid or until security is given for the payment of the penalty.

(3) For the purpose of paragraph (1)(c), responsible officers include—

(a) in the case of a ship—the master, mates and engineers of the ship and, where it is carrying passengers, the purser or chief steward; and

(b) in the case of an aircraft—the commander, a pilot, a navigator, the chief engineer and the chief steward, and the expression "neglect" includes cases where goods, not owned by any of the crew, are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of that place had exercised care at the time of the loading of the aircraft or ship, or of the coming on board the aircraft or ship of the crew, or subsequently.

Part 9—Legal Proceedings

Limitation of proceedings

65.—(1) Proceedings for an offence against this Act shall not be commenced more than 5 years after the date of the commission of the offence.

(2) Anything liable to be forfeited under this Act shall not be seized, more than 5 years after the date of the commission of the offence in respect of which the goods are being seized.

(3) Proceedings for the recovery of excise duty or any other charge payable by virtue of this Act shall not be commenced more than 5 years after the date when the duty or charge became due and payable.

Power of Comptroller to compound offence by agreement

66.—(1) Subject to subsection (2) and to any prescribed procedure being followed, the Comptroller may, if he is satisfied that a person has committed an offence under this Act in respect of which—

(a) a pecuniary penalty is provided for; and

(b) goods are liable to be forfeited, compound that offence and order that person to pay such sum of money, not exceeding the maximum amount of the pecuniary penalty to which he would have been liable if he had been prosecuted and convicted for the offence, as the Comptroller may think fit, and the Comptroller may order goods liable to be forfeited in connection with the offence to be condemned.

(2) The Comptroller shall not exercise his powers under subsection (1) unless the person he considers guilty of the offence admits in writing that he has committed the offence and requests the Comptroller to deal with the offence under subsection (1).

(3) Where the Comptroller makes any order under subsection (1)—

- (a) the order shall be put into writing and shall have attached to it the request referred to in subsection (2);
- (b) the order shall specify the offence which the person committed and the penalty imposed by the Comptroller;
- (c) a copy of the order shall be given to the person admitting the offence if he so requests;
- (d) the person admitting the offence is not liable to further proceedings or prosecution in respect of the offence and, if he is in custody, he shall be discharged;
- (e) the order shall be final and is not subject to appeal; and
- (f) if the sum of money ordered to be paid by the Comptroller or any part of it is not paid, the Comptroller may send a copy of the order to a court of competent jurisdiction which shall make an order for the enforcement of the order in the same manner as if the penalty had been imposed by that court.

Protection of officers, etc., in relation to seizure and detention of goods, etc.

67.—(1) Where, in proceedings for the condemnation of goods seized as liable to be forfeited under this Act, judgment is given for the claimant, the court before which the proceedings were heard may, if it sees fit, certify that there were reasonable grounds for the seizure of the goods.

(2) Where proceedings, whether civil or criminal, are brought against—

- (a) the Comptroller; or
- (b) a person authorised under this Act to seize or detain goods liable to be forfeited, on account of—
- (c) the seizure or detention of goods, an aircraft or ship; or
- (d) any act done by an officer in the execution or intended execution of his duty under this Act, and judgment is given for the plaintiff or prosecutor, then if either—
- (e) a certificate relating to the seizure has been granted under subsection (1); or
- (f) the court is satisfied and so declares that there were reasonable grounds or probable cause for such seizure or act, the plaintiff or prosecutor is not entitled to recover damages or costs and the defendant or person who effected the seizure or performed the act is not liable to any punishment and is immune from all proceedings, whether civil or criminal, on account of that seizure or act.

(3) Subsection (2) does not affect the right of a person to—

- (a) the return of the goods seized or detained; or
- (b) compensation in respect of any damage to or loss in value of the goods or in respect of the destruction of the goods.

(4) A certificate referred to in subsection (1) may be proved by the production of—

- (a) the original certificate; or
- (b) a certified copy of the certificate purporting to be signed by an officer of the court which granted it.

Monies to be paid to Consolidated Fund

68. Money received by the Comptroller under this Act shall be paid into

the Consolidated Fund.

Onus of proof on defendant in certain cases

69. Where in proceedings under this Act brought by the Director of Public Prosecutions, the Attorney-General, the Comptroller or an officer a question arises—

- (a) as to the place of manufacture, production or origin of goods;
- (b) as to the description or nature of goods; or
- (c) as to whether goods have been lawfully received into or delivered from an excise factory or an excise warehouse, the burden of proof in relation to that matter lies on the defendant in the proceedings.

Proof of certain documents, etc.

70.—(1) If in a court a book or document in the official custody of the Comptroller or an officer is required to be used as evidence as to the transactions to which it refers, copies of that book or document or extracts from it certified by the Comptroller or the proper officer as correct are admissible for that purpose, without production of the original.

(2) In proceedings under this Act a certificate signed or purporting to be signed by—

- (a) a Government analyst; or
- (b) a person appointed by the Comptroller for the purpose of making an analysis, is evidence of the matter stated in that certificate unless the contrary is proved.

Provisions relating to the furnishing of information by manufacturers and official secrecy

71.—(1) In addition to complying with the requirements of subsections 81(1) and (2), a manufacturer shall, if required to do so by the Comptroller or an officer—

- (a) produce for inspection by the Comptroller or that officer such invoices and other books or documents in his possession relating to excisable goods manufactured by that manufacturer during the 12 months preceding the request as the Comptroller or that officer may require;
- (b) answer such questions as may be put to him by the Comptroller or the officer regarding the description, manufacture, -quantity, weight, volume, selling price, consignee, destination, cost of production and manufacturer's profits, and any other matter relating to such goods which the Comptroller or the officer may reasonably think necessary for the purpose of enforcing this Act; or
- (c) produce such evidence as the Comptroller or the officer may reasonably consider necessary in support of any information furnished to him under paragraph (a) or (b).

(2) A manufacturer is guilty of an offence if he—

- (a) neglects or refuses to comply with a requirement made of him under subsection (1); or
- (b) untruthfully or evasively answers a question put to him in accordance with subsection (1), and is liable on conviction to a fine not exceeding \$10,000.

(3) Notwithstanding any other provisions of this Act, the powers

Excise

conferred by subsection (1), insofar as they relate to questions regarding the cost of production and manufacturer's profits in respect of excisable goods, shall not be exercised by any officer other than—

- (a) the Comptroller; or
- (b) a customs officer of or above the rank of Senior Collector of Customs authorised to act under subsection (1) by the Comptroller.

(4) A person is guilty of an offence if, being in possession of information given or evidence produced by a manufacturer under subsection (1) which relates to the cost of production or manufacturer's profits in respect of excisable goods, he communicates that information or evidence to a person—

- (a) who is not a person to whom he is authorised by the Comptroller to communicate it; or
- (b) otherwise than for the purpose of this Act, and is liable on conviction to imprisonment for a term not exceeding ~~12~~6 months.

(5) A person shall not be prosecuted for an offence under subsection (4) without the Director of Public Prosecutions' written consent.

(6) A person employed in enforcing this Act shall not be required—

- (a) to produce in a court a document; or
- (b) to divulge or communicate to a court information, relating to the cost of production or to the manufacturer's profit in respect of excisable goods, except as may be necessary for the purpose of carrying into effect this Act or—
- (c) in order to institute a prosecution or other legal proceedings; or
- (d) in the course of a prosecution or other legal proceedings, under this Act.

(6) Notwithstanding any other provision of this section, the Comptroller shall permit—

- (a) the Director of Public Prosecutions and the Auditor-General; or
- (b) an officer duly authorised in that behalf by the Director of Public Prosecutions or the Auditor-General, to have such access to records or documents as may be necessary for the performance of his official duties and in that case the Director of Public Prosecutions or the Auditor-General or the authorised officer shall for the purposes of this section be deemed to be a person employed in enforcing this Act.

Part 10—Seizures and Forfeitures

Provisions as to detention, seizure and forfeiture

72. An officer, police officer, or a person authorised to do so by the Comptroller, may, at any time, seize or detain goods—

- (a) liable to be forfeited under this Act; or
- (b) which that officer, police officer or other person has reasonable grounds to believe are liable to be forfeited under this Act.

Placing goods under Customs seal

72A. —(1) A Customs officer or other person authorised under section 72 —

- (a) may place under seal, any goods that have been detained; and
- (b) shall keep such goods —
 - (i) on board an aircraft, ship, or vehicle under customs control;
 - (ii) at any customs area; or
 - (iii) at any other place authorised in writing by the Comptroller.

(2) Detained goods, which have been placed under seal on board an aircraft, ship or vehicle or place under this Act, shall remain under seal until the aircraft or ship has departed from Fiji on an outward voyage.

(3) A person who, without the consent of the Comptroller, breaks or interferes with the seal placed on goods pursuant to subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000, and in addition to such, any such goods are liable to be forfeited to the State.

Notice of seizure to be given

73.—(1) When goods have been seized as being liable to be forfeited under this Act, then, unless the goods were seized—

(a) in the presence of their owner; or

(b) in the case of an aircraft or ship—in the presence of the master of

the aircraft or ship,
the Comptroller shall serve written notice of the seizure and the reasons for the seizure on the owner of the goods, or, in the case of an aircraft or ship, on the master of the aircraft or ship.

(2) When goods have been seized in the presence of a person coming within the definition of owner for the purposes of this Act, it is not necessary for the Comptroller to give notice of the seizure to that person or to any other person coming within that definition, and a notice given to a person coming within the definition of owner is deemed to be notice to any other persons also coming within that definition.

(3) If in respect of goods seized under this Act no person coming within the definition of owner of those goods is known to the Comptroller, it is not necessary for the Comptroller to give notice of the seizure to any person.

(4) Where the owner of perishable goods or living creatures seized under this Act is not known to the Comptroller, those goods may, at any time after that seizure, be sold in the prescribed manner by the Comptroller, either by public auction or private treaty, and the proceeds of the sale shall be retained by the Comptroller and dealt with as if they were the goods seized.

Notice of claim

74.—(1) Where goods liable to be forfeited under this Act have been seized—

- (a) the owner of those goods; or
- (b) in the case of an aircraft or ship—the master of the aircraft or ship, may claim the goods within 3 months of the date of the seizure or of the date of any written notice of seizure served on him, as the case may be, by written notice to the Comptroller.

(2) If a claim is not made within the period of 3 months referred to in subsection (1), the goods, the subject of the seizure, are deemed to have been condemned.

Procedure after notice of claim

75.—(1) Where a notice of claim has been given to the Comptroller in accordance with subsection 74(1), the Comptroller may, within 2 months from the date of receipt of the claim—

- (a) by written notice to the claimant, require the claimant to institute proceedings for the recovery of the goods within 2 months of the date of the notice; or
- (b) himself institute proceedings for the condemnation of the goods.

(2) If the Comptroller fails, within the period of 2 months referred to in subsection (1), to—

- (a) require the claimant to institute proceedings; or
- (b) himself to institute proceedings, in accordance with subsection (1), the goods, the subject of the notice of claim, shall be released to the claimant.

(3) Where the Comptroller has, in accordance with subsection (1), required a claimant to institute proceedings within the period of 2 months referred to in paragraph (1)(a) and that claimant has failed to do so, then, on the expiration of that period the goods, the subject of the notice of claim, shall be deemed to have been condemned.

Custody of seized goods

76.—(1) Subject to subsection (2), goods which have been seized under this Act

shall be delivered into the custody of the Comptroller, and after they have been condemned by a competent court shall be forfeited to the Government and may be sold or otherwise disposed of by the Comptroller in the prescribed manner.

(2) The Minister may direct that, in lieu of being sold, goods referred to in subsection (1) shall be reserved for the public service.

Serving of notice of seizure

77. A notice of seizure served under subsection 73(1) is deemed to have been duly served on the person concerned—

- (a) if delivered to that person personally; or
- (b) if addressed to that person and left or forwarded by registered post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office.

Bail may be given for goods seized

78.—(1) Where goods have been seized under this Act, the Comptroller may order the delivery of those goods on security by bond being given for double the value of the goods.

(2) A bond referred to in subsection (1) shall—

- (a) have 2 sureties approved by the Comptroller; and
- (b) be delivered to and kept in the custody of the Comptroller.

(3) Where goods referred to in subsection (1) are condemned only the value of those goods shall be paid to the Comptroller who shall then cancel the bond.

Security to abide by decree of competent court

79.—(1) Where, in proceedings instituted by the Comptroller, the court delivers a judgment ordering the return of goods to the owner or claimant of those goods, the execution of the judgment shall not be stayed pending the appeal if the party to whom the goods are ordered to be returned furnishes security to the court's satisfaction for—

- (a) the restitution of the goods; or
- (b) the payment of the full value of the goods, in case the judgment is reversed by the appellate court.

(2) The full value of the goods for the purposes of subsection (1) shall be ascertained—

- (a) by agreement between the parties; or
- (b) if the parties cannot agree—by appraisalment under the authority of the court.

Part 11 —Miscellaneous

*Limitations on methods of manufacture
and storage and instruments to be kept*

80.—(1) There may be prescribed—

- (a) standards and methods of—
 - (i) manufacturing; and
 - (ii) marking and storing, excisable goods; and
- (b) implements and materials used in the manufacture of excisable goods.

(2) A manufacturer or warehouse keeper shall—

- (a) keep in his excise factory or excise warehouse such reasonable and

- necessary—
- (i) apparatus and instruments for measuring, weighing and testing excisable goods;
 - (ii) materials for excisable goods; and (iii) packages, vats and utensils, as the Comptroller may require; and
- (b) permit an officer to use the things referred to in subparagraph (a)(i) for the purpose of measuring, weighing or taking account of—
- (i) excisable goods;
 - (ii) materials for excisable goods; and
 - (iii) packages, vats and utensils, in the manufacturer's or warehouse keeper's excise factory or excise warehouse.
- (3) A manufacturer or warehouse keeper is guilty of an offence if he—
- (a) fails to comply with subsection (1);
 - (b) uses, or allows to be used, false, or insufficient apparatus or instruments in respect of excisable goods or materials for excisable goods; or
 - (c) practises or allows to be practised any art, device or contrivance by which an officer may be hindered or prevented from taking a just and true measure or account of excisable goods, materials used for excisable goods or a package, vat or utensil in respect of excisable goods, and is liable on conviction to a fine not exceeding \$10,000.
- (4) Any false apparatus and instruments used in connection with an offence under subsection (2) are liable to be forfeited.

Books to be kept by manufacturer or warehouse keeper

- 81.**—(1) A manufacturer or warehouse keeper shall—
- (a) keep at his excise factory or excise warehouse, in a form and manner approved by the Comptroller, such books, documents and forms relating to the manufacture, storing and delivery of excisable goods as the Comptroller may direct;
 - (b) make the entries required by the Comptroller at the times specified by him in the books, documents and forms referred to in paragraph (a).
- (2) An entry under paragraph (1) (b) shall be made legibly in ink and shall not be altered.
- (3) An entry referred to in paragraph (1) (b) may be cancelled by drawing a single line in ink through the incorrect entry, so as to allow the entry to remain legible, and a correcting entry may be made immediately above the entry so cancelled or in any other place approved by the Comptroller.
- (4) The books, documents and forms referred to in paragraph (1)(a) shall be available at all reasonable times for inspection by an officer and the manufacturer or warehouse keeper shall allow an officer to take an abstract from any such book, document or form at any reasonable time.
- (5) A manufacturer or warehouse keeper is guilty of an offence if he—
- (a) fails to keep the books, documents or forms referred to in paragraph (1)(a), or fails to produce them when required to do so;
 - (b) fails to make in the books, documents or forms referred to in

paragraph (l)(a), legibly, in ink at the specified times and in the required manner, an entry required to be made in them; or
(c) fraudulently or in a manner contrary to the requirements of this Act makes an entry, obliteration, alteration or erasure in a book, document or form referred to in paragraph (l)(a), and is liable on conviction to a fine not exceeding \$10,000.

Service of notices

82. A notice or document required by this Act to be served on a person may be served on that person—

- (a) personally; or
- (b) by sending the notice or document to that person by registered post at his usual or last place of abode, and in the latter case shall be deemed to have been served on him at the time at which it would have been delivered to him in the ordinary course of the post.

Comptroller may pay rewards

83.—(1) Subject to subsection (2), the Comptroller may—

- (a) on the condemnation of goods;
- (b) on the apprehension of a person; or
- (c) on the recovery of a duty or a penalty payable under this Act, direct that a reward be paid to a person or officer through whose information or means the seizure of the goods was made, the offender apprehended, or the duty or penalty recovered.

(2) The Comptroller shall not, without the Minister's approval, direct that a reward exceeding \$200 be paid to an officer.

All bonds and securities entered into to be valid

84.—(1) A bond or other security entered into by a person for the performance of a condition, order or matter relative to excise duty or incidental to excise duty is valid in law and upon breach of a condition of the bond or other security may be sued and proceeded upon.

(2) A bond relating to excise duty or for the performance of a condition or matter incident to excise duty shall be taken to or for the use of the Government.

(3) a bond referred to in subsection (2) may, after the expiration of--

- (a) 3 years from the date of the bond; or
- (b) if any period is specified in the bond for the performance of the conditions of that bond that specified period, be cancelled by or by the order of the Comptroller.

(4) a bond or security referred to in subsection (1) need not be-

- (a) sealed; or
- (b) signed or delivered in the presence of a witness

Surety to be deemed a principal debtor

85.—(1) Without prejudice to any rights a surety under a bond required by this Act has, against the person for whom he is surety, a surety is, under such a bond executed by him, deemed a principal debtor and not merely surety and, accordingly, is not discharged nor is his liability affected by-

- (a) any giving of time for payment;
- (b) any omission to enforce the bond; or
- (c) any other act or omission or means whereby the liability of the

- surety would not have been discharged if h/had been a principal
- (2) When a person bound under a bond required by this Act—
- (b) pays a part of the sum for which he is bound- or
 - (c) being-a surety—
 - (i) dies,
 - (ii) departs from Fiji without leaving sufficient property in Fiji to satisfy the whole amount for which he is bound; or
 - (iii) for any other reason is, in the opinion of the Comptroller, unable or likely to be unable to satisfy the bond if called upon, the Comptroller may, if he thinks fit, require a new bond to be executed.

Power to make Regulations

86.—(1) The Minister may make regulations not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to prescribed for carrying out or giving effect to this Act, and in particular providing for—
- (c) the powers and duties to be exercised and performed by officers of the Excise
- (d) the conduct of all matters relating to the collection of excise duties;
- (e) the charging of rent, fees and other charges and the amounts of those rents, fees and other charges;
- (f) the procedures to be used in respect of the rebate, suspension or refund of the whole or a part of the excise duty payable or paid in respect of excisable goods and for the withdrawal, wholly or in part, of such rebate, suspension or refund;
- (g) the forms or the provision of forms to be used under and for purposes connected with this Act, including the form of certificates and other documents to be used in relation to excisable goods intended to be used as materials in the manufacture of goods in Fiji;
- (h) the days and times during which an excise office, or excise warehouse or export warehouse may be open for business;
(Amended by Act No. 22 of 1996 s. 10(a))
- (i) the deposit, storage, custody and removal of goods in and from excise factories and excise warehouses, export warehouses and the management and control of those excise factories, excise warehouses and export warehouse ;
(Amended by Act No. 22 of 1996 s. 10(b))
- (j) the erection, inspection, supervision, management and control of excise factories and excise warehouses and the fittings, implements, machinery and apparatus maintained in those premises, including such scales and weights, lights, ladders and other equipment, as may be necessary in order to enable the proper officer to take account of, or check by weight, gauge or measure, all excisable goods or materials in those premises;
- (k) the hours during which—
 - (i) manufacture may or may not take place in excise factories;

and

(ii) goods may or may not be removed from excise factories or excise warehouses or export warehouses ;

(Amended by Act No. 22 of 1996 s. 10(c))

(l) what accommodation and equipment the holder of a licence issued under subsection 6(1) shall provide either free of cost or at a rental to be approved by the Comptroller for officers;

(m) the manner of blending, compounding, varying and bottling spirits in an excise factory or an excise warehouse, the fees to be paid for bottling spirits, and the control to be exercised in the movement of spirits to and from an excise factory or an excise warehouse and export warehouses;

(Amended by Act No. 22 of 1996 s. 10(d))

(n) the books to be kept by the holders of licences issued under this Act, the entries to be made in those books and the returns to be furnished by those licence holders;

(o) the issue and transfer of licences issued under this Act;

(p) the working days and hours of general attendance of officers and the rates of overtime fees to be paid when officers are required to work beyond the ordinary hours prescribed and the conditions under which that overtime shall be permitted;

(q) the manner in which containers and packages of excisable goods shall be marked;

(r) the manner in which spirits shall be denatured;

(s) the manner of manufacture of excisable goods to secure the collection of excise duty on those goods;

(t) the manner of receipt, storage, warehousing, removal and delivery of excisable goods prior to the payment of excise duty on them and the manner in respect of which any excise duty may be remitted; and

(u) the manner of operations in excise warehouses and export warehouses.

(2) Regulations made under this section may provide -

(a) that a breach of a regulation is an offence punishable on conviction by a fine not exceeding \$10,000;

(b) that goods used in connection with an offence under the Regulations shall be liable to be forfeited; and

(c) that forms, certificates and other documents to be used for the purposes of this Act may be such as may be approved by the Comptroller.

(3) Regulations made under this section may provide for the Comptroller to exercise a discretion in respect of any matter or for the requirement of his approval in respect of any matter.

87. - (1) The Minister may, subject to such conditions as he thinks fit, exempt a manufacturer from a provision to this Act and any such exemptions may be given retrospective effect.

(2) A manufacturer who fails to comply with a condition imposed under subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding \$10,000, and the goods in respect of which the offence is committed are liable to be forfeited.

Repeal and saving

88. - (1) The [Excise Act](#) is repealed.

(2) Without prejudice to section **18** of the [Interpretation Act](#), notwithstanding the repeal of the [Excise Act](#) by subsection (1) and unless the contrary intention appears in this Act-

(a) all persons, things and circumstances appointed or created by or under the [Excise Act](#) or existing or continuing under that Act immediately before the commencement of this Act shall, under and subject to this Act, continue to have the same status, operation and effect as they respectively would have had as if the [Excise Act](#) had not been repealed; and

(b) in particular and without affecting the generality of paragraph (a) the repeal of the [Excise Act](#) shall not affect licences, permits, bonds, securities, appointments, orders, rules and regulations issued, executed, given or made under or by virtue of that Act and in force immediately before the commencement of this Act and those licences, permits, bonds, securities, appointments, orders, rules and regulations shall remain in force, as if every such licence, permit, bond, security, appointment, order, rule, or regulation were issued, executed, given or made under and by virtue of this Act until replaced or revoked by a license, permit, bond, security, appointment, order, rule or regulation made under or by virtue of this Act.

SCHEDULE 1 ²
(Subsection 23(1))

GOODS SUBJECT TO EXCISE DUTY

NOTES

In this Schedule—

- (a) "manufactured tobacco" includes tobacco processed or prepared by any means, but does not include the growing or curing of tobacco into twist and the processing and preparation of tobacco for the manufacture of cigarettes, cheroots or cigars;

<i>Column 1 Item</i>	<i>Column 2 Goods</i>	<i>Column 3 Description</i>
1	Cigarettes <i>(Substituted by Decree No. 34 of 1992 s. 2)</i>	Rolls of finely cut tobacco enclosed in thin paper for smoking.
2	Manufactured tobacco... .. <i>(Substituted by Decree No. 34 of 1992 s. 2)</i>	Leaves of any plant of the solanaceous genus <i>Nicotiana</i> prepared or processed for smoking, chewing or as snuff
3	Ale beer, stout, porter and other fermented liquors and cider and perry	Alcoholic beverages obtained by fermenting a liquor prepared from malt, and alcoholic beverages obtained by fermenting the juice of apples or pears <i>(Substituted by Decree No. 34 of 1992 s. 2)</i>
4	Spirits	Alcohol and other liquid obtained from distillation of liquors. <i>(Substituted by Decree No. 34 of 1992 s. 2)</i>
5	Alcoholic beverages	Ready to drink (RTDs) mixtures of any alcoholic strength by volume of 11.49% vol or less <i>(Inserted by Act No. 22 of 2003 s. 4(b))</i>
6	Wine whether or not fermented and whether or not charged with carbon dioxide <i>(Inserted by Act No. 22 of 2003 s. 4(b))</i>	Wine obtained from grapes or any other produce whether or not fermented, with or without alcohol added and have an alcoholic strength by volume exceeding 0.5% vol.

² ~~This Schedule was substituted by Decree No. 33 of 1989 and amended by Decrees No. 36 of 1990, 34 of 1992, Acts No. 22 of 2003, 26 of 2005-~~

4C7. Carbonated soft drinks	Carbonated soft drinks not containing alcohol (Inserted by Act No. 26 of 2005 s. 2)
8. Optical Media	Optical media (Unrecorded)
5	
6. Matches	
7 (Deleted by Decree No. 9 of 2007)	
8. Chocolate and sugar confectionery (excluding traditional Indian sweets)	Portland cement—Cement obtained by firing limestone naturally containing, or mixed artificially with, a suitable proportion of clay, and by subsequent crushing of the clinker so attained Matches which will not ignite except on being rubbed on a specially prepared friction surface
Column—2 —Goods	
9. Dentifrices of all kind	Chocolate and sugar preparations which are marketed in a solid or semi-solid form, generally suitable for immediate consumption and collectively referred to as sweetmeats or confectionery
10. Flip-flop sandals	Column—3 Description
11. Manufactured icecream	A preparation, usually in paste form, for cleaning teeth
12. Paints, enamels, varnishes, lacquers, and similar preparations	Footwear comprising two parts (a sole and a three pronged retaining strap) characterised by the recurrent 'dip-flop' sound when worn
13. Manufactured aerated waters	Frozen food mainly consisting of cream or butter fat, flavouring and/or sweetening
14. Preparations for making beverages	Preparation for protecting, decorating or carrying out any other work on surfaces
15. Snack foods	Potable waters charged with carbon dioxide gas under pressure including aerated waters sweetened and/or flavoured
16. Soap: surface active preparations and washing preparations, whether or not containing soap	Cordials, concentrated extracts, flavoured or coloured syrups and the like, whether or not containing other ingredients, intended to be consumed as beverages after simple dilution with water or after further treatment, for example, by charging with carbon dioxide
17. Toilet paper	Prepared foods obtained by swelling or roasting cereals, cereal products, starches and the like
18. Edible oils, including Vanaspati	Cleansing, emulsifying, washing or surface active ^{1, f} preparations made up of— (a) a fatty acid or a mixture of fatty acids with or without other ingredients such as perfumes, colouring agents, dyes, etc.;; (b) intermixtures, solutions or dispersions of surface active agents; (c) mixtures based on surface active agents; (d) solutions or dispersions of soap in an organic solvent; or (e) synthetic organic surface active agents or soap, or both of them, together with other subsidiary

~~ingredients~~

~~A thin soft, sanitary absorbent paper in strips or rolls (whether or not perforated) put up in retail packings for use in toilets~~

~~Edible oils and vanaspati which are generally used for culinary purposes as vegetable oils in the form of~~

- ~~19—Margarine~~
- ~~20—Serviettes, tissues, towels and napkins of paper~~
- ~~21—Washers; screws; nails, tacks, staples and similar fasteners of metal~~
- ~~22—Galvanised or surface coated metal roofing sheets~~
- ~~23—Plastic roofing sheets~~
- ~~24—Twine, cordage, ropes and cables made from artificial resins and plastic materials, cellulose esters and ethers~~
- ~~25—Bars and rods of iron or steel (from~~
- ~~26—Louvre blade window frames~~
- fluid or solids, refined or purified; whether or not as fixed vegetable oils and fats, wholly or partly hydrogenated, or solidified or hardened by any process, whether or not further refined or saturated or having addition of other substances such as lecithin, flavourings, vitamins, etc.
- A spread or cooking fat preparation of vegetable origin, whether or not saturated, hydrogenated or worked by emulsification, churning, texturation or containing additives of lecithin, flavourings, vitamins, etc., includes spread or cooking fat having a mixture of both vegetable and animal fats and oils
- A thin, soft, sanitary absorbent paper, in strips or rolls (whether or not perforated), in squares, rectangles, etc., whether in single sheets or fan fold, put up in retail packings
- Washers—a thin disc with a hole in the centre or a Hat ring or perforated piece of any material used to place under the head of a bolt, nail or between the nut and the part to be fixed, etc.
- Screws—a device resembling a nail having a slotted head or a head adapted for tightening with a spanner and having tapering spiral thread, and driven into wood, etc.
- Nails, tacks, staples and similar fasteners of any material—wire products with one end pointed and the other enlarged, or with both ends pointed, for driving into or through wood, etc. as to hold separate pieces together or driving into surface to secure or fasten fencing wire, etc.
- Roofing sheets may be of any gauge and may have raised or indented patterns applied directly during manufacture (i.e. rolling) or worked after rolling of galvanised or surface coated sheet metal, whether as corrugated, or channelled, or ribbed, or perforated; anodised, surface treated or surface coated in any other manner; whether or not requiring further finishing
- Roofing sheets made from artificial resins and plastic materials, cellulose esters and ethers; may be corrugated, may have raised or indented patterns applied directly during manufacture, or that may have been worked after manufacturing (i.e. perforated, bevelled or rounded at the edges)
- Man-made fibres obtained from resins and plastic materials, cellulose esters and ethers, which by process of twisting or by plaiting become made up as twine, cordage, ropes and cables
- Products of solid sections, hot-rolled or forged blooms, billets, puddle bars or pilings), extruded, cold formed or cold finished whether or not surface worked with cross sections in the shape of circles, segments of circles, ovals, isosceles triangles, rectangles, hexagons, octagons or quadrilaterals
- Fabricated metal shutter frames of steel or aluminium consisting of channels, clips, bars, handles,

	links, bearings, rivets, springs, security cups, mul-lions, etc.; louvres are designed to deflect or control ventilation or radiation of light
27 PVC pipes, tubes, hoses and artificial conduits	Pipes, tubes, hoses and conduits made from resins and plastic materials, cellulose esters and ethers; (Substituted by Decree No. 36 of 1990 s. 2(b))
28 Electric accumulators	Electrical storage batteries consisting essentially of an outer shell container holding an electrolyte in which are immersed electrodes fitted with terminals or connection to an external circuit
29 Retread tyres	Tyres, resurfaced with vulcanised rubber
30 Butter	Dairy food product, fresh, whether or not salted, resolidified, dehydrated, etc.
31 Deodorant blocks	Deodorising preparations whether or not having the character of disinfectants, insecticide, etc. put up in blocks, tablets and similar forms
32 Thinners	A more or less volatile liquid which dissolves or thins down the constituents of varnish or paint
33 Dead poultry and edible offals falling in Customs Tariff Head 02.07	Fowls, ducks, geese and turkeys and edible offals thereof, processed, fresh, chilled or frozen
34 Noodles	Finely extruded pieces of spaghetti and similar products which have been partially cooked by dipping in boiling oil or fat and then dried and put up for retail sale with the inclusion of a sachet of flavouring material. (Substituted by Decree No. 36 of 1990 s. 2 9 c))
35 Low and high density polyethylene sheets, film, foil or strip Whether or not in tubular form; Bags of plastics	Sheets, film, foil or strip in flat or tubular form manufactured from polyethylene by injection mould, blow mould or extrusion or by any other process; bags of plastics of all kinds, used for packaging and conveyance of goods. (Substituted by Decree No. 36 of 1990 s. 2 (d))
36 Polypropylene bags	Bags made of woven polypropylene strands, and normally used for packaging of goods for transport, storage or sale
37 Trunks suitcases, vanity cases, composition executive cases, brief cases, satchels of all kinds, traveling bags, toilet bags, ruck sacks, havasacks and sport bags <i>(Substituted by Decree No. 36 of 1990 s. 2 (e))</i>	Containers made of leather or of leather, vulcanised fibre, artificial plastic sheeting, paperboard or textile fabric
37 Steel welded mesh	Fencing and reinforcing mesh of iron or steel wire rod in which the strands are welded at the point of contact
39 Aluminium utensils trays,	Articles such as pots, pans, casseroles, kettles, dishes and the like of aluminium commonly used in households, hotels, restaurants, hospitals and similar establishments
40 Baking powder	Preparations consisting of mixtures of chemical products (e.g. sodium bicarbonate, tartaric acid, ammonium carbonate, phosphates, etc.) used in

41 Blank video cassettes	baking for leavening dough
42 Paper bags (except multiwall paper bags)	Containers holding blank magnetic tape for the purpose of recording image and sound Bags made of paper normally used for packaging of goods for transport, storage or sale".
43 Frozen confectionery commonly known as "ice block"	Frozen confectionery mainly consisting of water, colourants, flavours and/or sweetening (Inserted by Decree No. 36 of 1990 s. 2(f))
44 Adhesives and glues	Preparations specifically formulated for use as adhesives and glues consisting either of a mixture of several artificial plastic materials or any permitte addition to the product for example fillers, plasticizers, solvents, pigments, etc. (Inserted by Decree No. 36 of 1990 s. 2(f))
45 Fillers and putty	Preparations mainly used to stop, seal or caulk cracks and holes or to bond or firmly join components together or to carry out any other work on surfaces (Inserted by Decree No. 36 of 1990 s. 2(f))
46 Products of wheat milling industry	Flour, sharps, semolina and other products including residues obtained from wheat by milling or any other process. (Inserted by Decree No. 36 of 1990 s. 2(f))

Excise

SCHEDULE 2 ⁴
(Subsection 23(1))

Part I

EXCISE DUTIES TARIFF

NOTES

1. For the purpose of this schedule any reference to alcohol strength is to be taken to be that shown on test by a Gay Lussac's hydrometer at a temperature of 15° centigrade.

2. For the purposes of item numbers 1.01, 1.02 and 1.03 where the weight of 1,000 cigarettes exceeds 1,135 grams then in every case duty shall be charged as if 1,135 grams by weight of such cigarettes.

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Excisable Goods</i>	<i>Column 3</i> <i>Rate of Excise Duty</i>
1.00	Cigarettes—	
1.01	containing tobacco grown outside Fiji but not containing tobacco grown in Fiji—	175.48 cents on every 10 cigarettes
1.02	containing tobacco grown in Fiji but not containing tobacco grown outside Fiji—	116.99 cents on every 10 cigarettes
1.03	containing tobacco grown outside Fiji and tobacco grown in Fiji—	A duty on every 10 cigarettes of such proportion of 175.48 cents as the amount of tobacco grown outside Fiji contained in such 10 cigarettes bears to the entire content of the cigarettes together with the amount of such proportion of 116.99 cents as the amount of tobacco grown in Fiji contained in such 10 cigarettes bears to the entire tobacco content of the cigarettes
2.00	Manufactured tobacco—	
2.01	containing tobacco grown outside Fiji but not containing tobacco grown in Fiji—	\$101.11 on every kilogram of tobacco
2.02	containing tobacco grown in Fiji but not containing tobacco grown outside Fiji—	\$59.40 on every kilogram of tobacco
2.03	containing tobacco grown outside Fiji and tobacco grown in Fiji—	A duty on every kilogram of tobacco of such proportion of \$101.11 as the amount of tobacco grown outside Fiji contained in such kilogram of tobacco bears to the entire tobacco content of the tobacco together with the amount of such proportion of \$59.40 as the amount of tobacco grown in Fiji contained in such kilogram of tobacco bears to the entire tobacco content of the tobacco

⁴ This Schedule was Amended by Act No. 27 of 1986, Decree No. 4 of 1987, substituted by Decree No. 33 of 1989 and amended by Decree, 19 of 1989, 36 of 1990, 34 of 1992, Acts No. 3 of 1994, 27 of 1994, 22 of 1996, 29 of 1996, 34 of 1999, Decree No. 34 of 2000, Acts No. 8 of 2001, 33 of 2002, 22 of 2003, 20 of 2004, 25 of 2005, 26 of 2005, 5 of 2007

3.01	Ale, beer, stout, porter and other fermented liquors and cider and perry of an alcoholic strength of 3.00% by volume or less <i>(Substituted by Act No. 22 of 2003 s. 5(g))</i>	\$1.73 per litre
3.02	Ale, beer, stout, porter and other fermented liquors and cider and perry of an alcoholic strength of 3.01% by volume or more <i>(Substituted by Act No. 22 of 2003 s. 5(g))</i>	\$2.02 per litre
4.00	Spirits—	
4.01	ethyl alcohol or neutral spirits, undenatured, of a strength not less than 80° Gay Lussac—	\$66.66 per litre of alcohol
4.02	denatured spirits of any strength—	15 cents per litre
4.03	spirits (other than spirits specified in item nos. 4.01 and 4.02) of a strength exceeding 11.49° Gay Lussac but not exceeding 57.12° Gay Lussac—	\$38.07 per litre
4.04	spirits (other than spirits specified in item nos. 4.01 and 4.02) of a strength exceeding 57.12° Gay Lussac—	\$66.66 per litre of alcohol
4.05	Ready to drink mixtures of any alcohol and non alcoholic beverages of an alcoholic strength by volume of 11.49% vol or less <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	\$1.24. per litre
5.00	Wine: <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	
5.01	Sparkling wine <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	\$3.06 per litre
5.02	Still wine <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	\$2.68 per litre
5.03	Other fermented beverages, sparkling <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	\$3.06 per litre
5.04	Other fermented beverages, still <i>(Inserted by Act No. 22 of 2003 s. 5(k))</i>	\$2.68 per litre
6	Carbonated soft drinks <i>(Inserted by Act No. 26 of 2005 s. 3)</i>	5 cents per litre.

Excise

7.00	Optical Media (unrecorded)	\$1.00 per unit \$4.00 per tonne
5.00	Portland cement	
6.00	(Deleted by Decree No.9 of 2007)	
6.01		
6.02		
6.03	other	50 cents per 1,000 matches or part of 1,000 matches
7.00	Sugar	\$70.00 per tonne
8.00	Chocolate and sugar confectionery (excluding traditional Indian sweets)	10%
9.00	Dentifrices of all kinds	10%
10.00	Flip flop sandals	10%
11.00	Manufactured ice cream	10%
12.00	Paints, enamels, varnishes, lacquers and similar preparations	10%
13.00	Manufactured aerated waters	10%
14.00	Preparations for making beverages	10%
15.00	Snack foods	10%
16.00	Soap, surface active preparations and washing preparations, whether or not containing soap	10%
17.00	Toilet paper	10%
18.00	Edible oils including vanaspati	10%
19.00	Margarine	10%
20.00	Serviettes, tissues, towels and napkins of paper	10%
21.00	Washers; screws; nails, tacks, staples and similar fasteners of any material	10%
22.00	Galvanised or surface coated metal roofing sheets	10%
23.00	Plastic roofing sheets	10%
24.00	Twine, cordage, ropes and cables made from artificial resins and plastic materials, cellulose esters and ethers	10%
25.00	Bars and rods of iron or steel	10%
26.00	Louvre blade window frames	10%
27.00	PVC pipes, tubes, hoses and conduits	10%

(Substituted by Decree No. 36 of 1990 s. 3(a))

Excise

28.00	Electric accumulators	10%
29.00	Retread tyres	10%
30.00	Butter	10%
31.00	Deodorant blocks	10%
32.00	Thinners	10%
33.00	Dead poultry and edible offals falling in Customs Tariff Head ing 02.07	10%
34.00	Noodles <i>(Substituted by Decree No. 36 of 1990 s. 3(b))</i>	10%
35.00	Low and high density polyethe- lene sheets, film, foil or strip whether or not in tubular form; bags of plastics <i>(Substituted by Decree No. 36 of 1990 s. 3(c))</i>	10%
36.00	Polypropylene bags	10%
37.00	Trunks, suitcases, vanity cases, executive cases brief cases, satchels of all kinds, traveling bags toilet bags, rucksacks, havesacks and sports bags <i>(Substituted by Decree No. 36 of 1990 s. 3(d))</i>	10%
38.00	Steel welded mesh	10%
39.00	Aluminium utensils	10%
40.00	Baking powder	10%
41.00	Blank video cassettes	10%
42.00	Paperbags (except multiwall paperbags)	10%
43	Frozen confectionery commonly known as "ice block" <i>(Inserted by Decree No. 36 of 1990 s. 3(e))</i>	10%
44	Adhesives and glues <i>(Inserted by Decree No. 36 of 1990 s. 3(e))</i>	10%
45	Fillers and putty <i>(Inserted by Decree No. 36 of 1990 s. 3(e))</i>	10%
46	Products of wheat milling industry <i>(Inserted by Decree No. 36 of 1990 s. 3(e))</i>	10%

Part 2

GOODS EXEMPTED FROM EXCISE DUTIES

(Subsection 23(2))

(1) Beer, spirits and tobacco goods purchased from an excise factory or an excise warehouse by or on behalf of the President of the Sovereign Democratic Republic of Fiji and Commander-in-chief of the Armed Forces for his personal use or for the use of his family forming part of his household.

(2) Beer, spirits and tobacco goods purchased from an excise factory or an excise warehouse, by or on behalf of:

- (a) the diplomatic missions of a State, international organisations, consular posts headed by career consular officers to which the Minister has for the time being accorded privileges and immunities under the Diplomatic Privileges and Immunities Act or the Consular Privileges and Immunities Act;
- (b) the diplomatic agents of the Mission, representatives and holders of high offices, persons employed on missions on behalf of international organisations, career consular officers and members of their family forming part of their households to whom the Minister has for the time being accorded privileges and immunities under the Diplomatic Privileges and Immunities Act or the Consular Privileges and Immunities Act.

(3) Subject to such conditions as the Comptroller may from time to time impose, beer, spirits and tobacco goods purchased by an approved concessionaire solely for the purpose of selling same by retail within the customs area of an airport approved by the Comptroller to *bona fide* passengers about to depart by air from Fiji or to *bona fide* passengers immediately after final disembarkation in Fiji at an approved airport.

(4) Goods (except spirits) made by an individual in his home for his own or his family's use

consumption and which are not for sale or exchange for money or money's worth.

(Substituted by Decree No. 34 of 1992 s. 4)

SCHEDULE 3

Subsection 39(2))

FORM OF WARRANT OF DISTRESS

TO:

I, _____ Comptroller of Customs and Excise, by
virtue of the powers vested in me by section 39 of the Excise Act, 1986 do
by this Warrant authorise you to collect and recover the sum of _____
due for excise duty from _____, manufacturer,
having his excise factory at _____, and for the recovery of
that sum I further authorise that you, with the aid (if necessary) of your assistant and calling
to your assistance any police officer, which assistance they are by this Warrant required to
give, do forthwith levy by distress the said sum together with the costs and charges of and
incident to the taking and keeping of such distress, on the goods, chattels and other
distrainable things of the said manufacturer wherever the same may be found and on all
machinery, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Fiji
in the manufacture, sale or distribution of excisable goods which you may find in any
premises or on any lands 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 by this warrant authorised, if

Excise

necessary, with such assistance as aforesaid to break open any building nr place in the daytime.

Given under my hand at this day of 20-----

Comptroller of Customs & Excise

Controlled by Ministry of Finance

EXCISE ACT

Revised to 2nd December 2013

UPDATED BY :-

LEGAL UNIT

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