THE CUSTOMS AND EXCISE ACT
(Cap. 472)

IN EXERCISE of the powers conferred by section 234 of the Customs and Excise Act, the Minister for Finance makes the following Regulations—

THE CUSTOMS AND EXCISE (DETERMINATION OF RETAIL SELLING PRICE) REGULATIONS, 2012

Citation.

1 These Regulations may be cited as the Customs and Excise (Determination of Retail Selling Price) Regulations, 2012.

Interpretation.

2 In these Regulations, unless the context otherwise requires—

“retail selling price” means the average retail selling price, determined in accordance with these regulations, for the purposes of levying ad valorem excise duty.

3 For the purpose of these regulations, the retail selling price shall be the price inclusive of taxes.

4 (1) The Commissioner shall, for the purpose of levying ad valorem excise duty on goods on which excise duty is chargeable on the basis of the retail selling price as specified in the Fifth Schedule to the Act, determine and publish in the Gazette, the retail selling price for the goods on quarterly basis.

(2) In order to determine the retail selling price of goods referred to in paragraph (1), the Commissioner shall sample the prices of the products on which the ad valorem excise duty is chargeable, on the basis of retail selling price, from the retail outlets through which the goods are most commonly sold and determine the average retail selling price.

(3) Where the goods are sold directly by the manufacturer to the consumer, the retail selling price shall be the price payable by the consumer in a transaction between independent persons dealing at arm’s length.
(4) Where the goods have not been previously sold in the market, the Commissioner may require the manufacturer to declare the maximum retail selling price at which the goods are expected to be sold.

(5) Where a manufacturer who is required to make a declaration under paragraph (4) delivers any goods to the market without declaring the retail selling price of such goods, the retail selling price of such goods shall be determined as follows-

(a) where the manufacturer had removed similar goods from the excise stock room, within a period of one month, the retail selling price of the similar goods shall be deemed to be the retail selling price of the goods; or

(b) where the retail selling price cannot be determined in accordance with subparagraph (a), the retail selling price of similar goods determined in accordance with paragraph 2 shall be deemed to be the retail selling price.

Provided that the highest retail selling price determined, under sub-paragraph (a) or sub-paragraph (b), shall be deemed to be the retail selling price of such goods.

(6) Notwithstanding paragraph (4), where the declared retail selling price is significantly lower than the retail selling price at which the product is sold in the market, then the retail selling price at which the product is sold shall be deemed to be the declared retail selling price.

5 The retail selling price of powdered beer shall be the price of the beverage, ready for use, sold in a transaction between independent persons dealing at arm’s length.

6 Where additional assessment has arisen as a result of a change in the retail selling price in accordance with paragraph 4(5), late payment penalties and interest shall apply in accordance with provisions of the Act.

7 For the purposes of determining the retail selling price, the Commissioner may require a manufacturer or any other person to
submit any information relating to the manufacturing and pricing of the goods.

Offence and penalty. 8 Any person who fails to make a declaration or provide information required under these regulations commits an offence and shall be liable on conviction to a fine not exceeding one million five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

Dated the 14th June, 2012.

ROBINSON GITHAE,
Minister for Finance.

LEGAL NOTICE NO. 52

THE INCOME TAX ACT
(Cap. 470)

IN EXERCISE of the powers conferred by sections 12A (2) of the Income Tax Act, the Commissioner-General makes the following Regulations—

THE INCOME TAX (ADVANCE TAX) (CONDITIONS AND PROCEDURES) RULES, 2012

Citation. 1. The Rules may be cited as Income Tax (Advance Tax) (Conditions and Procedures) Rules, 2012.

Interpretation. 2. In these Rules, unless the context otherwise requires—

“advance tax” means tax payable under section 12A of this Act;

“owner of a commercial vehicle” means the registered owner as indicated in the registration certificate issued by the Registrar of motor vehicles.