

NO. 23 OF 2015

THE EXCISE DUTY ACT

SUBSIDIARY LEGISLATION

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CUSTOMS AND EXCISE (PETROLEUM OILS)(REMISSION) ORDER, 2004

[Legal Notice 47 of 2004]

1. This Order may be cited as the Customs and Excise (Petroleum Oils) (Remission) Order, 2004.
2. The remissions, under section 139(1)(g) of the Act, on excise duty on petroleum oils refined in Kenya are limited to the maximum amounts set out in the Schedule.

SCHEDULE

Maximum amounts Commissioner can remit under section 139(1)(g) of the Act

	Type of Petroleum Oil	Maximum amount (Per 1000L @20degC) (Kshs.)
2710.11.11	Aviation spirit (gasoline).	450.00
2710.11.12	Motor spirit (gasoline), premium.	450.00
2710.11.13	Motor spirit (gasoline), regular.	450.00
2710.11.14	Spirit type jet fuel.	450.00
2710.11.15	Special boiling point spirit and white spirit.	300.00
2710.11.19	Other light oils and preparations.	300.00
2710.19.10	Partly refined (including topped crudes).	300.00
2710.19.22	Other Kerosene.	450.00
2710.19.29	Other medium petroleum oils and preparations.	300.00
2710.19.31	Diesel oil (industrial heavy black, for low speed marine and stationary engines).	300.00
2710.19.32	Gas oil (automotive, light amber, for high speed engines).	300.00
2710.19.33	Other gas oils.	300.00
2710.19.34	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematics viscosity of 125 centistokes	300.00
2710.19.35	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematics viscosity of 180 centistokes.	300.00
2710.19.36	Residual fuel oils (marine, furnace and similar fuel oils) of a	300.00

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2710.19.37	kinematics viscosity of 280 centistokes. Other residual fuel oils.	300.00
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CUSTOMS AND EXCISE (PETROLEUM OILS) (EXCISE) REGULATIONS 2005

[Legal Notice 47 of 2005, Legal Notice 102 of 2005, Legal Notice 43 of 2006, Legal Notice 55 of 2011, Legal Notice 199 of 2013]

1. These Regulations may be cited as the Customs and Excise (Petroleum Oils) (Excise) Regulations, 2005.

2. For the purposes of these Regulations, "petroleum oils" means the goods classified under Tariff Number 2710 in Chapter 27 of the East African Community Customs Union Common External Tariff, as set out in Annex 1 to the Protocol on the Establishment of the East African Community Customs Union (No. 8 of 2004).

[L.N. 102/2005, r. 2.]

3. Excise duty on petroleum oils shall become due and payable at the time of importation or at the time of release by the customs from the Kenya Petroleum Refineries Limited.

4. Any person importing petroleum oils shall notify proper officer of his intention to pump such oils by submitting the duly completed prescribed Form P1 set out in the Schedule, accompanied by a copy of-

- (a) the manifest of the ship carrying the oils;
- (b) the bill of lading; and
- (c) such other shipping documents as the Commissioner may direct.

5. The proper officer shall ascertain the quantity of petroleum oils in the ship prior to permitting the pumping of the oils.

6. Petroleum oils may only be pumped into specified tanks as indicated in the notice of intention given under rule 4.

7. The importer shall, upon completion of pumping under rule 6, notify the proper officer of the quantity of petroleum oils pumped by submitting to the proper officer, a notice in Form P2 in the Schedule.

8. (1) Where petroleum oils are imported through the Kipevu Oil Storage Facility or through any other facility licensed by the Commissioner that has a minimum storage capacity of one hundred million litres and is directly connected to the Kenya Pipeline Company Petroleum Pumping System each importer shall upon determination of ownership and assessment of tax liability pay the taxes and levies due on his proportion of such oils upon release thereof by the customs:

Provided that no taxes or levies on petroleum oils imported under this subparagraph shall remain unpaid for more than five days from the date of entry.

(2) Where refined petroleum oils are released by the customs from the premises of Kenya Petroleum Oil Refineries Limited, all the taxes and levies thereon shall be paid by the respective importers upon such release.

Provided that no tax shall remain unpaid for more than five days after petroleum oils are transferred to the owners by the Kenya Petroleum Oil Refineries Limited.

[L.N. 102/2005, r. 3, L.N. 43/2006, r. 2, L.N. 55/2011, r. 2., L.N. 199/2013, rr. 2 & 3.]

9. (1) Where the petroleum oils are entered for transit, the importer shall furnish the proper officer with-

- (a) evidence that such oils were ordered for by a person in a foreign country; and
- (b) a transit bond in the form of a duly executed guarantee equal to the amount of the taxes and import declaration fee payable on the petroleum oils.

(2) Petroleum oils imported for transit shall be exported within a period of thirty (30) days from the date of importation:

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Provided that the Commissioner may, upon request by an importer-

- (i) extend the period by fifteen days, where he deems it appropriate to do so; and
- (ii) with the approval of the Minister, extend the period specified under subparagraph (a) herein by such further period as may be appropriate in the circumstances.

(3) Duty shall be payable by the importer on any petroleum oils not exported in accordance with paragraph (2).

(4) Petroleum oils entered for transit shall be transported from Mombasa-

- (a) by rail; or
- (b) by pipeline, in which case the export thereof shall be done from Kisumu or Eldoret.

[L.N. 102/2005, r. 4.]

10. The importer shall, except in cases where subparagraphs (a) or (b) of the proviso to paragraph 9 (2) apply, within thirty (30) days from the date the petroleum oils were entered for transit, account for such oils by furnishing the office where the entry was made with—

- (a) documentary evidence of exportation; and
- (b) an application for cancellation of the transit bond.

[L.N. 102/2005, r. 5.]

11. Where the proper officer is satisfied that the petroleum oils have been exported, he shall cancel the bond and notify the importer accordingly.

12. Where an importer fails to furnish satisfactory evidence of exportation in accordance with rule 10, the proper officer shall by notice in writing require the guarantor to remit the full amount of the transit bond to the Commissioner within the period specified in the notice.

13. A guarantor who fails to remit the full amount of the bond when required to do so by the Commissioner shall be guilty of an offence and -

- (a) liable to a fine equal to two times the amount of duty outstanding; and
- (b) shall not be allowed to conduct any business with the customs.

14. (1) An importer who fails to account for petroleum oils entered for transit in accordance with rule 10 shall be guilty of an offence and liable to a fine not exceeding three times the duty payable on the petroleum oils entered for transit; or imprisonment for a period not exceeding three years, or both.

(2) A person convicted of an offence under this rule shall not be allowed to conduct any business with the customs.

15. The petroleum oils warehoused at the time of the coming into operation of this notice shall be released as follows-

- (a) 25% on or before the 15th August, 2005;
- (b) 50% on or before the 31st August, 2005;
- (c) 75% on or before 15th September, 2005, and
- (d) 100% on or before the 30th September, 2005.

[L.N. 102/2005, r. 6.]

16. No petroleum oils shall be entered for warehousing after the 31st July, 2005.

16A. Taxes and levies shall not be payable on the linefill except in situations where the Kenya Pipeline Company Limited notifies the Commissioner that a petroleum company intends to withdraw from participation either by ceasing operations or winding up business.

[L.N. 102/2005, r. 7.]

16B. Notwithstanding Regulation 16-

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- (a) Petroleum oils may be warehoused at the Kipevu Oil Storage Facility at Kilindini, Mombasa or at any other facility licensed by the Commissioner that that has a minimum storage capacity of one hundred million litres and is directly connected to the Kenya Pipeline Company Petroleum Pumping System;
- (b) Jet fuel and aviation fuel may be warehoused-
 - (i) in the depots of the Kenya Pipeline Company Limited at the Jomo Kenyatta International Airport and the Moi International Airport; or
 - (ii) in Lokichoggio, in duly licensed depots maintained by petroleum companies.

[L.N. 102/2005, r. 7, L.N. 199/2013, r. 4.]

17. In any dispute relating to taxes on petroleum oils, the aggrieved person shall deposit the amount of duty demanded prior to lodgement of the dispute.

**THE CUSTOMS AND EXCISE (RAILWAY
DEVELOPMENT LEVY FUND) REGULATIONS, 2013**

ARRANGEMENT OF SECTIONS

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 2. Interpretation
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 4. Objective and purpose of the Fund
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 6. Advisory Committee
 7. Functions of the Advisory Committee
 8. Annual budget to be approved by the Advisory Committee
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 10. Application of financial and procurement regulations
 11. Administration of Fund
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THE CUSTOMS AND EXCISE (RAILWAY DEVELOPMENT LEVY FUND) REGULATIONS, 2013

[Legal Notice 118 of 2013, Legal Notice 86 of 2020]

1. Citation

These Regulations may be cited as the Customs and Excise (Railway Development Levy Fund) Regulations, 2013.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"Advisory Committee" means the Advisory Committee constituted under regulation 6;

"financial year" means the period of twelve months ending on the 30th June in each year;

"Fund" means the Railway Development Levy Fund established under regulation 3;

"officer administering the Fund" means the Principal Secretary responsible for matters relating to transport.

3. Establishment of funds

(1) There is established a Fund to be known as the Railway Development Levy Fund.

(2) The Fund shall consist of-

- (a) the proceeds of the railway development levy charged under section 8 of the Miscellaneous Fees and Levies Act, 2016
- (b) grants or donations made to the Fund;
- (c) any income generated from the proceeds of the Fund.

[L.N. 86/2020, r. 2]

4. Objective and purpose of the Fund

The objective and purpose of the Fund shall be to provide funds for the construction and operation of a standard gauge railways network in order to facilitate the transportation of goods.

[L.N. 86/2020, r. 3]

5. Payments out of the Fund

There shall be paid out of the Fund, payments in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

6. Advisory Committee

There is established a committee to be known as the Advisory Committee which shall consist of-

- (a) the Principal Secretary responsible for matters relating to finance who shall be the chairperson;
- (b) the Principal Secretary responsible for matters relating to transport;
- (c) the Principal Secretary responsible for matters relating to infrastructure; and
- (d) the managing director of the Kenya Railways Corporation appointed under section 5 of the Kenya Railways Corporation Act, (Cap. 397).

7. Functions of the Advisory Committee

The functions of the Advisory Committee shall be-

- (a) to review and approve the annual work programmes and cost estimates; and

[Subsidiary]

- (b) to oversee the management of the Fund and advise the Cabinet Secretary generally on the operations of the Fund.

8. Annual budget to be approved by the Advisory Committee

(1) The expenditure of the Fund shall be on the basis of, and limited to, the annual work programmes and cost estimates which shall be submitted to the Advisory Committee for approval before the beginning of the financial year to which they relate.

(2) Any revision of the approved expenditure or expenditure outside the work programme and cost estimates shall not be implemented or incurred unless they have been approved by the Advisory Committee.

9. Receipts, savings and accruals to be retained for the purpose of the Fund

All receipts, savings and accruals of the Fund and the balance of the Fund at the close of each financial year, shall be retained for the purpose for which the Fund is established.

10. Application of financial and procurement regulations

The existing government financial and procurement regulations shall apply in the administration of the Fund.

11. Administration of Fund

The officer administering the Fund shall-

- (a) supervise and control the administration of the Fund;
 - (b) consult with the Advisory Committee on matters relating to the administration of the Fund as may, from time to time, be necessary;
 - (c) advise and consult with the Cabinet Secretary responsible for finance on matters relating to the administration of the Fund as may, from time to time, be necessary;
 - (d) cause to be kept all proper books of accounts and other books and records relating to the Fund and to the activities and undertakings financed by the Fund; and
 - (e) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund in such form as the National Treasury may from time to time prescribe, in accordance with Public Financial Management Act, 2012.
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**THE EXCISE DUTY (EXCISABLE GOODS
MANAGEMENT SYSTEM) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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5. Excise stamps fee
6. Retention of revenue from excise stamp fees
7. Registration
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9. Forecast of consumption
10. Appointments
11. Delivery of excise stamps
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13. Return of excise stamps
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19. Development and supervision
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SCHEDULES

Excise Stamps Fees

THE EXCISE DUTY (EXCISABLE GOODS MANAGEMENT SYSTEM) REGULATIONS

[Legal Notice 53 of 2017, Legal Notice 94 of 2019]

1. Citation

These Regulations may be cited as the Excise Duty (Excisable Goods Management System) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“authorised officer” means an officer authorised by the Commissioner to perform any function under these Regulations;

“compounded spirit” means a spirit that is ready for consumption as a beverage and put up for retail;

“excise stamp” means a paper stamp, digital stamp or any mark that the Commissioner may approve for affixation or printing on excisable goods in accordance with these regulations;

“importer” means a person registered as an importer by the Commissioner to import excisable goods specified under these Regulations;

“manufacturer” means a manufacturer licensed to manufacture goods specified under these Regulations;

“package” means a packet, bottle or similar retail unit of excisable goods specified under these Regulations;

“printer” means a person appointed by the Commissioner to print and supply excise stamps; and

“System” means the Excisable Goods Management System and includes excise stamps, a track and trace system, a production accounting system, and related software and hardware.

3. Excisable goods to be affixed with excise stamps

(1) Every package of excisable goods, except motor vehicles, manufactured in or imported into Kenya shall be affixed with an excise stamp.

(2) The Commissioner shall specify the type and the manner of affixing excise stamps.

4. Features of excise stamp

Every excise stamp required to be affixed under regulation 3 shall be of such specifications as to—

- (a) deter counterfeiting;
- (b) facilitate tracking of the stamps and excisable goods along the supply chain;
- (c) enable accounting for the production of excisable goods manufactured or imported; and
- (d) facilitate any persons in the supply chain to authenticate the stamps and excisable goods.

5. Excise stamps fee

(1) Excise stamp fees to be charged on excise stamps for each type of excisable goods shall be as specified in the Schedule hereto.

(2) The excise stamp fees shall be paid to the Commissioner by the manufacturers and importers of excisable goods based on quantity of stamps issued to them.

[Subsidiary]

(3) The excise stamp fees shall be payable before the stamps are issued to the manufacturer or importer.

6. Retention of revenue from excise stamp fees

The revenue from the excise stamp fees shall be retained by the Commissioner for the financing of the System.

7. Registration

(1) The Commissioner shall register the importers of any excisable goods specified under these Regulations and may impose such conditions as may be necessary on the importers for the purposes of the registration.

(2) A person shall not manufacture or import excisable goods for which an excise stamp is required to be affixed under these Regulations unless that person is licenced or registered by the Commissioner.

8. Application for excise stamps

(1) A manufacturer or importer of excisable goods shall apply to the Commissioner for excise stamps in the prescribed form.

(2) An application for excise stamps shall be submitted to the Commissioner at least sixty days before the manufacture or importation of the excisable goods.

(3) A manufacturer or importer of excisable goods shall pay the excise stamp fees on the approval of the application by the Commissioner.

(4) The Commissioner may require proof of importation by an importer of excisable goods before issuing the importer with the excise stamps.

(5) Despite the provisions of paragraph (4), the Commissioner may, subject to any conditions as the Commissioner may impose, issue excise stamps to an importer of excisable goods before importation.

9. Forecast of consumption

The Commissioner may require a manufacturer or importer of excisable goods to provide, at least sixty days before the beginning of the month in which the manufacturer or importer will require the stamps, a forecast of the quantities of excise stamps which the manufacturers or importer intends to use in each month for the subsequent period of six months.

10. Appointments

(1) Subject to the law regulating public procurement, the Commissioner shall appoint a suitable person to—

- (a) print and supply excise stamps;
- (b) develop and install the System; and
- (c) install any other related systems.

(2) A person appointed under paragraph (1) shall not print any excise stamps required under these Regulations unless requested by Commissioner to do so.

11. Delivery of excise stamps

(1) The Commissioner may, where necessary and subject to such conditions as the Commissioner may impose, require the person appointed to print excise stamps to deliver the stamps directly to a manufacturer or importer of excisable goods.

(2) The person appointed to print excise stamps shall notify the Commissioner of the quantity and type of excise stamps supplied under paragraph (1) within such period as the Commissioner may require.

12. Place and time of affixing, declaration of excise stamps and the printing of digital stamps on excisable goods

(1) Excise stamps shall be affixed on excisable goods in the manner specified by the Commissioner—

- (a) in case of locally manufactured goods. at the production facility immediately after packaging; or
- (b) in the case of imported goods, at a place approved by the Commissioner within five days of the clearance for importation of the goods for home use:

Provided that the commissioner may allow excise stamps on imported excisable goods to be affixed at the production facility in the exporting country in accordance with such conditions as the Commissioner may specify.

(2) The Commissioner may, upon the application, permit digital stamps to be printed by the System on each package and in a visible place with indelible security ink to enable the authentication of, tracking and tracing of, and production accounting for excisable goods.

(3) A manufacturer or importer of excisable goods shall declare in the System the excise stamps used immediately after affixing on the excisable goods or the package containing excisable goods.

(4) A person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a penalty of one hundred thousand shillings or double the value of the excise duty payable on the excisable goods, whichever is higher.

13. Return of excise stamps

(1) A manufacturer or an importer of excisable goods shall return the unused excise stamps to the Commissioner when—

- (a) the manufacturer stops manufacturing;
- (b) there are defects in the excise stamp sheets or reels;
- (c) there is a discrepancy between the declared and the verified imports of the excisable goods;
- (d) the excise stamps have been declared out of use by the Commissioner; or
- (e) the excisable goods have been excluded from the requirements of these Regulations.

(2) The Commissioner shall refund to the manufacturer or the importer of excisable goods, as the case may be, the excise stamp fees paid for excise stamps within ninety days of the return of the stamps.

14. Allowance for wastage or damage

(1) Damaged excise stamps shall be preserved for verification by an authorised officer.

(2) Where a manufacturer or importer of excisable goods cannot account for any excise stamps issued to him by the commissioner, the Commissioner shall compute the excise duty and other taxes on the unaccounted for stamps based on the highest excise rate of excise duty, value and volume of excisable goods manufactured or imported by the manufacturer or importer, as the case may be.

(3) In computing excise duty in the case of unaccounted for excise stamps, the Commissioner shall allow for wastage and damages which shall not exceed one percent of the quantity of the issued stamps.

15. Transfer of excise stamps

(1) A manufacturer or importer of excisable goods may, with the prior approval of the Commissioner, transfer excise stamps held in stock by the manufacturer or importer to another manufacturing or importing unit owned by the same manufacturer or importer.

(2) The Commissioner shall prescribe the procedure and conditions for the transfer and accounting of excise stamps.

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(3) A manufacturer or importer of excisable goods who transfers excise stamps without the prior approval of the Commissioner commits an offence.

16. Installation of the System

A manufacturer or importer of excisable goods specified in these Regulations shall facilitate the installation of the System in the manufacturer's or importer's premises used for the manufacture or storage of imports, as the case may be.

17. Composition of the system

The System shall be composed of—

- (a) excise stamps authentication and validation equipment;
- (b) devices for identification and association of each package with an individual excise stamp;
- (c) production accounting equipment; and
- (d) devices for the control, registration, recording and transmission of data on quantities of excisable goods which have been stamped to the Commissioner.

18. Integration

(1) The installation, integration, preventive and corrective maintenance procedures of all the equipment comprising the System at the manufacturers' or importers' premises shall be done by a contractor under the supervision of an authorised officer.

(2) For the purposes of these Regulations, "contractor" means a person appointed by the Commissioner to supply, install, integrate or maintain the System.

19. Development and supervision

The Commissioner shall be responsible for—

- (a) defining the functional, security and fiscal control requirements to be observed by the contractor in developing the System;
- (b) supervising and monitoring the process of installing the System.

20. Installation of equipment and devices

(1) The System shall be installed on all production lines at the manufacturer's premises corresponding to each packaging machine or labeling machine;

(2) The System for the management of imports shall be installed in the manner specified by the Commissioner.

21. Notice of installation

(1) Where a new or modified System is required, the Commissioner shall notify the manufacturers or importers of excisable goods in writing at least thirty days before the installation and integration of the new or modified System and the notice shall state—

- (a) the requirements for the equipment to facilitate use of System;
- (b) the adaptive features required, on each production line;
- (c) the connectivity features and operating environment for the installation and operation of computers and other equipment comprising the System; and
- (d) the starting date of installation of the System.

(2) Manufacturers or importers of excisable goods shall be responsible for the cost of excise stamps applicators, adjustments or adaptations of their equipment and premises necessary to install and integrate the new or modified System on each production line.

(3) Where a manufacturer or importer of excisable goods is required to carry out adjustments or provide information required by the Commissioner for the installation of the new or modified System, the manufacturer or importer shall carry out the adjustments or provide the information at least seven days before the date of the installation of the new or modified System.

22. Production line to be in operating condition

During the installation of the System, the manufacturer or importer of excisable goods shall ensure that the production lines are in proper operating condition.

23. Manufacturer and importer to report inoperative production lines

(1) The manufacturer or importer of excisable goods shall report to the Commissioner any non-operational production lines within twenty-four hours of the production lines becoming non-operational and the Commissioner shall secure the lines using a security seal and register the seal in the System.

(2) Manufacturer's or importers of excisable goods shall not resume operations on nonoperational production lines without the authority of the Commissioner.

24. Security of equipment

(1) A manufacturer or importer of excisable goods shall be responsible for conservation and security of the System installed in their premises.

(2) Manufacturer or importer of excisable goods shall report any operating failure or tamper of the security seals within twenty-four hours.

25. Preventive and corrective maintenance of the system

(1) The preventive or corrective maintenance of the System shall be performed by the contractor under supervision of an authorised officer.

(2) The contractor shall provide the Commissioner a list of technicians authorised to carry out the installation or maintenance of the System.

26. Advance reports of new brands, etc

A manufacturer or importer of excisable goods shall—

- (a) declare to the Commissioner the packages and labels of brands manufactured or imported including those for export and duty free shops;
- (b) declare to the Commissioner, at least thirty days before the start of the production of new brands of goods or any change in the graphic art of existing brands of goods and the corresponding packages and labels;
- (c) apply to the Commissioner, at least thirty days before installation or removal, for the installation or removal of the System, as the case may be, if the manufacturer or importer—
 - (i) reactivates inoperative production lines;
 - (ii) deactivates production lines;
 - (iii) carries out maintenance works on or reallocates production lines;
 - (iv) installs new production lines; or
 - (v) acquires or sells industrial machinery or equipment.

27. Marking of duty free products and packages

(1) All packages of duty free or export excisable goods specified in these Regulations shall bear distinct markings to enable the goods to be trackable and traceable.

(2) The material wrapping the package for wholesale purposes shall have printed on it—

- (a) in the case of exports, the country of final destination;
- (b) in the case of excisable goods for consumption in Kenya, "FOR USE IN KENYA";
- (c) in the case of excisable goods for sale to duty-free shops, or Diplomatic shops, "DUTY FREE";
- (d) in the case of excisable goods for consumption by Kenya Defence Forces, "KENYA DEFENCE FORCES"; and

[Subsidiary]

- (e) in the case of excisable goods for consumption by National Police Service, "NATIONAL POLICE SERVICE"

28. Exemption from excise stamps

(1) The following excisable goods shall be exempted from the requirement of excise stamps—

- (a) excisable goods manufactured for export, the Kenya Defence Forces, the National Police Service or delivered to a duty free shop;
- (b) excisable goods imported or purchased from a duty free shop by privileged persons or institutions listed in the Second Schedule to the Act; and
- (c) excisable goods imported into Kenya as samples which shall have been exempted from import duty under the Fifth Schedule to the East African Community Customs Management Act, 2004.

(2) The commissioner may require goods under paragraph (1) to be marked with such distinct markings as may be necessary for their identification, authentication and traceability.

29. Verification of stamps

(1) A manufacturer, importer, distributor, retailer or any other person involved in the supply chain of excisable goods, shall verify and authenticate the stamps placed on excisable goods before admitting the goods in the manufacturer's, importer's, distributor's, retailer's or other person's premises.

(2) A person engaged in the distribution or retail of excisable goods shall—

- (a) keep delivery notes, invoices or such other documents from the supplier of the excisable goods; and
- (b) provide in that person's premises sufficient light as may be necessary for the verification or authentication of excise stamps.

(3) A person who fails to keep the documents required under paragraph (2) commits an offence and shall be liable on conviction to a penalty equal to double the open market value of the excisable goods or a fine of one hundred thousand shillings whichever is higher.

(4) The Commissioner may recommend to the relevant authority the withdrawal, cancellation or suspension of the trading license for a person convicted of repeatedly committing an offence under paragraph (2).

30. Offences

(1) A person shall not—

- (a) print over or deface an excise stamp affixed on any excisable goods or package;
- (b) be in possession of excisable goods on which the excise stamps have not been affixed and which have not been exempted under these Regulations;
- (c) attempt to acquire or acquire an excise stamp without the authority of the Commissioner;
- (d) counterfeit, or print, make or in any way create an excise stamp without the authority of the Commissioner;
- (e) be found in possession of an excise stamp printed, made or in any way acquired without the authority of the Commissioner;
- (f) be found in possession of, convey, distribute, sell, offer for sale or by way of trade expose excisable goods without affixing excise stamps in accordance with these Regulations; or
- (g) be found in possession of, convey, distribute, sell, offer for sale or by way of trade expose excisable goods affixed with counterfeit excise stamps

(2) A person who contravenes the provisions of paragraph (1) commits an offence and is liable upon conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

31. Refusal to issue stamps

The Commissioner may refuse to issue excise stamps to a person if that person has—

- (a) not fully accounted for excise stamps previously issued to him or her;
- (b) not fully paid for excise stamps previously issued to them; or
- (c) failed to fully comply with the provisions of the Act relating to filing of returns and payment of excise duty.

32. Seizure of stamps, equipment and goods

The Commissioner shall seize excise stamps, equipment, vehicles or goods where—

- (a) excise stamps—
 - (i) have been counterfeited;
 - (ii) which were subject to be returned to the Commissioner, were not returned; or
 - (iii) have been found in the possession of persons other than those to whom they were supplied;
- (b) the vehicle is used in the storage, concealment or transportation of excisable goods that have not met the requirements of these regulations;
- (c) the equipment or plant is used in the manufacture of counterfeit excise stamps; or
- (d) the excisable goods—
 - (i) bear counterfeited excise stamps;
 - (ii) bear excise stamps affixed in a manner not consistent with guidelines prescribed by the Commissioner; or
 - (iii) do not bear excise stamps as required in accordance with these Regulations.

33. Disposal of forfeited excise stamps and seized goods

Any excisable goods, stamps, motor vehicle and equipment which are seized under these Regulations shall be disposed of in the manner that the Commissioner may consider fit.

34. General offence

A person who fails to comply with the provisions of these Regulations commits an offence.

35. General penalty

A person who commits an offence under these Regulations for which no specific penalty is provided is liable, on conviction, to a fine not exceeding one million and five-hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

36.

[Spent]

SCHEDULE

[r. 5]

Excise Stamps Fees

<i>Category of excisable goods</i>	<i>Fees (KSh)</i>
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	2.8 per stamp
Cigarettes containing tobacco or tobacco Substitutes	
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and	

Excise Duty

[Subsidiary]

"reconstituted tobacco"; tobacco extracts and essences	
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	2.8 per stamp
Compounded spirits of alcoholic strength exceeding 10%	2.8 per stamp
Spirituous beverages of alcoholic strength not exceeding 10%	1.5 per stamp
Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic beverages	1.5 per stamp
Mineral water and aerated water of tariff no. 2201.10.00	0.5 per stamp
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	0.6 per stamp
Sweetened or flavoured water and non-alcoholic beverages not including fruit or vegetable juices of tariff heading 2202	0.6 per stamp
Cosmetics and Beauty products of tariff heading Nos. 3303, 3304, 3305 and 3307	0.6 per stamp

THE EXCISE DUTY (REMISSION OF EXCISE DUTY) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Remission of excise duty
 3. Conditions necessary for remission of excise duty
 4. Returns
 5. Penalty
 6. *[Spent]*
-

THE EXCISE DUTY (REMISSION OF EXCISE DUTY) REGULATIONS

[Legal Notice 52 of 2017, Legal Notice 196 of 2019]

1. Citation

These Regulations may be cited as the Excise Duty (Remission of Excise Duty) Regulations.

2. Remission of excise duty

(1) The Cabinet Secretary may, on the application by a manufacturer, grant the remission of excise duty at eighty per centum with respect to beer made from sorghum, millet or cassava or any other agricultural produce grown in Kenya.

(1A) Despite paragraph (1), the Cabinet Secretary may, on the application by a manufacturer, grant remission of excise duty at ninety per centum with respect to beer made from sorghum, millet or cassava or any other agricultural produce grown in Kenya:

Provided that—

- (a) the manufacturer shall invest at least five billion shillings in the manufacture of the beer;
- (b) the Government and the manufacturer shall enter into an agreement whereas the manufacturer shall meet specific commitments related to the manufacture of the beer; and
- (c) the remission of excise duty under this paragraph shall be for a period not exceeding five years from the date of the commencement of the manufacture of the beer.

(2) This regulation shall not apply in respect of beer made from barley.

[L.N. 196/2019, r. 2.]

3. Conditions necessary for remission of excise duty

A manufacturer applying for remission under paragraph 2(1) and 2 (1A) shall—

- (a) be tax compliant;
- (b) have a valid excise license to produce beer;
- (c) have a fully installed Excisable Goods Management System;
- (d) ensure that the beer has at least seventy five per centum content of sorghum, millet or cassava or any other agricultural products grown in Kenya excluding sugar and barley;
- (e) pack the beer in a pressurized container of at least thirty litres or such other container and quantity as the Cabinet Secretary may approve;
- (f) sell the beer at not more than one hundred shillings per litre;
- (g) meet other regulatory requirements related to the manufacture and distribution of beer including the requirements of public health and Kenya Bureau of Standards; and
- (h) comply with such other conditions as the Commissioner may impose.

[L.N. 196/2019, r. 3.]

4. Returns

(1) Subject to the provisions relating to returns under the Act, a manufacturer who has been granted remission under these Regulations shall provide to the Commissioner in the prescribed manner a detailed return of the quantities and types—

- (a) of raw materials used;
- (b) of beer manufactured; and
- (c) of beer sold.

Excise Duty

[Subsidiary]

(2) A return made under paragraph (1) shall be submitted once in each month or at such other intervals as the Commissioner may require.

5. Penalty

A manufacturer who is granted a remission under regulation 2(1) based on false or misleading information shall, upon demand by the Commissioner, refund the excise duty remitted in addition to any other fine that may be imposed under the Act or any other written law.

6.

[Spent]

ADJUSTMENT OF RATES FOR INFLATION

[Legal Notice 239 of 2018]

IN EXERCISE of the powers conferred by section 10 of the Excise Duty Act (Cap. 472) the Commissioner-General adjusts for inflation the specific rates of duty set out in the Schedule hereto, in accordance with the formula specified in Part I of the First Schedule to the Act and takes into account the average inflation rate for the 2017/2018 financial year of five decimal two per centum (5.2%).

Legal Notice No. 164 of 2018 is revoked

SCHEDULE			
<i>Tariff No.</i>	<i>Tariff description</i>	<i>Current rate of excise duty (Kshs.)</i>	<i>New rate of excise duty (Kshs.)</i>
2709.00.10	Condensates per 1000 litres @ 20°C	6,225.00	6,548.70
2710.12.10	Motor spirit (gasoline) regular per 1000 litres @ 20°C	19,505.00	20,519.20
2710.12.20	Motor spirit (gasoline) premium per 1000 litres @ 20°C	19,895.00	20,929.50
2710.12.30	Aviation spirit per 1000 litres @ 20°C	19,895.00	20,929.50
2710.12.40	Spirit type Jet Fuel per 1000 litres @ 20°C	19,895.00	20,929.50
2710.12.50	Special boiling point spirit and white spirit per 1000 litres @ 20°C	8,500.00	8,942.00
2710.12.90	Other light oils and preparations per 1000 litres @ 20°C	8,500.00	8,942.00
2710.19.10	Partly refined (including topped crude) per 1000 litres @ 20°C	1,450.00	1,525.40
2710.19.21	Kerosene type Jet Fuel per 1000 litres @ 20°C	5,755.00	6,054.20

or not containing added sugar or other sweetening matter			
Waters (excluding water of tariff No. 220 1.90.00) and other non- alcoholic beverages not including fruit or vegetable juices	Shs. 5 per litre		Shs 5.20 Per litre
Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 10%	Shs. 100 per litre		Shs105.20 Per litre
Powdered beer	Shs. 100 per kg		Shs 105.20 per Kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Shs. 150 per litre		Shs 157.80 per litre
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Shs. 200 per litre		Shs 210.40 per litre
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Shs. 10,000 per kg		Shs 10,520 per Kg
Electronic cigarettes	Shs. 3,000 per unit		Shs 3,156.00per unit
Cartridge for use in electronic per unit cigarettes	Shs. 2,000 per unit		Shs 2,104.00 per unit
Cigarette with filters (Hinge lid and soft cap)	Shs. 2,500 per mille		Shs 2,630.00 Per mille
Cigarettes without filters (plain cigarettes)	Shs. 1,800 per mille		Shs. 1,893.00 Per mille
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Shs. 7,000 per kg		7,364.00 Per Kg
Motor cycles of tariff 87.11 other than motor	Shs. 10,000 per unit		Shs 10,520 per unit

Excise Duty

[Subsidiary]

cycle ambulances and locally
assembled
motor cycles

DECREASE RATES OF EXCISE DUTY

[Legal Notice 240 of 2018]

IN EXERCISE of the powers conferred by section 8 of the Excise Duty Act (Cap. 472), the Cabinet Secretary for the National Treasury and Planning amends the First Schedule to the Act by decreasing the rate of excise duty for the goods of the Tariff Nos. set out in the first column of the Schedule hereto of the tariff descriptions set out in the second column by four decimal nine four per centum from the rate set out in the third column to the rate set out in the fourth column with effect from the 12th December, 2018.

SCHEDULE			
<i>Tariff No.</i>	<i>Tariff description</i>	<i>Current rate of excise duty (Kshs.)</i>	<i>New rate of excise duty (Kshs.)</i>
2709.00.10	Condensates per 1000 litres @ 20°C	6,548.70	6,225.00
2710.12.10	Motor spirit (gasoline) regular per 1000 litres @20°C	20,519.20	19,505.00
2710.12.20	Motor spirit (gasoline) premium per 1000 litres @20°C	20,929.50	19,895.00
2710.12.30	Aviation spirit per 1000 litres @20°C	20,929.50	19,895.00
2710.12.40	Spirit type Jet Fuel per 1000 litres @ 20°C	20,929.50	19,895.00
2710.12.50	Special boiling point spirit and white spirit per 1000 litres @ 20°C	8,942.00	8,500.00
2710.12.90	Other light oils and preparations per 1000 litres @ 20°C	8,942.00	8,500.00
2710.19.10	Partly refined (including topped crude) per 1000 litres @ 20°C	1,525.40	1,450.00
2710.19.21	Kerosene type Jet Fuel per 1000 litres @ 20°C	6,054.20	5,755.00
2710.19.22	Illuminating kerosene per 1000 litres @ 20°C	7,579.60	7,205.00
2710.19.29	Other medium oils and preparations per 1000 litres @ 20°C	5,575.60	5,300.00

Excise Duty

[Subsidiary]

2710.19.31	Gas oil (automotive, 10,840.80 light, amber for high speed engines) per 1000 litres @ 20°C	10,305.00
2710.19.32	Diesel oil (industrial, 3,892.40 heavy black for low speed marine and stationary engines) per 1000 litres @ 20°C	3,700.00
2710.19.39	Other gas oils per 6,627.60 1000 litres @ 20°C	6,300.00
2710.19.41	Residual fuel oils 315.60 (marine, furnace and similar fuel oils) of a kinematic viscosity of 125 centistokes per 1000 litres @ 20°C	300.00
2710.19.42	Residual fuel oils 631.20 (marine, furnace and similar fuel oils) of a kinematic viscosity of 180 centistokes per 1000 litres @ 20°C	600.00
2710.19.43	Residual fuel oils 631.20 (marine, furnace and similar fuel oils) of a kinematic viscosity of 280 centistokes per 1000 litres @ 20°C	600.00
2710.19.49	Other residual fuel 631.20 oils per 1000 litres @ 20°C	600.00

ADJUSTMENT OF RATES FOR INFLATION

[Legal Notice 109 of 2019]

IN EXERCISE of the powers conferred by section 10 of the Excise Duty Act (Cap. 472), the Commissioner-General adjusts for inflation the specific rates of duty set out in the Schedule hereto in accordance with the formula specified in Part 1 of the First Schedule to the Act with effect from the 1st July, 2019 and takes into account the average inflation rate for the 2018/2019 financial year of five decimal one five per centum (5.15%).

Tariff No.	Tariff Description	SCHEDULE	
		Current Rate of Excise Duty (KSh.)	New Rate of Excise Duty (KSh.)
2709.00.10	Condensates per 1000 litres @ 20 deg.C	6,225.00	6,545.59
2710.12.10	Motor spirit (gasoline) regular l per 1000 litres@ 20 deg. C	19,505.00	20,509.51
2710.12.20	Motor spirit (gasoline) premium l per 1000 litres @ 20 deg. C	19,895.00	20,919.59
2710.12.30	Aviation spirit per 1000 litres @ 20 deg. C	19,895.00	20,919.59
2710.12.40	Spirit type jet fuel per 100 litres @ 20deg.C	19,895.00	20,919.59
2710.12.50	Special boiling point spirit and white spirit per 1000 litres @ 20 deg.C	8,500.00	8,937.75
2710.12.90	Other light oils and preparations 1 per 1000 litres@ 20 deg. C	8,500.00	8,937.75
2710.19.10	Partly refined (including topped crude) per 1000 litres @ 20 deg. C	1,450.00	1,524.68
2710.19.21	Kerosene type jet fuel	5,755.00	6,051.38

Excise Duty

[Subsidiary]

	per 1000 litres @ 20 deg. C		
2710.19.22	Illuminating kerosene	10,305	10,835.70
2710.19.29	Other medium oils and preparations per 1000 litres @ 20 deg. C	5,300.00	5,572.95
2710.19.31	Gas oil (automotive, light, amber for high speed engines)	10,305.00	10,835.71
2710.19.32	Diesel oil (industrial heavy, black, for low speed marine and stationery engines)	3,700.00	3,890.55
2710.19.39	Other gas oils per 1000 litres @ 20 deg. C	6,300.00	6,624.45
2710.19.41	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 125 centistokes per 1000 litres @ 20 deg. C	300	315.45
2710.19.42	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 180 centistokes per 1000 litres @ 20 deg. C	600	630.9
2710.19.43	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 280 centistokes per 1000 litres @ 20 deg. C	600	630.9
2710.19.49	Other residual fuels oils per 1000	600	630.9

Excise Duty

[Subsidiary]

<i>Description</i>	litres@ 20 deg. C <i>Current Rate of Excise Duty</i>	<i>//New Rate of Excise Duty//</i>
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Shs. 10.50 per litre	Shs. 11.04 per litre
Bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit or vegetable juices	Shs. 5.20 per litre	Shs. 5.47 per litre
Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 10%	Shs. 105.20 per litre	Shs. 110.62 per litre
Powdered beer	Shs. 105.20 per kg	Shs. 110.62 per kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Shs. 157.80 per litre	Shs. 165.93 per litre
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Shs. 210.40 per litre	Shs. 221.24 per litre
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Shs. 10,520 per kg	Shs. 11,061.78 per kg
Electronic cigarettes	Shs. 3,156 per unit	Shs. 3,318.53 per unit
Cartridge for use in electronic cigarettes	Shs. 2,104 per unit	Shs. 2,212.36 per unit
Cigarette with filters (hinge lid and soft cap)	Shs. 2,630 per mille	Shs. 2,765.45 per mille
Cigarettes without filters (plain cigarettes)	Shs. 1,893 per mille	Shs. 1,990.49 per mille
Other manufactured tobacco and manufactured tobacco	Shs. 7,364 per kg	Shs. 7,743.25 per kg

Excise Duty

[Subsidiary]

substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences		
Motor cycles of tariff no. 87.11 other than motor cycle ambulances and locally assembled motor cycles	Shs. 10,520 per unit	Shs. 11,061.78 per unit
Sugar confectionery (including white chocolate) of tariff heading 17.04; chocolate in blocks, slabs or bars of tariff Nos. 1806.31.00, 1806.32.00, 1806.90.00	Shs. 20 per kg	Shs. 21.03 per kg

THE EXCISE DUTY REGULATIONS

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THE EXCISE DUTY REGULATIONS

[Legal Notice 113 of 2020]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Excise Duty Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires —

"Act" means the Excise Duty Act (Cap. 472);

"alcoholic beverage" includes beer, opaque beer, powdered beer wine, spirits and spirituous beverages and mead;

"customs control" has the meaning assigned to it under the East African Community Customs Management Act, 2004;

"denaturer" means a person licenced under the Act to denature spirits;

"feints" means spirits conveyed into a receiver in a distillery entered under these regulations as a feints receiver;

"tobacco" or "tobacco products" includes cigarettes, cigars, cigarillos, electronic cigarettes, other manufactured tobacco and manufactured tobacco substitutes or essences;

"wash" means the fermented liquor from which spirits are produced by distillation; and

"worts" means the liquid obtained by dissolving sugar or molasses in water or by extracting the soluble portion of malt or other cereal in the process of brewing and any primary or colouring solution.

PART II – LICENSING

3. Application for licence or registration

(1) Where a person makes an application to be licensed or registered under section 16, the application shall be accompanied by—

- (a) the documents that the Commissioner may require;
- (b) a written description of the manufacturing processes used by the applicant;
- (c) a plan of each building, room or place to which the application for a licence relates;
- (d) details of the installed production capacity of each production line;
- (e) the prescribed licence application fees; and
- (f) proof of the installation of devices, equipment, systems or other similar requirements prescribed under these Regulations or the Act.

(2) For the purposes of paragraph (1)(e), the fees for the activities specified in Section 15(1)(a) and (b) shall be—

- (a) in case of manufacturers or importers of alcoholic beverages, one hundred thousand shillings;
- (b) in case of manufacturers or importers of tobacco and tobacco products, one hundred thousand shillings; and
- (c) in any other case, fifty thousand shillings.

(3) The applicant shall furnish security for activities specified in section 15(1)(a) and for any other activity as the Commissioner may specify.

(4) A licensed distiller who intends to compound spirits shall apply to the Commissioner for a separate licence in accordance with paragraph (1).

[Subsidiary]

4. Registration of other activities

(1) A person shall not undertake the following activities unless that person is registered by the Commissioner—

- (a) the importation of cigarette paper or cigarette packaging materials;
- (b) the importation of raw or unprocessed tobacco;
- (c) the local purchase or importation of ethanol; and
- (d) the denaturing of spirits.

(2) Only agents of licensed manufacturers of tobacco products shall be registered by the Commissioner as importers of cigarette paper, cigarette packaging materials, or raw or unprocessed tobacco.

(3) A person shall not import or purchase locally produced ethanol unless that person is registered by the Commissioner as a manufacturer of alcoholic beverages or a user of spirits used for the manufacture of unexcisable goods.

5. Inspection of premises

The Commissioner shall inspect premises and processes in respect of an application under regulation 3, 4 and 32.

6. Remote viewing of factories

(1) A licensee shall install systems to enable the remote viewing of the operations of that person's factory by the Commissioner.

(2) The Commissioner shall prescribe the specifications of the system required under paragraph (1) which shall include the capability of storing and transmitting real-time digital images and similar data through a secure platform.

(3) The licensee shall grant the Commissioner unrestricted access to the system contemplated in paragraph (1).

7. Suspension or cancellation of licence or registration

The Commissioner may, in addition to the circumstances specified in section 20, suspend a licence issued under these Regulations if—

- (a) the licensee has been found in possession of unexcised goods;
- (b) the licensee has been found engaging in activities not specified in the licence or registration;
- (c) the activity to which the licence issued under these Regulations relates becomes prohibited under any law; or
- (d) the premises to which the licence relates or the equipment therein have been altered without the approval of the Commissioner.

PART III – EXCISE CONTROL

8. Marking of premises and pipes

(1) A licensee shall—

- (a) at the principal entrance of the premises to which the licence relates and such other prominent place in the premises as the Commissioner may require, mark in official language—
 - (i) in the case of manufacturers and importers of excisable goods, the words "EXCISE CONTROL PREMISES" and the excise licence number allocated to the premises; and
 - (ii) in any other case, the name of the licensee and the licence number allocated to the premises;
- (b) ensure that the pipes in the production process are joined permanently and easily examined along the length of the pipes;

- (c) ensure that the pipes and vessels conform to the standards specified for that industry;
- (d) mark and maintain in different colours each item of plant used in the manufacture, preparation for sale, or storage of materials or excisable goods;
- (e) to the satisfaction of the Commissioner, place and keep each vessel and utensil in a convenient situation easy to access for examination and account, and so fixed as to admit of the content thereof being accurately gauged or metered;
- (f) provide all such fittings as may be required by the Commissioner for securing by way of locking or sealing the factory and plant for purposes of the Act and these Regulations;
- (g) for purposes of paragraph (1) (d), a distiller shall paint on the full length or in bands of suitable intervals on pipes for the conveyance of—
 - (i) spirits in red;
 - (ii) wash or worts in blue;
 - (iii) molasses in green;
 - (iv) low wines of feints in brown;
 - (v) water in yellow; and
 - (vi) fuel oil in black; and
- (h) not vary any process or add to, alter, or move the vessels, utensils, pipes or fittings in the factory without the Commissioner's approval of the variations alterations, movements or additions.

(2) Premises to which a licence relates shall have separate office accommodation, production area, raw materials storage and finished goods storage areas.

(3) For the purposes of paragraph (2), the areas shall be secured and isolated from each other, and fitted in a manner to allow for the securing of the areas by way of locking or sealing for excise control.

(4) Where a person has been issued with a licence for the manufacture of excisable goods and importation of excisable goods, that person shall provide separate premises or storage rooms approved by the Commissioner for storage of the imported goods.

9. Automation of production

The Commissioner may, with respect to specific industries, require premises to which a licence relates to have an automated production process at every stage of manufacturing.

10. Metering and measuring devices.

(1) The Commissioner shall, by notice in the *Gazette*, specify the requirements of a measuring or metering device and such other equipment for a production system as may be required under these Regulations.

(2) The production system shall include such measuring and metering devices approved by the Commissioner that allow for the full accounting of raw materials, intermediate goods and the finished products used or produced in the production facility

(3) Raw materials and finished products storage tanks shall be fitted with tank-gauging systems to allow for the proper accounting of the contents of the tanks.

(4) Metering and measuring devices required under these Regulations shall be installed in such places in the production line as the Commissioner may specify with respect to each production facility.

(5) A licensee shall—

- (a) install and regularly maintain accurately calibrated, metered and gauged tanks and vessels to enable easy examination and accounting of the content therein by the Commissioner; and

[Subsidiary]

- (b) keep maintenance logs for metering and measuring devices required under these Regulations and ensure that the devices are calibrated at least once every year.

11. Marking of products, containers and packages

(1) Packages of excisable goods including those meant for duty free shops, diplomatic shops or exportation, and other excisable goods shall bear distinct markings to enable the goods to be trackable and traceable.

(2) Despite the generality of paragraph (1), each package or container and material wrapping the package for wholesale purposes shall have printed on it—

- (a) in the case of excisable goods for exportation, "FOR EXPORT";
- (b) in the case of excisable goods for sale to duty-free shops or diplomatic shops, "DUTY FREE"; and
- (c) in the case of alcoholic and non-alcoholic beverages for consumption by the Kenya Defence Forces, "KENYA DEFENCE FORCES".

(3) The Commissioner may specify markings for other excisable goods that may be exempt from excise duty.

12. Control of raw materials

(1) A licensee shall keep the raw materials used for the manufacture of excisable goods in a secure room or storage facility which allows for the accounting of the materials in the room or facility.

(2) A person shall not remove any raw materials for a purpose other than for manufacturing in the licensed premise without the approval of the Commissioner.

(3) A distiller shall not store any compounded spirits in the licensed premises.

13. Storage and delivery of excisable goods after manufacture

(1) Excisable goods shall, after the process of manufacture has been completed, be transferred to a room clearly marked as "EXCISE STOCK ROOM".

(2) Excisable goods shall only be removed from an excise stock room in accordance with these Regulations.

(3) Excisable goods in an excise stock room shall be stored in such a manner as to facilitate the accounting of the goods therein.

(4) Goods manufactured for export or exempt from excise duty shall be stored separately in an excise stock room.

(5) A licensee shall provide a separate room for the storing of excisable goods that have been returned to the factory.

(6) A person shall not transfer or transport any excisable goods to another person or premises for bottling or filling without the prior written approval of the Commissioner:

Provided that a licensed manufacturer may transfer excisable goods within that manufacture's licensed premises.

14. Excisable goods for export exemption, etc.

(1) A licensee shall, in addition to the payment of any other taxes or penalties imposed under any other tax laws, pay the excise duty on excisable goods—

- (a) manufactured for export which have been diverted into or offered for sale in Kenya; and
- (b) used in a manner that is inconsistent with the conditions of exemption, remission or refund under the Act.

(2) A licensee shall be responsible for declaration and transportation of excisable goods destined for export or under remission, exemption or refund.

15. Records

(1) A person issued with a licence under these Regulations shall keep records that will enable the Commissioner to ascertain the tax liability of that person including—

- (a) in relation to locally manufactured excisable goods—
 - (i) detailed records relating to the purchase or import of inputs used in the manufacture of the goods;
 - (ii) raw materials stock and usage;
 - (iii) production records at every stage of the manufacturing process;
 - (iv) packaging records;
 - (v) details of goods removed from the factory;
 - (vi) periodic readings of measuring and metering devices for each tax period;
 - (vii) records of calibration of measuring and metering devices as required under these Regulations;
 - (viii) sales records; and
 - (ix) any other relevant record that the Commissioner may require;
- (b) in relation to imported excisable goods—
 - (i) commercial invoices, copies of customs entries, receipts for the payment of customs duty and other relevant taxes; and
 - (ii) such other relevant documents as may be required under the East African Community Customs Management Act, 2004;
- (c) in relation to supply of excisable services—
 - (i) details of each supply of services; and
 - (ii) any other record that the Commissioner may require;
- (d) in relation to the denaturing of spirits—
 - (i) daily accounts in the approved form of all spirits and denatured spirits received or manufactured and their disposal thereof;
 - (ii) details of approved denaturants including available stocks, any records of receipt and usage; and
 - (iii) any other relevant records that the Commissioner may require; and
- (e) in relation to the use of spirits, kerosene or denatured spirits to manufacture unexcisable products—
 - (i) the quantities of spirits, kerosene or denatured spirits used;
 - (ii) the production records including records of quantities of the unexcisable goods manufactured;
 - (iii) sales records;
 - (iv) evidence of payment of taxes on the inputs; and
 - (v) any other relevant record that the Commissioner may require.

(2) Records kept under these Regulations shall be maintained in such a form as to facilitate the easy examination of the records in respect of each tax period.

16. Declaration of brands

(1) A licensee shall not bottle or otherwise pack any excisable goods for sale if the manufacturing of such good has not been approved by the Commissioner.

(2) Despite paragraph (1), the Commissioner may, upon application, in writing authorise a person to conduct experimental operations.

(3) The Commissioner may impose such conditions as may be necessary on a person authorised to conduct experimental operations under paragraph (2).

[Subsidiary]

17. Provision of office accommodation

The Commissioner may, for the purpose of ensuring proper excise control, require a licensee to provide suitable office accommodation and equipment in a factory for the authorised officer responsible for excise control at the factory.

PART IV – PRODUCT ACCOUNTING

18. Product accounting system

(1) The Commissioner may require a manufacturer or importer of excisable goods to facilitate the installation of a product accounting system in the premises where the excisable goods are manufactured.

(2) A product accounting system shall comprise of—

- (a) product authentication and validation equipment; and
- (b) devices for the control, registration, recording and transmission of data on quantities of excisable goods that have been manufactured or imported by the manufacturer or importer.

(3) The product accounting system shall—

- (a) be installed on all production lines at the manufacture's premises corresponding to each packaging machine or labelling machine; and
- (b) with respect to imports, be installed in the manner specified by the Commissioner.

(4) Where a new or modified system is required, the Commissioner shall notify the manufacturers or importers of excisable goods in writing at least thirty days before the installation and integration of the new or modified system.

(5) The notice under paragraph (4) shall state—

- (a) the requirements for the equipment to facilitate use of the system;
- (b) the adaptive features required on each production line; and
- (c) the connectivity features and operating environment for the installation and operation of computers and other equipment.

(6) A manufacturer who has installed a product accounting system shall notify the Commissioner in writing of any non-operational or inoperative production line —

- (a) within twenty-four hours of the production line becoming non-operational or inoperative; or
- (b) where the manufacturer does not intend to produce, twenty-four hours after the last production.

(7) The Commissioner may secure production lines by sealing if—

- (a) a manufacturer reports non-operational or inoperative lines under paragraph (6); or
- (b) the installed production capacity of the production lines remains underutilised.

(8) Where the Commissioner secures production lines in accordance with paragraph (7), the manufacturer shall provide the Commissioner with a production schedule indicating the dates and times when the manufacturer intends to restart production in order to facilitate the unsealing of the production lines.

PART V – SECURITY OF EXCISE DUTY

19. Bond security

(1) The Commissioner shall require a licensee to provide security for the purpose of securing excise duty payable on excisable goods or compliance with any requirements under the Act.

(2) The licensee may give the security in any of the following forms—

- (a) by bond, in such sum and subject to such conditions and with such sureties as the Commissioner may require;
- (b) by cash deposit; or
- (c) partly by bond and partly by cash deposit.

(3) Where security is required to be given under the Act for any particular purpose, then the security may, with the approval of the Commissioner, be allowed to cover any other transaction for a specified period.

(4) Where security is given by way of a bond, the bond shall take the form of the Excise Bond Security Form set out in the First Schedule.

(5) Any bond given under the Act shall be framed such that the person giving the bond, and any surety thereto, is bound to the Commissioner by that person's name for the due performance of the conditions of the bond.

(6) A bond may be discharged by the Commissioner on the expiration of three years from the date it was issued unless it is otherwise discharged due to the performance of the conditions imposed on the bond.

(7) Where a bond given under the Act is discharged, then the Commissioner shall cause the bond to be cancelled and an endorsement to that effect made thereon.

(8) In determining the bond amount required under the Act, the Commissioner shall use

- (a) the projected annual excise duty that would be payable by the licensee; and
- (b) the risk profile of the industry to which the licensee belongs.

20. Sureties

(1) Without prejudice to the rights of a surety to a bond given under the Act with respect to the giver of a bond, the surety shall, for all the purposes of the bond, be deemed to be the principal debtor.

(2) The surety shall not be discharged, nor the surety's liability affected, by the giving of time for payment, or by the omission to enforce the bond for a breach of any conditions thereof, or by any other act or omission which would not have discharged the bond if the surety had been the principal debtor.

(3) The Commissioner may require the person giving a bond to enter into a fresh surety if the first surety—

- (a) dies;
- (b) becomes bankrupt or enters into an arrangement or composition with, or for the benefit of, his creditors; or
- (c) departs from Kenya without leaving sufficient property therein to satisfy the whole amount of the bond.

21. Enforcement of bonds

(1) Where the conditions of a bond have not been complied with, the Commissioner may, by notice in writing, require the person who has given security to pay to the Commissioner the amount of the security within such period as specified in the notice.

(2) Where a person fails to comply with the notice under paragraph (1), the Commissioner may enforce payment of the security as though it were excise duty due and unpaid.

22. Cancellation of bonds

(1) The Commissioner may cancel a bond if—

- (a) the licensee ceases to carry on the activity for which the licensee was issued with a licence;
- (b) the purpose for which the bond was given has been accomplished;
- (c) the circumstances provided in regulation 20 (3) apply to a surety; or

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(d) the bond expires.

(2) A licensee may apply in writing to the Commissioner for the cancellation of a bond and the application shall be accompanied by evidence that the licensee has complied with the provisions of the Act that necessitated the giving of security.

PART VI – MANUFACTURE OF WINES, FORTIFIED
WINES, SPIRITS AND SPIRITOUS BEVERAGES

23. Manufacture, mixing and fortification of wines

(1) Subject to such conditions and limitations as the Commissioner may prescribe, a wine manufacturer may—

(a) mix in the licensed premises, spirits with wine manufactured by the manufacturer in a proportion not exceeding ten litres of proof spirit to one hundred litres of wine:

Provided that the mixture shall not thereby be raised to a greater strength than fifty degrees of proof; or

(b) during the process of manufacture, mix wine made by the manufacturer with imported wine on which the full taxes and custom duties have been paid.

(2) Where any wine contains any imported wine which has been mixed therewith, the manufacturer shall declare on the main label of each bottle or other immediate container the quantity of imported wine expressed as a percentage of the total quantity of wine in each bottle or other immediate container.

24. Purchase and sale of spirits

(1) Prior to making any sale, a licensed distiller shall confirm eligibility—

(a) of a person to procure spirits for use in Kenya; and

(b) of a regional importer to use spirits for lawful purposes in the country of importation.

(2) A licensed distiller shall provide to the Commissioner at least once in each month or at such other intervals as the Commissioner may direct the details of any person who purchases ethanol.

25. Removal and transportation of spirits

(1) A person shall not transfer or transport any spirit to another person or premises for manufacture, bottling or filling without the prior written approval of the Commissioner:

Provided that a distiller may transfer spirits within the distiller's licensed premises.

(2) Except as permitted by the Commissioner, spirits transported or transferred under paragraph (1) shall be accompanied by an approved removal permit issued by the Commissioner and subject to such limitations and conditions as may be specified in the permit.

(3) Spirits transported and transferred under this regulation shall be packaged in casks or containers marked and printed on the containers' main labels—

(a) the name and address of the manufacturer;

(b) the place and date of the manufacture of the product;

(c) the batch number of the product;

(d) the bar code assigned to the product; and

(e) any other markings that link the product to the manufacturer.

(4) Notwithstanding paragraph (3), the Commissioner may approve the transportation or transfer of spirits by other means which shall be secured in such a manner as the Commissioner may approve.

Distillation and denaturing of spirits

26. Distiller who is denaturer or compounder

(1) If a distiller who is also a rectifier or denaturer wishes to rectify or denature spirits manufactured by the distiller, either in the factory in which the spirits were distilled or in another factory adjacent thereto, that distiller shall—

- (a) make such structural alterations to any of those premises;
- (b) provide such additional equipment as the Commissioner shall consider necessary for the exercise of proper excise control; and
- (c) provide secure storage for denaturants that is satisfactory and accessible to the Commissioner.

(2) An authorised officer may access and examine the denaturants at any time.

(3) Subject to Regulation 3 (4) and any conditions that the Commissioner may impose, a licensed distiller may compound spirits manufactured in the distillery.

27. Denaturing of spirits.

(1) A person other than a licensed distiller shall not denature spirits.

(2) A licensed distiller who denatures spirits—

- (a) shall denature spirits under the supervision of the Commissioner; and
- (b) shall not release denatured spirits without approval of the Commissioner.

(3) A person shall not import denatured spirits without the written approval of the Commissioner.

28. Substances and formulae for denaturing spirits

Spirits shall be denatured only by mixing the spirit with the substances specified in the Second Schedule.

29. Denaturants to conform to conditions

(1) The substances used in denaturing spirits shall conform to the conditions specified in the Third Schedule.

(2) Despite paragraph (1), the Commissioner may authorise in writing a licensee to use any other substance that does not conform to the conditions specified in the Third Schedule to denature spirits.

30. Mixing and storage rooms for denaturants

(1) A denaturer shall, with the written approval of the Commissioner, provide, in convenient proximity to the denaturing plant but separate from the mixing room, a storeroom or compartment that shall be used exclusively for the storage of denaturants and marked as being used for that purpose.

(2) Subject to such conditions as the Commissioner may impose, spirits intended to be denatured shall be conveyed to the premises where they are to be denatured through a pipeline.

(3) A metering device shall be installed on the pipeline conveying spirits intended to be denatured under paragraph (2).

(4) A denaturer shall mix spirits with the denaturants in a mixing room approved by the Commissioner in writing and in accordance with the formula specified in the Second Schedule.

(5) A person shall not take into or keep in the mixing room approved under paragraph (4) any substance, other than the spirits intended to be denatured, denatured spirits, denaturants or water for use in denaturing, without the written approval of the Commissioner.

31. Receivers or vats used for storage of certain spirits

(1) Subject to such conditions as the Commissioner may impose, a distiller may keep receivers or vats in any approved place on the licensed premises for the storage of spirits which are subsequently to be delivered through metering devices for—

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- (a) rectification or compounding;
- (b) denaturing;
- (c) home use; or
- (d) exportation.

(2) Spirits that are stored in the receivers or vats in accordance with paragraph (1) shall be deemed to be in the distiller's excise stock room.

32. Permission to keep or use stills

(1) An application under section 26 for permission to keep or use a still shall be made to the Commissioner in the approved form, and the Commissioner may grant the application subject to such conditions as he sees fit.

(2) A person who applies for permission to keep or use a still under section 26 shall provide particulars of—

- (a) the still, including technical drawings thereof;
- (b) the premises on which the still shall be kept;
- (c) the purpose for which the still shall be kept or used; and
- (d) such other particulars as the Commissioner may require.

33. Disposal of stills

A person permitted to keep or use a still shall not dispose of the still except in accordance with the directions of the Commissioner.

34. Exemption for laboratory

Regulations 32 and 33 shall not apply to apparatus which, in the opinion of the Commissioner, are of a kind intended to be used solely for ordinary laboratory processes.

Ascertainment of strength of spirits

35. Ascertainment of strength of spirits

(1) The strength of spirits may be ascertained by means of —

- (a) alcohol hydrometer, thermometer and associated practical alcohol tables; or
- (b) automatic alcohol density meter at twenty degrees centigrade.

(2) In ascertaining the strength of spirits which contain added substances other than water, the Commissioner shall remove from the spirits such substances by either distillation or such other process as the Commissioner may determine, and add water to replace the volume so removed.

36. Ascertainment by weight, measure or gauge

(1) The volume of spirits contained in any container may be ascertained for any purpose by weight, measure or gauge as the Commissioner may direct.

(2) Where the Commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated—

- (a) by means of alcohol hydrometer and the associated practical alcohol table; or
- (b) by use of an automated density meter at twenty degrees centigrade.

37. Determination of gravity of worts

The original gravity of worts shall be determined in accordance with the Fourth Schedule.

PART VII – OFFSETS, REFUNDS AND EXEMPTIONS OF EXCISE DUTY

38. Refunds of excise duty

(1) Subject to Section 29, where—

Excise Duty

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- (a) the purchaser of any goods wishes to return the goods to the seller, the purchaser shall notify the Commissioner accordingly and submit such evidence as the Commissioner may require that the goods were not in accordance with the contract of sale or that the goods were damaged before they were delivered out of the factory;
- (b) a person makes a claim for the refund of excise duty in respect of damaged or destroyed goods, the person shall retain for examination by an authorised officer any residue or damaged portion of the goods in respect of which a claim is made:

Provided that where goods are destroyed or pillaged, that person has notified the Commissioner within twenty-four hours of the occurrence; and
- (c) a person makes a claim for refund of excise duty in respect of goods that have been stolen, that person shall provide such evidence as the Commissioner may require.

(2) Where a person has applied for a refund of excise duty in accordance with section 29 (1)(a)(iii), the refund shall not be allowed unless the Commissioner is satisfied that—

- (a) the goods were delivered under a contract of sale and the description, quality, state or condition of the goods was not in accordance with the contract; and
- (b) the goods are re-exported within twelve months from the date of the payment of excise duty and in the manner that the Commissioner shall specify in writing.

(3) An application for the refund of excise duty in respect of spirit or illuminating kerosene used to manufacture unexcisable goods shall only be allowed if—

- (a) the spirit was purchased from a licensed distiller or imported by the licensee; or
- (b) the illuminating kerosene was purchased from an oil marketing company licensed by the authorised regulator.

39. Offset of excise duty

A person shall not offset excise duty on the raw materials under section 14 where the raw materials—

- (a) remain unused while in the factory;
- (b) are used to manufacture goods which are under excise control; or
- (c) are used to manufacture exempt goods.

40. Exemption from excise duty

(1) Excisable goods that have been lost or destroyed shall not be exempted from excise duty under section 7(1) unless the person whose goods have been lost or destroyed—

- (a) notifies the Commissioner in writing while the destruction of the goods is taking place or within twenty-four hours following the destruction, or such further period as the Commissioner may allow:

Provided that the person furnishes the Commissioner in writing with the particulars of the excisable goods which were destroyed within such period as the Commissioner may allow;

- (b) retains for examination by the Commissioner any remaining evidence of damage or destruction and any residue or damaged portion of the excisable goods;
- (c) where excisable goods have been lost, has notified the Commissioner within twenty-four hours of the loss and provided such evidence as the Commissioner may require.

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(2) Excisable goods that are exported or supplied in accordance with section 7 and paragraphs (1), (2) and (3) of the Second Schedule to the Act shall be exported or supplied under customs control.

(3) A bond executed for purposes of this regulation shall be discharged upon proof to the satisfaction of the Commissioner that the goods have been received by the exempt person or duly exported.

PART VIII – SEIZURES

41. Seizure of goods, vehicles, equipment, premises or plants

(1) The Commissioner may seize goods, equipment, vehicles, plants, vessels or any other thing where—

- (a) excisable goods have been manufactured or imported contrary to these Regulations or the Act (Cap. 469B);
- (b) the vehicles, premises, plants, vessels or any other thing—
 - (i) are used in the storage, concealment or transportation of excisable goods that have not met the requirements of these Regulations or the Act; or
 - (ii) are used in a manner that is inconsistent with these Regulations or the Act.

(2) Excisable goods, motor vehicles, equipment and plants which are seized under these Regulations may be liable to forfeiture and may be disposed of in the manner that the Commissioner may consider fit.

42. Notice of seizure

A notice of seizure issued under this part shall be in the prescribed form as specified by the Tax Procedures Act (Cap. 469B).

43. Procedure of seizure

Goods, equipment, plants, vehicles, premises, vessels or any other thing seized under these Regulations shall be dealt with in accordance with the provisions of the Tax Procedures Act (Cap. 469B).

PART IX – GENERAL PROVISIONS

44. General offence

(1) A person who fails to comply with the provisions of these Regulations commits an offence.

(2) Where a person commits an offence under these Regulations, that person shall be liable to the relevant sanctions under the Act.

45. Recommendation of withdrawal of trading licence

The Commissioner may recommend to the relevant authority the withdrawal, cancellation or suspension of the business or trading licence or permit issued to a person convicted of repeatedly committing an offence under these Regulations.

46. Transitional provisions

Any person who was registered or licensed prior to the coming into effect of these Regulations shall—

- (a) be deemed to be registered or licensed under these Regulations;
- (b) comply with any additional requirements under these Regulations within a period of one year from the date of commencement of these regulations; or
- (c) where the person is unable to comply with the additional requirements introduced under these Regulations within the period specified under

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paragraph (b), the person shall apply to the Commissioner for additional time which shall not exceed twelve months:

Provided that an application for additional time shall be made at least thirty days before the expiry of the period specified in paragraph (b).

47. Revocation

(1) Subject to section 46 of the Act, the Customs and Excise Regulations are revoked.

(2) Despite paragraph (1), the Regulations relating to management of petroleum oils, under the revoked Regulations, shall remain in force until regulations with respect to the same matter are made.

FIRST SCHEDULE

[r. 19(4)]

Excise Bond Security Form

(r. 19 (4))

EXCISE BOND SECURITY FORM
BOND FOR PROTECTION OF EXCISE DUTIES

I/We.....Of
(Address).....and (Guarantor).....of
(Address).....

Hereby acknowledge that I/we am/are bound to the Commissioner of Domestic Taxes in the sum ofshillings to be paid to the Commissioner of Domestic Taxes for which payment I/we bind myself/ourselves jointly and severally and also my/our heirs, executors, administrators and assigns and each of them in respect of

Dated thisday of....., 20.....

WHEREAS the above named..... has/ have been granted a licence to manufacture excisable goods and whereas the above named is/are required to pay the excise duty thereon in accordance with the provisions of the Excise Duty laws not later than the twentieth day of the month next succeeding that in which the duty becomes due or within such other time as may be determined by the Commissioner.

Now the condition of this obligation is such that if the above named shall pay the full duties due or charged within that time then this obligation shall be void but otherwise shall be and remain in full force.

Signed, sealed and delivered by }
The above }
named.....

In the presence of }
(name) }

..... }
designation) }
of..... }

(address) }
Signed, sealed and delivered by }
The above }
named.....

In the presence of }
(name) }

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..... }
 designation)
 of..... }
 (address)
 Approved
 Commissioner

SECOND SCHEDULE

[r. 28]

SUBSTANCES TO BE MIXED WITH SPIRITS FOR THE
 PURPOSE OF MANUFACTURING DENATURED SPIRITS

Completely Denatured Spirits (CDS)

- (i) In the case of completely denatured spirits (CDS-1), to every 90 parts by volume of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 10 parts by volume of methyl alcohol and one-half of one part by volume of crude pyridine and to each 1000 litres of the mixture of which is added 3.75 litres kerosene petroleum oil and not less than 1.5 grams of powdered methyl violet dye.
- (ii) In the case if completely denatured spirits (CDS-2) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 2 litres of methyl ethyl ketone, 3 litres of methyl isobutyl ketone, 1 gram of denatonium benzoate and not less than 0.2 grams of powdered methylene blue dye.
- (iii) In the case of completely denatured spirits for export (CDS—E) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added denaturants in accordance with the regulations prescribed by the Government of a foreign country to which the denatured spirits will be exported.

Specially Denatured Spirits (SDS)

- (iv) In the case of specially denatured spirits (SDS-1) to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 4 litres of methyl alcohol and not less than 1 gram of denatonium benzoate.
- (v) In the case of specially denatured spirits (SDS-2), to every to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 4 litres of methyl alcohol and not less than 250 grams of sucrose octaacetate.
- (vi) In the case of specially denatured spirits (SDS-3), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 3 litres of isopropyl alcohol and not less than 2 grams of denatonium benzoate.
- (vii) In the case of specially denatured spirits (SDS-4), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added two and one-half litres of diethyl phthalate and not less than 125 millilitres of tert-butyl alcohol.
- (viii) In the case of specially denatured spirits (SDS-5), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 250 grams of sucrose octaacetate and not less than 100 millilitres of tert-butyl alcohol.
- (ix) In the case of specially denatured spirits (SDS-6), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added 1 gram of denatonium benzoate and not less than 100 millilitres of tert-butyl alcohol.

- (x) In the case of specially denatured spirits for export (SDS—E), to every 100 litres of ethyl alcohol of an alcoholic strength by volume of not less than 94 per cent there shall be added denaturants in accordance with the regulations prescribed by the Government of a foreign country to which the denatured spirits will be exported.

Power Alcohol

- (xi) In the case of power alcohol for use in motor spirit, to every one hundred parts by volume of anhydrous ethanol add one part by volume of motor spirit (gasoline) regular.

THIRD SCHEDULE

[r. 29]

CONDITIONS TO WHICH DENATURANTS MUST CONFORM

1. Methyl alcohol

- (i) Methyl alcohol shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of methanol, CH₃OH.
- (ii) The density of the material at 20°C shall be not lower than 0.791 g/mL and not higher than 0.794 g/ml.
- (iii) When the material is distilled, the distillation range at 1013 millibars pressure shall not exceed 1.0°C and shall include the value 64.6°C.
- (iv) The residue on evaporation of the material shall not exceed 0.001% (m/m).
- (v) The material shall not be alkaline to phenolphthalein and shall not contain more than 0.003% (m/m) of acid, calculated as formic acid (HCOOH).
- (vi) The material shall not contain more than 0.005% (m/m) of aldehydes and ketones, calculated as acetone (CH₃COCH₃).
- (vii) The material shall not contain more than 0.1% (m/m) of water.
- (viii) The material shall contain methyl alcohol purity of not less than 99.85% v/v

2. Isopropyl alcohol

- (i) Isopropyl alcohol shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of propan-2-ol, (CH₃)₂CHOH.
- (ii) The density of the material at 20°C shall be not lower than 0.785 g/mL and not higher than 0.787 g/ml.
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 81.5°C and the dry point at 1013 millibars pressure shall be not higher than 83.0°C.
- (iv) The residue on evaporation of the material shall not exceed 0.002% (m/m).
- (v) The material shall not contain more than 0.50% (m/m) of water.
- (vi) The material shall not be alkaline to phenolphthalein and shall not contain more than 0.002 % (m/m) of acid, calculated as acetic acid (CH₃COOH).
- (vii) The material shall not contain more than 0.10 % (m/m) of aldehydes and ketones, calculated as acetone (CH₃COCH₃).
- (viii) The material shall contain isopropyl alcohol purity of not less than 95% v/v.

3. Tertiary-Butyl alcohol

- (i) Tertiary-Butyl alcohol shall be clear colorless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 2-methyl-2-propanol, (CH₃)₃COH.

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- (ii) Freezing point (first needle) above 20°C.
- (iii) Specific gravity at 25°C/25°C. 0.780 to 0.786.
- (iv) When 100 ml of tertiary butyl alcohol is distilled, none shall distil below 78°C and none above 85°C at 1013 millibars pressure. More than 95 percent shall distil between 81°C and 83°C.
- (v) Acidity (as acetic acid). 0.003 percent by weight maximum.
- (vi) Identification test. Place five drops of a solution containing approximately 0.1 percent tertiary butyl alcohol in ethyl alcohol in a test tube. Add 2 ml of Denige's reagent (dissolve 5 grams of red mercuric oxide in 20 ml of concentrated sulphuric acid; add this to 80 mL of distilled water, and filter when cool). Heat the mixture just to the boiling point and remove from the flame. A yellow precipitate forms within a few seconds.
- (vii) The material shall contain Tertiary-Butyl alcohol purity of not less than 95%v/v.

4. Methyl ethyl ketone

- (i) Methyl ethyl ketone shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 2-butanone (ethyl methyl ketone), $\text{CH}_3\text{COCH}_2\text{CH}_3$.
- (ii) The density of the material at 20°C shall be not lower than 0.803 g/mL and not higher than 0.805 g/ml.
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 79.0°C and the dry point at 1013 millibars pressure shall be not higher than 81.0°C.
- (iv) The residue on evaporation of the material shall not exceed 0.002 % (m/m).
- (v) The material shall not contain more than 0.15% (m/m) of water.
- (vi) The acidity of the material, calculated as acetic acid (CH_3COOH), shall not exceed 0.004 % m/m.
- (vii) The material shall contain not more than 0.70 % (m/m) of alcoholic impurities, calculated as butanol ($\text{C}_4\text{H}_9\text{OH}$).
- (viii) The material shall contain methyl ethyl ketone purity of not less than 95%v/v.

5. Methyl isobutyl ketone

- (i) Methyl isobutyl ketone shall be clear colourless liquid and free from matter in suspension, as assessed by visual inspection, and shall consist essentially of 4-methylpentan-2-one, $\text{CH}_3\text{COCH}_2\text{CH}(\text{CH}_3)_2$.
- (ii) The density of the material at 20°C shall be, not lower than 0.799 g/mL and not higher than 0.802 g/mL.
- (iii) When the material is distilled, the initial boiling point at 1013 millibars pressure shall be not lower than 114.0°C and the dry point at 1013 millibars pressure shall be not higher than 117.0°C.
- (iv) The residue on evaporation of the material shall not exceed 0.002 % (m/m).
- (v) The material shall contain not more than 0.10% (m/m) of water. The acidity of the material, calculated as acetic acid (CH_3COOH).
- (vi) The material shall contain not more than 0.30% (m/m) of alcoholic impurities, calculated as hexanol ($\text{C}_6\text{H}_{13}\text{OH}$).
- (vii) The material shall contain methyl isobutyl ketone purity of not less than 95% v/v.

6. Sucrose octaacetate

- (i) Sucrose octaacetate shall be white or cream-coloured powder, as assessed by visual inspection, and shall consist essentially of sucrose octaacetate, $\text{C}_{28}\text{H}_{38}\text{O}_{19}$.

- (ii) Melting point not less than 78.0°C.
- (iii) Free acid (as acetic acid). Maximum percentage 0.15 by weight when determined by the following procedure: Dissolve 1.0 gram of sample in 50 ml of neutralized ethyl alcohol and titrate with 0.1N sodium hydroxide using phenolphthalein indicator.

Percent acid as acetic acid = ml NaOH used x 0.6/weight of sample.

- (iv) Purity. Sucrose octaacetate 98 percent minimum by weight, when determined by the following procedure: Transfer a weighed 1.50 grams sample to a 500 ml Erlenmeyer flask containing 100 ml of neutral ethyl alcohol and 50.0 ml of 0.5 N sodium hydroxide. Reflux for 1 hour on a steam bath, cool and titrate the excess sodium hydroxide with 0.5 N sulphuric acid using phenolphthalein indicator.

Percent sucrose octaacetate = (ml NaOH — ml H₂SO₄) x 4.2412/weight of sample

7. Diethyl phthalate

- (i) Diethyl phthalate shall be clear colourless liquid as assessed by visual inspection, and shall consist essentially of ethyl benzene-1, 2-dicarboxylate, C- C₁₂H₁₄O₄.
- (ii) Specific gravity at 25°C/25°C. 1.115 to 1.118.
- (iii) Refractive index at 25°C. 1.497 to 1.502.
- (iv) Ester content (as diethyl phthalate). Not less than 99 percent by weight.

Note. The sample taken for ester determination should be approximately 0.8 gram.

The number of ml of 0.5 N potassium hydroxide used in saponification multiplied by 0.05555 indicates the number of grams of ester in the sample taken for assay.

8. Denatonium benzoate

- (i) Denatonium benzoate shall be white powder as assessed by visual inspection, and shall consist essentially of benzyldiethyl [(2, 6-xylylcarbamoyl) methyl] ammonium benzoate, C₂₈H₃₄N₂O₃.
- (ii) Melting point: Not less than 163°C and not more than 170°C, on a dried specimen.
- (iii) Identification.
 - (a) Dissolve about 150 mg in 10 ml of water, and add 15 ml of trinitrophenol: a yellow precipitate is formed.
 - (b) Dissolve about 100 mg in 10 mL of water, and add 20 mL of 2N sulphuric acid and 15 mL of ammonium reineckate (shake about 500 mg of ammonium reineckate with 20 mL of water frequently during 1 hour, and filter. Use within 2 days). Mix, filter through a sintered-glass crucible using gentle suction, and wash thoroughly with water. Remove as much water as possible with suction, and then dry in an oven at 105°C for 1 hour: the denatonium reineckate so obtained melts at about 170°C.
- (iv) Assay. Contains not less than 99 percent by weight benzyldiethyl [(2,6-xylylcarbamoyl) methyl] ammonium benzoate when assayed by the following method: Dissolve about 900 mg of denatonium benzoate, previously dried and accurately weighed, in 50 ml of glacial acetic acid, add 1 drop of crystal violet (dissolve 100 mg of crystal violet in 10 mL of glacial acetic acid), and titrate with 0.1N perchloric acid to a green end-point. Perform a blank determination, and make any necessary correction. Each mL of 0.1N perchloric acid is equivalent to 44.66 mg of denatonium benzoate, C₂₈H₃₄N₂O₃.

9. Crude Pyridine

- (i) Crude pyridine must consist of pyridine bases and must not be more deeply coloured than a mixture of 2 millilitres of 0.05 molar iodine with one litre of water.

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- (ii) It must mix readily and completely with alcohol of a strength of not less than 95 per cent alcohol by volume and must give a clear or only slightly opalescent solution when mixed with twice its volume of water.
- (iii) 10 millilitres of a 1 per cent solution in water must produce immediately a distinct crystalline precipitate on vigorous shaking after the addition of 5 millilitres of an aqueous solution of cadmium chloride containing 5 grammes of the anhydrous fused salt in 100 millilitres, and produce an abundant separation of crystals within 10 minutes.
- (iv) A white precipitate must be formed when 10 millilitres of a 1 per cent solution in water are mixed with 5 millilitres of Nessler's reagent.
- (v) 1 millilitre of crude pyridine dissolved in 10 millilitres of distilled water must require not less than 9.5 millilitres of 0.5 molar sulphuric acid for neutralisation using screened methyl orange as an indicator.
- (vi) 100 millilitres distilled in accordance with Determination of distillation characteristics of volatile organic liquids (IP 195/98(2004)) (BS 2000-195:1998) must give a distillate of at least 50 millilitres at a temperature of 140°C and of 90 millilitres at 160°C.

10. Kerosene petroleum oil

Kerosene petroleum oil (mineral naphtha) must be of a specific gravity of not less than 0.800 at a temperature of 15.5°C and must possess the characteristic odour and taste of commercial paraffin oil used for burning purposes.

11. Methyl violet (Crystal violet) dye (Colour Index No.42555)

- (i) Methyl violet dye (methylosaniline chloride, $C_{25}H_{30}N_3Cl$) must be in the form of small crystals readily and completely soluble in alcohol of strength of not less than 95 per cent alcohol by volume.
- (ii) Identification test. Sprinkle about 1 mg of sample on 1 ml of sulphuric acid; it dissolves in the acid with an orange or brown-red colour.

When this solution is diluted cautiously with water, the colour changes to brown, then to green, and finally to blue.

12. Methylene blue dye (Colour Index No.52015)

- (i) Methylene blue dye shall be dark green powder as assessed by visual inspection and shall consist essentially of methylothionine chloride, $C_{16}H_{18}ClN_3S$.
- (ii) Identification test. Mix 10 ml of a 0.01% solution with 1 ml of acetic acid and 100 mg of zinc powder and warm; the solution is decolourised. Filter and expose the filtrate to air; the blue colour returns.

FOURTH SCHEDULE

[r. 37]

TABLE FOR DETERMINING THE ORIGINAL GRAVITY OF WORTS

Spirit	Degrees	Spirit	Degrees	Spirit	Degrees	Spirit	Degrees
Indication of	Original	Indication of	Original	Indication of	Original	Indication of	Original
	Gravity		Gravity		Gravity		Gravity
-0	-00	4.1	17.75	8.2	36.58	12.3	56.38
-1	-42	4.2	18.21	8.3	37.94	12.4	56.89
-2	-85	4.3	18.66	8.4	37.51	12.5	57.40
-3	1.27	4.4	19.12	8.5	37.97	12.6	57.91
-4	1.70	4.5	19.57	8.6	38.44	12.7	58.42

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-5	2.12	4.6	20.03	8.7	38.90	12.8	58.93
-6	2.55	4.7	20.48	8.8	39.37	12.9	59.44
-7	2.97	4.8	20.94	8.9	39.83	13.0	59.95
-8	3.40	4.9	21.39	9.0	40.30	13.1	6.46
-9	3.82	5.0	21.85	9.1	40.77	13.2	60.97
1.0	4.25	5.1	22.30	9.2	41.24	13.3	61.48
1.1	4.67	5.2	22.76	9.3	41.71	13.4	61.99
1.2	5.10	5.3	23.21	9.4	42.18	13.5	62.51
1.3	5.52	5.4	23.67	9.5	42.65	13.6	63.01
1.4	5.95	5.5	24.12	9.6	43.12	13.7	63.52
1.3	5.52	5.4	23.67	9.5	42.65	13.8	64.03
1.4	5.95	5.5	24.12	9.6	43.12	13.9	64.54
1.5	6.37	5.6	24.58	9.7	43.59	14.0	65.10
1.6	6.80	5.7	25.03	9.8	44.06	14.1	65.62
1.7	7.22	5.8	25.49	9.9	44.53	14.2	66.14
1.8	7.65	4.9	25.94	10.0	45.00	14.3	66.66
1.9	8.07	6.0	26.40	10.1	45.48	14.4	67.18
2.0	8.50	6.1	26.86	10.2	45.97	14.5	67.70
2.1	8.94	6.2	27.32	10.3	46.45	14.6	68.22
2.2	9.38	6.3	27.78	10.4	46.94	14.7	68.74
2.3	9.82	6.4	28.24	10.5	47.42	14.8	69.26
2.4	10.26	6.5	28.70	10.6	47.91	14.9	69.78
2.5	10.70	6.6	29.16	10.7	48.39	15.0	70.30
2.6	11.14	6.7	29.62	10.8	48.88	15.1	70.83
2.7	11.58	6.8	30.08	10.9	49.36	15.2	71.36
2.8	12.02	6.9	30.54	11.0	49.85	15.3	71.89
2.9	12.46	7.0	31.00	11.1	50.35	15.4	72.42
3.0	12.90	7.1	31.46	11.2	50.85	15.5	72.95
3.1	13.34	7.2	31.93	11.3	51.35	15.6	73.48
3.2	13.78	7.3	32.39	11.4	51.85	15.7	74.01
3.3	14.22	7.4	32.86	11.5	52.35	15.8	74.54
3.4	14.66	7.5	33.32	11.6	52.85	15.9	75.07
3.5	15.10	7.6	33.79	11.7	53.35	16.0	75.60
3.6	15.54	7.7	34.25	11.8	53.85	-	-
3.7	15.98	7.8	34.72	11.9	54.35	-	-
3.8	16.42	7.9	35.18	12.0	54.85	-	-
4.0	17.30	8.1	36.11	12.2	55.87	-	-

ADJUSTMENT OF RATES FOR INFLATION

[Legal Notice 217 of 2021]

IN EXERCISE of the powers conferred by section 10 of the Excise Duty Act (Cap. 472) the Commissioner-General adjusts for inflation the specific rates of duty set out in the Schedule hereto in accordance with the formula specified in Part 1 of the First Schedule to the Act and takes into account the average inflation rate for the 2020/2021 financial year of four decimal nine seven per centum (4.97%). Legal Notice No. 194 of 2020 is revoked.

Description	SCHEDULE	
	Current Rate of Excise Duty	New Rate of Excise Duty
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Sh. 11.59 per litre	Sh. 12.17 per litre
Bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit or vegetable juices	Sh. 5.74 per litre	Sh. 6.03 per litre
Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 6%	Sh. 116.08 per litre	Sh. 121.85 per litre
Powdered beer	Sh. 116.08 per kg	Sh. 121.85 per kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Sh. 198.34 per litre	Sh. 208.20 per litre
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 6%	Sh. 265.50 per litre	Sh. 278.70 per litre
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Sh. 13,247.63 per kg	Sh. 13,906.04 per kg
Electronic cigarettes	Sh. 3,974.08 per unit	Sh. 4,171.59 per unit
Cartridge for use in electronic cigarettes	Sh. 2,649.74 per unit	Sh. 2,781.43 per unit

Excise Duty

[Subsidiary]

Cigarette with filters (hinge lid and soft cap)	Sh. 3,312.96 per mille	Sh. 3,477.61 per mille
Cigarettes without filters (plain cigarettes)	Sh. 2,384.24 per mille	Sh. 2,502.74 per mille
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Sh. 9,273.55 per kg	Sh. 9,734.45 per kg
Motorcycles of tariff no. 87.11 other than motorcycle ambulances and locally assembled motorcycles	Sh. 11,608.23 per unit	Sh. 12,185.16 per unit
Imported sugar confectionary of tariff heading 17.04	Sh. 35 per kg	Sh. 36.74 per kg
White chocolate, chocolate in blocks, slabs or bars of tariff nos. 1806.31.00, 1806.32.00, and 1806.90.00	Sh. 209.88 per kg	Sh. 220.31 per kg
Products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences	Sh. 1,200 per kg	Sh. 1,259.64 per kg

ADJUSTMENT OF RATES OF EXCISE DUTY FOR INFLATION, 2022

[Legal Notice 176 of 2022]

Revoked by Legal Notice 204 of 2022 on 18th October, 2022

ADJUSTMENT OF RATES OF EXCISE DUTY FOR INFLATION

[Legal Notice 204 of 2022]

IN EXERCISE of the powers conferred by section 10 of the Excise Duty Act (Cap. 472) the Commissioner-General adjusts for inflation the specific rates of excise duty set out in the schedule in accordance with the formula specified in Part I of the First Schedule to the Act, and takes into account the average rate of inflation for the 2021/2022 financial year of six decimal three per centum (6.3%). Legal Notice No. 176 of 2022 is revoked.

S/No.	Description	SCHEDULE	
		Current rate of excise duty	//New rate of excise duty//
1.	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Sh. 13.30 per litre	Sh. 14.14 per litre
2.	Bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit juices or vegetable juices	Sh. 6.03 per litre	Sh. 6.41 per litre
3.	Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spiritous beverages of alcoholic strength not exceeding 6%	Sh. 134.00 per litre	Sh. 142.44 per litre
4.	Powdered beer	Sh. 121.85 per kg	Sh. 129.53 per kg
5.	Wines including fortified wines and other alcoholic beverages obtained by fermentation of fruits	Sh. 229.00 per litre	Sh. 243.43 per litre
6.	Spirits of undenatured ethyl	Sh. 335.30 per litre	356.42 per litre

Excise Duty

[Subsidiary]

	alcohol, spirits liqueurs and other spiritous beverages of alcoholic strength exceeding 6%		
7.	Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Sh. 15,296.60 per kg	Sh. 16,260.29 per kg
8.	Cigarette with filters (hinge lid and soft cap)	Sh. 3,825.99 per mille	Sh. 4,067.03 per mille
9.	Cigarettes without filters (plain cigarettes)	Sh. 2,752.97 per mille	Sh. 2,926.41 per mille
10.	Other manufactured tobacco and manufactured tobacco substitutes, "homogenous" and "reconstituted" tobacco, tobacco extracts and essences	Sh. 10,707.88 per kg	Sh. 11,382.48 per kg
11.	Motorcycles of tariff no. 87.11 other than motorcycle ambulances and locally assembled motorcycles	Sh. 12,185.16 per unit	Sh. 12,952.83 per unit
12.	Imported sugar confectionary of tariff heading 17.04	Sh. 40.37 per kg	Sh. 42.91 per kg
13.	Imported white chocolate including chocolate in blocks, slabs or bars of tariff nos. 1806.31.00, 1806.32.00 and 1806.90.00	Sh. 242.99 per kg	Sh. 257.55 per kg
14.	Products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the	Sh. 1,500.00 per kg	Sh. 1,594.50 per kg

Cabinet Secretary
responsible for
matters relating to
health, and other
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