



NIGERIA CUSTOMS SERVICE ACT, 2023



NIGERIA CUSTOMS SERVICE

Extraordinary



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NIGERIA CUSTOMS SERVICE ACT, 2023



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NIGERIA CUSTOMS SERVICE ACT, 2023

ACT NO. 35

AN ACT TO REPEAL THE CUSTOMS AND EXCISE MANAGEMENT ACT, CAP. C45, LAWS OF THE FEDERATION OF NIGERIA, 2004 AND OTHER CUSTOMS AND EXCISE LEGISLATION AND ENACT THE NIGERIA CUSTOMS SERVICE ACT, 2023 TO PROVIDE FOR THE REFORM OF THE ADMINISTRATION AND MANAGEMENT OF CUSTOMS AND EXCISE IN NIGERIA ; AND FOR RELATED MATTERS.

[20th Day of April, 2023]

Commence-
ment.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—ESTABLISHMENT OF THE NIGERIA CUSTOMS SERVICE, SCOPE AND APPLICATION

1. There is established the Nigeria Customs Service (in this Act referred to as "the Service").

Establishment
of Nigeria
Customs
Service.

2. The Service—

The Service.

(a) shall be a body corporate with perpetual succession and a common seal ;

(b) may sue or be sued in its corporate name ;

(c) may acquire, hold, and dispose of any property, whether movable or immovable ; and

(d) shall direct, manage and enforce the provisions of this Act and the customs and excise laws listed in this Act.

3. The provisions of this Act shall apply to all matters connected with the management and administration of customs and excise.

Scope and
application.

PART II—FUNCTIONS AND POWERS OF THE NIGERIA CUSTOMS SERVICE

4. The Functions of the Service are to—

Functions of
the Service.

(a) administer, direct, manage and enforce the provisions of this Act and the customs and excise laws ;

(b) collect and account for revenue from customs duties, excise duties, charges, fees and special assessments as may be assigned to it by the Government ;

(c) administer trade and fiscal policies of the Government as it relates to this Act ;

(d) promote trade facilitation in line with international conventions and agreements as it relates to customs administration ;

(e) prevent smuggling, customs fraud and all other violations under this Act ;

(f) carry out all border enforcement and regulatory activities required by law in collaboration with relevant agencies ;

(g) collate and publish accurate trade statistics and other relevant data as it relates to Customs and Excise ;

(h) engage in regular consultations with individual traders, trade associations and other relevant stakeholders to promote industrial harmony ;

(i) approve and license customs agents, who shall be citizen of Nigeria ;
and

(j) do such other things as are necessary for or incidental to the performance of its functions and discharge of its duties under this Act and the Laws of Nigeria.

Powers of the Service.

5. In the exercise of its functions under this Act, the Service shall subject to approval of the Board have the powers to—

(a) acquire, hold, purchase, mortgage and deal with property, whether movable or immovable, real or personal ;

(b) enter into contracts or obligations ;

(c) advise or develop regulations on the management and administration of customs and excise management ; and

(d) issue operational guidelines for the efficient administration and operation of the provisions of this Act.

Customs officers to have power of police officers.

6. For the purpose of carrying out or enforcing the provisions of this Act, all officers shall have the same powers, authorities and privileges given by law to police officers.

PART III—GOVERNING BOARD, MEMBERSHIP, FUNCTIONS AND POWERS

Establishment of the Governing Board and membership.

7.—(1) There is established for the Service a Governing Board (in this Act referred to as "the Board").

(2) The Board shall consist of—

(a) a Chairman, who shall be the Minister of Finance ;

(b) the Comptroller-General, who shall be the Deputy Chairman ;

(c) all Deputy Comptroller-General of the Service ;

(d) the Legal Adviser to the Service who shall also head the Legal Department to be appointed from the Office of the Attorney General of the Federation ;

(e) a representative, not below the rank of a director, from the following Federal Ministries—

(i) Industry,

(ii) Trade and Investment,

(iii) Transport,

(iv) Aviation, and

(v) Foreign Affairs ;

(f) the Executive Chairman of the Federal Inland Revenue Service ; and
 (g) two members representing the organised private sector for a term of four years renewable for another term of four years and no more.

8. Departments shall be established subject to the approval of the Board.

Establishment of departments.

9. The Board shall make guidelines for its proceedings during meetings.

Board proceedings.

10.—(1) The Board shall be responsible for—

Functions and powers of the Board.

(a) formulating the general policy guidelines and regulations for the Service ;

(b) reviewing and approving strategic plans for the Service ;

(c) recruitment, promotion and discipline of officers of the Service ; and

(d) determining the remuneration, allowances, pension and other benefits of officers and employees of the Service.

(2) In performing its functions under this Act the Board shall create enabling environment for synergy with Government ministries and agencies and maintain liaison with relevant law enforcement agencies for the economic development and effective compliance with provisions of this Act.

11. The Board may, subject to such conditions as it may deem fit, delegate any of its powers under this Act to —

Delegation of Board's powers.

(a) the Service ;

(b) any officer in the Service ;or

(c) a committee consisting of such number of persons as the Board may decide.

12. In the exercise of the powers and duties conferred upon the Board, the Board shall be subject to the authority, direction and control of the Minister and any written direction, order or instruction given by him after consultation with the Comptroller-General shall be carried out by the Board.

Board to be subject to general control of Minister.

13.—(1) Notwithstanding anything to the contrary contained in other laws, no action shall be instituted against the Service in respect of any act, neglect, or default done or omitted to be done by any officer, servant or agent of the Service in his capacity as an officer, servant or agent of the Service with regard to the powers in section 4 of this Act unless it is commenced within three months after the act or negligence complained of, or in the case of a continuing damage or injury, within three months after the ceasing thereof.

Limitation of actions against the Board.

(2) No suit shall be commenced against the Service before the expiration of a period of one month of intention to commence the suit shall have been addressed and served on the Secretary to the Board by the intending plaintiff or his authorised agent and the notice shall clearly and explicitly state the—

- (a) cause of action ;
- (b) particulars of the claims ;
- (c) name and place of abode of the intending plaintiff ; and
- (d) relief which he claims.

PART IV—ESTABLISHMENT OF THE MANAGEMENT, STAFF OF THE SERVICE,
FUNCTIONS AND POWERS OF THE MANAGEMENT

The
Comptroller-
General and
Deputy
Comptrollers-
General.

14.—(1) The President shall appoint a career officer from the Service not below the rank of Assistant Comptroller-General as Comptroller-General who shall —

- (a) be responsible for the overall management of the Service ;
- (b) execute the policies and decisions of the Board ;
- (c) undertake the administration and carry out the policy directions for the Service ;
- (d) be accountable for all revenue collections and all expenditures made under this Act ;
- (e) supervise the records and oversee the proper keeping of accounts of the Service ;
- (f) be responsible for the execution and sealing of documents including contractual agreements, memoranda and similar undertakings entered into by the Service provided that the Comptroller-General may delegate this function to any officer ;
- (g) managing and implementing over policies of the Service ; and
- (h) performing such other functions as may be assigned to him by the Board.

(2) There shall be appointed from the Service, Deputy Comptrollers-General and Assistant Comptrollers-General who shall assist the Comptroller-General in the execution of his duties and responsibilities.

(3) The numbers of and duties of the Deputy Comptrollers-General and Assistant Comptrollers-General to be appointed under subsections (2) shall be as may be determined by the Service with the approval of the Board

(4) Every appointment under subsections (2) and (3) of this Act shall be in accordance with federal character policy of the Government.

(5) There is established, for the purpose of coordinating the supervision of the Service and its operations, a body (in this Act referred to as "the Management Committee").

- (6) The Management Committee shall consist of —
 - (a) the Comptroller-General ;

- (b) all Deputy Comptrollers-General ;
- (c) the Legal Adviser ;
- (d) all Assistant Comptrollers-General ; and
- (e) the Secretary of the Board.

(7) The functions of the Management Committee shall be to —

(a) consider all customs matters that require professional and technical expertise and make recommendations to the Board ;

(b) coordinate the supervision of operations of administration of the Service ;

(c) ensure compliance with the provisions of this Act by supervision of its operation ;

(d) work in collaboration with relevant agencies and ministries and review Service operations to promote revenue generation, trade facilitation and to stimulate economic activities and development ;

(e) work in collaboration with the relevant law enforcement agencies to carry out compliance with the provisions of this Act ;

(f) adopt measures which include compliance and regulatory actions, introduction and maintenance of investigative and control techniques on the detection and prevention of non-compliance ;

(g) collate and continually review all policies of the Government relating to customs and excise matters in matters connected to revenue generation and to undertake a systemic and progressive implementation of Service policies ;

(h) enforce disciplinary regulations under this Act on misconducts by officers and any other regulation made by the Board ; and

(i) carry out such other activities given to it by the Board which are necessary or expedient for the performance of all or any of the functions under this Act.

15.—(1) The Board shall have powers to appoint such number of staff who shall be officers as deemed necessary for the efficient performance of the functions of the Service under this Act.

Other staff of the Service.

(2) The Service shall pay its staff remuneration and allowances similar to other revenue generating agencies as the Board may determine in consultation with the appropriate authority of the Government.

16.—(1) There shall be appointed by the Board from within the Service, a Secretary (in this Act referred to as "the Secretary") who shall —

Board secretariat.

(a) be an officer not below the rank of an Assistant Comptroller-General ;

(b) be responsible for the day to day administration of the work of the Board ; and

(c) perform such other functions as the Board may assign.

(2) The Board shall also appoint such other staff within the Service as may be necessary for the efficient performance of its functions and to assist the Secretary to the Board in the discharge of his duties.

Pension and
gratuity.

17.—(1) Employment in the Service shall be pensionable and staff of the Service shall, in respect of their employment, be entitled to pensions, and other retirement benefits as may be approved by the Board.

(2) Notwithstanding the provision of subsection (1), nothing shall prevent the appointment of a person to any office in the Service on terms which preclude the grant of a pension in respect of that office.

Act No. 4,
2014.

(3) For the purpose of the application of the Pensions Reforms Act, any power exercisable by the Minister under the Pension Reform Act or any authority of the Government may be exercised by the Board.

PART V—FINANCING OF CUSTOMS SERVICE OPERATIONS

Funds of the
Service.

18.—(1) Subject to extant laws and regulations, the Service shall keep and maintain bank accounts as may be approved by appropriate authority of the Government into which shall be paid—

(a) not less than 4% of the free-on-board value of imports according to international best practices ;

(b) revenues derived from assessment and collection of cost—based user fees ;

(c) annual or supplementary budgetary provisions made by the Government to the Service ; and

(d) grants, aids, or donations from local or international development partners.

(2) The President may propose an increase to the 4% referred to in subsection 1(a) to the National Assembly under cogent and verifiable factors from the Service.

(3) A proposal for the increase referred to in subsection (2), shall be determined by the Board subject to approval by the President.

(4) The user fee referred to in subsection (1) (b) shall be determined by the Board and approved by the Government.

(5) The tariff regime to be used by the Service or duty, and excise computations shall be determined by the Board and published in the tariff handbook and website subject to approval by the National Assembly.

(6) Notwithstanding anything to the contrary contained in any law or enactment, the Service, shall be empowered, subject to the provisions of this Act, for the purpose and objective of promoting stability and continuity in revenue generation, trade facilitation and economic development of the Government—

(a) have power to superintend and execute as it may deem necessary approved capital expenditure of each project that its cost not exceeding 10% of the total approved capital projects within the Appropriation or Supplementary Appropriation Act for the year ;

(b) in exercise of the power conferred on the Service paragraph (a), the Service shall have power to procure materials and services, incidental to the execution of the capital expenditure stipulated under paragraph (a) ; and

(c) for the purpose of giving effect to the provisions of this section, the Service may borrow such amount of money within 10 % of its approved capital expenditure within the Appropriation or Supplementary Act, subject to the approval of the President.

19. The proceeds of the funds referred to in section 18 of this Act shall be applied —

Expenditure
of the Service.

(a) to meet the cost of administration of the Service ;

(b) towards reimbursing members of the Board or any committee set up by the Board or the Service for expenses authorised or approved by the Board or Service in accordance with such rates as may be approved on their behalf by the Board ;

(c) for the payment of remuneration, allowances, pension and other benefits payable to the employees of the Service under section 10 (1)(d) of this Act ;

(d) for the maintenance of any property acquired by or vested in the Service ; and

(e) to all or any of the functions of the Service under this Act and other related customs and excise legislations.

20.—(1) The Service shall prepare and forward to the National Assembly not later than 30 September in each year, an estimate of the expenditure and income of the Service during the succeeding year.

Annual
estimates,
accounts and
audit.

(2) The Service shall cause to be kept proper accounts and proper records and when certified by the Board, the accounts shall be audited by auditors appointed by the Service in accordance with the guidelines supplied by the Auditor—General for the Federation.

21. The Service shall not later than three months before the end of each year, submit to the National Assembly a report on the activities and the administration of the Service during the immediate preceding year and shall include in such reports, audited accounts of the Service and the Auditor's report on those accounts.

Annual
reports.

PART VI—PROVISION OF INFORMATION FOR CUSTOMS FORMALITIES AND CONTROLS

22.—(1) Any person directly or indirectly involved in the carrying out of customs formalities or in the application of customs controls shall, at the request

Provision of
information to
the Service.

of the Service and within any specified time limit provide the Service with all required documents and information, in the prescribed form, and provide all the assistance necessary for the completion of the customs formalities and controls.

(2) The lodging of a goods declaration, or notification or any other decision, shall render the person concerned responsible for —

(a) the accuracy and completeness of the information given in the declaration, notification or application ;

(b) the authenticity of any documents lodged or made available ; and

(c) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned or to the conduct of the authorised operations.

(3) Subsection 2(a) shall also apply to the provision of any information in any other form required by or given to the Service.

(4) Where the declaration or notification is lodged, the application is submitted or information is provided by a customs representative of the persons concerned, the customs representative shall also be subject to the obligations in this section.

Provision of
information
by the Service.

23.—(1) The Service shall ensure that all relevant information of general application pertaining to customs matters is readily available to any interested person on the Service website and at any other designated place or form.

(2) In carrying out the obligation under this section, the Service shall ensure that it does not disclose information of a private or confidential nature affecting the Service or third parties unless disclosure is required by law.

(3) Where the Service cannot provide information, under this section free of charge, any charge shall be limited to the approximate cost of the services provided.

(4) The Service shall promptly publish on the Service website and at any other designated place or form, the following information —

(a) importation, exportation or transit procedures, including seaport, airport, and other entry-point procedures and the required forms and documents ;

(b) applied rates of duties, or charges of any kind in connection with importations and exportations ;

(c) rules for the classification, valuation or determination of origin of goods ;

(d) laws and regulations relating to rules of origin ;

(e) import, export or transit restrictions or prohibitions ;

(f) all fees and charges imposed by the Service and other agencies in connection with importation, exportation or transit procedures ;

(g) penalty provisions applicable to breaches of import, export or transit procedures ;

(h) appeals procedures ;

(i) applicable international agreements relating to the importation, exportation, excise or transit of goods ;

(j) allowances and duty-free concessions ;

(k) clearing agent and brokers notice ; and

(l) the current law establishing the Service.

24.—(1) A person may make an application, in respect of particular goods specified in the application to the Service for an advance ruling, based upon the facts presented, regarding the following matters—

Request for information on advance ruling.

(a) the tariff classification of the goods ;

(b) whether the goods are in accordance with applicable regulations or the produce or manufacture of a particular country, ECOWAS or another free trade area or customs union ;

(c) whether the goods are subject to a duty exemption ;

(d) the correct application of customs valuation methodology ; or

(e) duty drawback, quotas fees or other customs matters.

(2) Advance rulings under this Act shall be —

(a) made under a format prescribed by the Service ;

(b) issued immediately but in no event later than 150 calendar days of receipt of a completed application ; and

(c) binding only on the Service and the requesting party.

(3) The Service may at any time request for additional information from an applicant if it considers that the additional information is relevant to the application for an advance ruling.

(4) Advance rulings—

(a) are binding as between the Service and the recipient of the ruling ;

(b) shall be in effect within the fiscal year of issue ; and

(c) may be revoked by the Service upon reasonable advance notice in writing to the person concerned.

(5) Rulings of general application may be issued by the Service to inform the public of the Service decisions.

(6) A person may apply for the issuance of rulings of general application and the applications shall be made under the format prescribed by the Service.

(7) Rulings of general application shall be subject to the following conditions—

(a) published on the Service website and its online portals ;

(b) make reference to the right of appeal provided for in this Act and in the applicable regulation ; and

(c) applied prospectively only and become effective 30 days after publication except in circumstances where the Service deems that an immediate effective date is essential to protect the revenue or safeguard the economic or security interest of Nigeria.

(8) After reasonable notice through publication, the Service may, where deemed appropriate amend or revoke a ruling of general application.

(9) The Service may charge any persons requesting for an advance ruling or a ruling of general application a cost-based user fee for processing the rulings request.

Exchange and storage of data.

25.—(1) All exchange of data, accompanying documents, decisions and notifications between the Service and any persons required by or under this Act or any other law, shall be made using electronic data processing techniques and for this purpose the Service will provide such electronic data platform at its offices or at such other places or locations considered appropriate.

(2) The provisions of subsection (1) notwithstanding, paper or other medium may be used in lieu of electronic exchanges of data —

(a) in the transition period during which a comprehensive computerised system is being installed by the Service ;

(b) where a temporary failure occurs in the Service or a person's computerised system ;

(c) where an international agreement provides for the use of paper document ;

(d) where a traveler has no direct access to computerised systems and with no means of providing electronic information ;

(e) in the case where there is a practical requirement for declarations to be made orally or by other non—electronic means ; or

(f) in the case of small traders, who are not accustomed to or used to computerised systems.

(3) The Service shall deploy a common data set and format of messages to be exchanged and such data shall contain the particulars necessary for risk analysis and the proper application of customs controls.

Data protection.

26.—(1) All information acquired by the Service in the course of discharging its duties which is confidential or provided on a confidential basis shall be protected by the secrecy obligation binding on officers and employees of the Service as public servants.

(2) Except as may otherwise be provided by law, the information referred to in subsection (1) shall not be disclosed by the Service without prior or written notice of the person that provided it.

(3) Communication of confidential data to the Service or other governments, countries or territories outside the customs territory of Nigeria shall be permitted only under an international agreement, such as a mutual assistance agreement, ensuring an adequate level of data protection.

(4) Any person who contravenes the provisions of this section shall be liable to disciplinary measures in accordance with the Service rules.

27.—(1) The Service may exchange information with any persons not specifically required under this Act or under any other customs legislation in particular for the purpose of mutual cooperation in the identification and management of risk, provided that such exchanges shall take place under a written agreement between the Service and any persons involved and may include access to the computer system of traders and other persons by the Service.

Exchange of additional information.

(2) Any information provided by one party to the other in the course of the exchange of information referred to in this section shall be confidential unless both parties agree otherwise in writing.

28.—(1) The Service, in collaboration with other agencies and traders, shall develop, maintain and employ an electronic system while the Service shall be the lead agency for the exchange of information between the Service, agencies of the Government, and traders, for the exchange of information and for the common registration and maintenance of records relating in particular, but not limited to—

Electronics system and use of information technology.

(a) all persons directly or indirectly involved in the accomplishment of the custom formalities ;

(b) applications and authorisations concerning the Service procedure or the status of specific importers, exporters, custom representatives and others involved directly or indirectly with trade transaction ;

(c) revenue collection, protection and accounting ; and

(d) risk management.

(2) The Service shall specify the standard form and content of electronic data consistent with international standards and best practices and the rules regarding maintenance of data.

(3) The Service shall also specify the rules for access to electronic systems and data by Service offices, Government agencies and traders through regulations as may be issued by the Service.

(4) The provisions of subsections (1) - (3) notwithstanding, paper or other medium may be used in lieu of full adoptions of electronic system.

Transparency
and
stakeholder
consultation.

29.—(1) The Service shall institute and maintain formal consultations with traders and with other interested persons to increase co-operation and compliance, and facilitate participation in establishing the most effective administrative policies, procedures and methods of working commensurate with this Act, other laws of Nigeria, and applicable international agreements.

(2) The Service and interested persons may exchange any information not specifically required under the provisions of this Act and other laws for the purpose of mutual co-operation in the identification of risk and for risk management, provided that such exchange may take place under a written agreement as provided for under section 26 of this Act.

(3) Any information provided by one party to the other in the course of consultations and cooperation referred to in this section shall be confidential unless both parties agree otherwise.

PART VII—CUSTOMS SERVICE CONTROLS

Customs
control.

30.—(1) The Service shall carry out all necessary controls to ensure the correct application of the provisions of this Act, related to customs and excise laws, other laws, rules, regulations or agreements under its administration and jurisdiction.

(2) The controls by the Service includes —

- (a) examining goods ;
- (b) taking samples ;
- (c) verifying goods declaration data and the existence and authenticity of documents ;
- (d) examining the accounts of traders, their records and data ;
- (e) inspecting means of transport ;
- (f) inspecting luggage and other goods carried by or on persons ;
- (g) interviewing persons who may have relevant information ;
- (h) obtaining data from foreign customs administrations and Governments ;
- (i) obtaining data from stakeholders in the trade-supply chain ; and
- (j) carrying out official enquiries and other such similar acts.

(3) In carrying out the examinations of goods or any means of transportation, an officer may use such reasonable and appropriate force to gain access to any locked or unlocked cargo, storage compartment or any area where credible and reasonable suspicion and probable grounds exist to warrant the search of the compartment or area and to examine the goods or means of transportation without any warrant.

Customs
control zones.

31.—(1) The Board may designate areas within and outside the customs territory as customs control zones for the purposes of enforcing or administering the provisions of this Act.

(2) A “customs control zone” means —

(a) a place suitable for, or already recognised as, a center of international trade ;

(b) an international sea port ;

(c) an international land border crossing ;

(d) an international airport ; or

(e) an export processing zone or free zone,

suitable to provide a high level of service in terms of traffic flows and clearance demands.

(3) Operators of a customs control zone shall be responsible for trade facilitation and shall provide adequate facilities handling the volumes of trade and traffic, including access roads to facilitate traffic flows, quay side offices, transport service, cranes, forklifts, equipment storage, handling of goods, airfield ramp access, temporary storage sheds, customs offices, customs representative services, adequate security, cargo inspection facilities, and other such infrastructural facilities which includes space for non-intrusive and any other electronic inspection equipment and area designated as Government warehouse.

(4) Subject to customs regulations and to the provisions of this Act all imported or exported goods shall be loaded, unloaded, inspected, assessed and cleared within the confines of a customs control zone, provided that customs controls shall be limited to actions necessary to ensure compliance with the provisions of this Act and other applicable laws, rules and regulation.

(5) The Comptroller-General or his duly authorised representative may establish a temporary customs control zone in circumstances where the nature of the cargo to be inspected or cleared cannot be reasonably facilitated at a conventional customs control zone subject to approval of the Board.

(6) In the event of disaster relief operations, the Comptroller-General may declare any applicable location a temporary customs control zone for purposes of disaster relief operations.

32.—(1) Customs controls, including random checks, shall primarily be based upon risk management using electronic data processing techniques and other conventional methods, with the objective of identifying and evaluating risks and developing necessary counter-measures on the basis of risk management criteria developed and updated regularly from international, national and local data.

Application
risk
management
techniques.

(2) In managing risk, the Service shall apply customs controls to risks determined to be unacceptable, based upon pre-established risk criteria.

(3) A cost-benefit analysis may be used to determine unacceptable risk and such risk shall be prioritised.

(4) A risk register shall be maintained by the Service providing the rationale underlying risk identification and the risk register established shall be updated regularly to accommodate current developments.

(5) A risk profile containing the description of the risk areas, assessment of the risk, the counter-measures to be taken, implementation dates, and an evaluation of the actions, shall be prepared and regularly updated for each customs office.

(6) Compliance measurement of risk management shall be conducted by the Service through a regular compliance measurement program and such compliance measurement shall involve the use of statistically valid random sampling techniques to determine the degree to which traders conform to customs rules and procedures.

(7) Compliance measurement referred to under subsection (6) may also entail the use of random checks, post clearance audits, external government audits and other methods.

(8) Joint control and targeting activities based upon risk management may be carried out by the Service in collaboration with foreign customs administrations to increase the effectiveness in assuring the security of shipments and in combating transnational crime.

(9) Specific information regarding risk management such as risk registers, risk profiles, and other risk assessment data pertaining to traders, goods or transactions, are confidential and shall not be released to any person not authorised to receive such information.

(10) Any person who contravenes the provision of subsection (9) commits an offence and is liable on conviction to a fine of ₦5,000,000 or imprisonment for a term of two years or both.

(11) The penalties referred to in subsection (10) shall not apply to officers carrying out their official responsibilities provided that officers who release risk registers, risk profiles, and other risk assessment data to any persons not authorised to receive such information shall be subject to disciplinary action as may be prescribed in extant rules or regulations.

(12) The Service shall apply the use of an organisational and intelligence driven risk management in all its operations, including administrative and clearance procedures.

(13) A central database for information and reports on all administrative and operational activities and events shall be made available for the purpose of risk management.

(14) A risk management strategy and policy documents shall be maintained and shall be updated every two years to meet current realities.

(15) A standing risk management committee shall exist at all times and its duties will include the bi-annual review of the Service risk management strategy

and policy documents and provide direction for risk criteria setting and the treatment of risks inherent in the Service.

(16) A risk management unit shall be established and exist at all times for the purpose of carrying out risk identification, risk analysis, risk profiling, risk evaluation, risk criteria setting and post seizure analysis in accordance with the risk strategy and policy of the Service as approved by the customs management.

(17) The risk management unit shall have access to all data and information from all units and departments required for the carrying out of risk analysis and profiling.

(18) The Service shall take all necessary steps in the pursuance and implementation of a harmonised risk management approach with other border partner government agencies in the trade supply chain.

(19) Risk management shall be implemented in line with international best practices as stipulated in the World Customs Organisation Risk Management Compendium and other similar documents published by international organisations such as the World Trade Organisation, World Bank and the United Nations.

33.—(1) The Service shall ensure that its control measures within a customs control zone and other control measures by other agencies on goods to be imported or exported are carried out at the same time, to ensure efficient and expedient operations.

Cooperation
with relevant
authority.

(2) The Service shall coordinate the location and timing of inspections and other controls where other agencies are involved.

(3) The Service shall establish an electronic data exchange facility (Single Window) to coordinate the work of the Service and interface with other agencies systems to reduce processing time for traders.

(4) The Service and other agencies may, when necessary for the purpose of risk management, exchange data on the entry, exit, transit, transfer, storage and end use of goods including postal traffic, persons and means of transport.

34. The Service shall cooperate with customs administration in other jurisdictions and where necessary —

Mutual
Administrative
Assistance.

(a) conclude Mutual Administrative Assistance Agreements to enhance customs control ; and

(b) exchange data received in connection with the entry, exit transit, transfer and use of imported or exported goods, persons, and means of transport, for the purpose of verifying compliance with the provisions of this Act.

35. The Service may —

(a) render pre-arrival process, examine documents and data relating to the goods in the course of commercial operations involving the goods in order to

Additional
control for the
release of
goods.

ascertain the accuracy of the particulars contained in the goods declaration and other documents, information and data submitted to it ;

(b) examine and take sample of goods where necessary, at the premises of the holder of the goods or his representative or any other person directly or indirectly involved in the transaction or in possession of the documents, information and data relevant to the examination.

Post clearance
audit.

36.—(1) The Service may conduct a post clearance audit after clearance of goods.

(2) The risk profiles of the audits may determine the selection of persons for the audit which may be conducted for compliance measurement purposes in the areas of valuation, classification, origin, duty relief and drawback programmes, and such other areas as may be considered appropriate.

(3) For compliance measurement, conformity to standards and other purposes as may be developed, the Service shall conduct audit of traders' systems prior to authorising special simplified treatment.

(4) At the sole discretion of the service, post clearance audits may be held at the offices of the Service or at the Consignee's premises or the premises of other persons directly or indirectly involved in the relevant transactions.

(5) Post clearance audits shall be based on inspection by the Service of —

(a) relevant documentation of accounts and records ; or

(b) data in electronic processing systems or the goods and the transaction means identified at the time of the audit.

(6) Persons subject to post clearance audit include —

(a) importers and exporters ;

(b) Customs agents ;

(c) warehouse operators ;

(d) zone operators ;

(e) banks and other financial institutions ;

(f) transport firms ;

(g) freight forwarders ;

(h) express couriers ;

(i) Excise traders ; and

(j) other persons directly or indirectly engaged in international trade.

Procedure for
conducting
post clearance
audit.

37.—(1) An entity to undergo post clearance audit shall be given —

(a) a written notice stating the date and time of the audit ; and

(b) a questionnaire setting out the questions to be answered and returned.

(2) Any person to be audited shall produce all relevant information, including—

(a) all documents and records, paper or electronic, maintained in the normal course of business containing information relevant to the customs transactions under examination, such as—

- (i) accounting data,
- (ii) physical inventory and inventory records,
- (iii) records of sales and other transactions,
- (iv) recording books,
- (v) account records,
- (vi) bank transfers, and

(b) all documents related to import and export transactions maintained in magnetic or data processing files that have a direct or indirect relation to the audit.

(3) The Service may, where appropriate, examine the goods and mode of transportation.

(4) The person to be audited shall cooperate with the auditors, and where he fails to do so, the auditor shall—

- (a) stop the audit ;
- (b) retain all documents and data procured in the course of the audit ; and
- (c) make a report of the refusal to cooperate by the person being audited to the Comptroller-General or his representative.

(5) Refusal to cooperate by a person undergoing audit under this section shall be liable to a fine of ₦1,500,000 for each day of such refusal and where the refusal continues for more than seven days, the person may be suspended from all customs transactions.

(6) Where an audit discloses an attempt to evade the payment of duties, Customs duties and fees or any criminal activity—

- (a) the audit may be suspended ; and
- (b) the matter reported to the Comptroller-General or his representative.

(7) The person audited may within seven working days after the conclusion of the audit forward a written explanation on any issue raised in the audit findings to assist in the preparation of the final audit report.

38. Any person undergoing audit shall—

- (a) assist the auditors, as may be required ;
- (b) allow access to all parts of his facilities, to the goods, books, documents, electronic records and means of transport ;

Duties of a person undergoing audit.

(c) present all documents and electronic records required by the auditors, and comply with the auditors' request within a reasonable time ; and

(d) be represented by a person of his choice, who shall be able to provide all the required information.

Payment of additional duties and Customs duties on completion of audit.

39.—(1) On completion of an audit, where the person audited owes additional duties or Customs duties, the Service shall—

(a) give a notice of underpayment to the audited person ; and

(b) request the audited person to pay the additional duties or Customs duties, including any interest and penalties.

(2) Where the audited person made excess payment of duties and Customs duties, the excess amounts shall be refunded to him.

(3) The interest referred to in this section shall be determined based on the monetary policy rate issued by the Central Bank of Nigeria.

Trader's system audit.

40. Where a trader's system audit discloses that —

(a) the trader's system audit is reliable, or

(b) records are generally in order, and

(c) no infractions have occurred,

the person may in accordance with the provisions of this Act qualify for the application of Special Simplified Customs Procedures.

Samples testing and laboratories.

41.—(1) Without prejudice to the powers conferred on other regulatory agencies, an officer may cause to be opened any mail, package or container or shipment of imported goods or goods to be exported—

(a) to take, without payment, samples for examination, testing and analysis, classification, valuation, determination of origin, and other purpose ;

(b) to determine the duties, Customs duties and fees payable ; and

(c) for such other purposes as the Comptroller-General may direct.

(2) A declarant shall be entitled to be present or be represented when samples are being taken.

(3) Any sample taken shall be accounted for and where appropriate, returned to the owner, importer or exporter on the completion of the measures required for customs control.

(4) For the purpose of determining the duty, Customs duties or fees assessable or other requirements with regards to goods comprising a single consignment, or in a vessel, tank or other container of goods, the characteristics of all the goods shall be deemed to correspond to the characteristics of any sample taken.

(5) The Service shall maintain a laboratory to conduct scientific testing and analysis of samples and in the event that such laboratory does not have the

resources or personnel to conduct testing and analysis for particular purposes, the Service may utilise the service of a government or commercial laboratory.

42. Subject to approval by the Board, the Service may employ consultants to provide services and advice on the adoption of new customs control measure ; and for other purpose, provided that a consultant shall not be authorised to carry out customs control measure.

Use of consultants.

43.—(1) A declarant or a person who is directly or indirectly involved with the importation or exportation of goods, or acts as a customs representative, or is directly or indirectly involved with the storage or transport of imported or exported goods, free zones, or any Customs control, shall keep all documents, information and data related to Customs matter for ten calendar years from the date the transaction occurred or the documents, information and data were created.

Provision of mandatory pre-shipment and post shipment inspection.

(2) When an appeal from a customs determination or ruling has been lodged, all parties to the appeal shall keep all documents, information and data relating to the appeal for three years after the appeal procedure is finally resolved.

44.—(1) The Comptroller-General may issue regulations prescribing—

Special Service fees and coasts.

(a) the services which are performed by an officer at the request of declarant or any other person that shall be considered to be special services subject to a fee ;

(b) the fees, if any, that are payable for special services by the person requesting for the services ; and

(c) the terms and conditions on which special services shall be performed, including any requirement for the provision of a security or guarantee.

(2) All fees assessed shall be limited to the approximate cost of the services rendered.

(3) Fees shall not be assessed on a strictly ad valorem basis unless they are less than the approximate cost of the services rendered.

(4) The Service shall make public, on an annual basis, the cost calculations on which fees are based.

45.—(1) The Service shall cooperate with the customs administrations of countries that share borders with Nigeria in order to enhance revenue collection, compliance with international trade rules, prevention and suppression of smuggling, law enforcement and improved trade facilitation.

Joint border operation with bordering countries.

(2) Memoranda of understanding may be negotiated and concluded with cooperating customs administrations of border countries setting out the respective responsibilities of the signatories to such memoranda.

(3) Where appropriate, the cooperation referred to in this section may include—

- (a) alignment of customs control measures including working days and hours of border offices ;
- (b) developing and sharing of common facilities for conducting joint customs controls ;
- (c) establishment of one stop border posts ;
- (d) establishing juxtaposed customs offices at the border ;
- (e) provision of expedited processes for goods in transit ;
- (f) development of procedures for the exchange of information for conducting joint controls ; and
- (g) designing and operating of systems providing for special, simplified treatment for authorised traders.

PART VIII—IMPORTATION, EXPORTATION AND TRANSIT OF GOODS

Reporting obligation on importation and exportation of goods.

46.—(1) Report shall be made by the importer or his customs representative in such form and manner, containing such particulars as the Service may direct of every ship, aircraft, vehicle and any other means of conveyance to which this section applies and of all goods carried therein.

(2) This section shall apply to every means of conveyance arriving at any place in Nigeria by sea, air, land or inland waters —

- (a) from any place outside Nigeria ; or
- (b) carrying any goods brought in by that means of conveyance from some place outside Nigeria and not yet cleared on importation.

(3) This section shall apply to every aircraft arriving at any place in Nigeria—

- (a) from any place outside Nigeria ; or
- (b) carrying passengers or goods taken on board that aircraft at a place outside Nigeria, being passengers or goods either —

(i) bound for a destination in Nigeria and not already cleared at a customs airport, or

(ii) bound for a destination outside Nigeria.

(4) The Board may make regulations prescribing the procedure for making report under this section and the time within which such report shall be made, and different regulations may be made with respect to importation by sea, air or land and inland waters respectively.

(5) Where a person by whom the report should be made fails to make the report as required by or under this section, he commits an offence and is liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of five years or both and any goods required to be reported which are not duly reported may be detained by the proper officer until so reported or until the omission is explained

to the satisfaction of the Service, and may in the meantime be deposited in a Government warehouse.

(6) The person making the report shall answer all such questions and produce all such documents in his possession or control relating to the ship, aircraft or vehicle, the goods carried therein, the crew and passengers and the voyage, flight or journey as may be put to him or required by the proper officer and if such person refuses to answer any such question or to produce any such document, he commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for two years or both.

(7) If at any time after a ship, aircraft or vehicle carrying goods brought therein from any place outside Nigeria enters Nigeria and before report has been made under this section —

(a) bulk is broken ;

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part of it ;

(c) any part of the goods is staved, destroyed or thrown overboard ; or

(d) any container opened, without the knowledge and consent of the proper officer,

the master of the ship, the captain of the aircraft or the person in charge of the vehicle commits an offence and, unless the matter be explained to the satisfaction of the Service, is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of 10 years or both.

(8) The Customs Area Controller in the area within which the discharge of the ship, aircraft or vehicle took place or, where there is no such person, the owner of the ship, aircraft or vehicle shall deliver to the proper officer within two days of the date of completing discharge, a tally slip, giving full and accurate account of all the goods carried or unloaded from the ship, aircraft or vehicle.

(9) The Service may, at its discretion by notice in writing, require additional information in respect of such goods in the ship, aircraft or vehicle as it may deem necessary.

(10) A person who fails to comply with the provisions of subsection (8) or fails to give the additional information required by the Service or its representatives, commits an offence and is liable on conviction to at least five years imprisonment but not more than 10 years.

47.—(1) A declaration of all goods that are imported into or exported from the customs territory and the reason for the importation or exportation shall be lodged by the importer, exporter, its customs representative, or other declarant with the customs office designated for that purpose, provided that where the lodging of a goods declaration imposes particular obligation on a specific person, the declaration must be made by that person or his customs representative.

Goods
declarations.

(2) A declaration of goods shall be lodged whether or not the goods are liable for duties, excise Customs duties or other Customs duties, fees or charges and in the event that all the required information or documents are not available to the declarant at the time the declaration is lodged, the declarant shall within two weeks amend the declaration to provide for the required information or documents.

(3) A declaration of goods shall be lodged in the English language and shall be transmitted electronically to the designated customs office in the form and manner prescribed by this Act and in customs regulations, and the Service may accept paper based declarations, provided that the same level of risk management associated with electronically submitted declarations can be applied.

(4) Persons introducing goods into the customs territory shall convey the goods directly to the nearest customs office designated to receive the goods without altering their nature or their packaging.

(5) Goods shall be declared —

(a) prior to the time the goods are introduced into or exported from the customs territory in order to advise officers of their impending arrival or departure ;

(b) at the time the goods are introduced into or exported from the customs territory ;

(c) with the written approval of the Service, not later than 24 hours from the time the goods were introduced into or exported from the customs territory ;

(d) at the time of arrival in the case of goods in the actual possession of a person arriving in the customs territory, or that constitute part of his baggage where the person is arriving by means of transport ; or

(e) in any other case, with the written approval of the Service, by the importer or by the person on behalf of whom the goods are imported or exported, or his customs representative.

(6) When a declaration is lodged by a person other than the operator of the means of transport by which the goods are introduced into or exported from the customs territory, that operator shall lodge with the appropriate customs office a notification of arrival or departure in the form of a manifest, dispatch note or load sheet containing all the information required in order to enable the Service to identify the goods covered by a declaration.

(7) Notwithstanding the provision of subsection (6), the operator of a means of transport may submit the manifest in advance by electronic transmission or otherwise.

The content of
a goods
declaration.

48.—(1) The content of a goods declaration shall be as prescribed by the Service.

(2) The Service shall limit the data required in the goods declaration to the extent practicable.

(3) The Service shall request for data relevant to the goods declaration only provided that the goods declarations shall contain all the information necessary for application of the customs procedure for which the goods are declared.

(4) The Service may also by regulations, provide for simplified goods declarations for low value shipments and travelers.

(5) A written declaration form shall conform in all material in line with international best practices and signed by a declarant or his duly authorised representative.

(6) Where declarations are made by electronic means —

(a) provisions may be made for electronic signatures or by other means of authentication ; and

(b) such declarations must be based on international standards for the exchange of electronic information.

(7) Supporting documents required for the application of the customs procedure for the goods declared shall be made available to the Service at the time of lodgment provided that for good cause shown, the Service may accept supporting documents at a later date.

(8) Where declarations are made by electronic means the Service may allow supporting documents to be transmitted in the same manner including other relevant data in the traders' zone.

49.—(1) Where the goods declaration lodged with the Service is found to be incomplete or inaccurate in any respect, the declarant shall within two weeks of the lodgment of declaration effect necessary corrections or provide any additional information to the Service.

Amendment
of goods
declaration.

(2) Penalties shall not be imposed on a declarant for the lodging of an incomplete or inaccurate goods declaration where —

(a) the missing information was not available to the declarant at the time the goods declaration was made ;

(b) inaccuracies in the declaration were inadvertent, or immaterial except for statistical purposes ;

(c) the incomplete or inaccurate information do not constitute an established pattern of conduct, and were not intended ; or

(d) the inaccuracies were not intended to avoid the payment of excise Customs duties, other Customs duties, or fees or assessments.

(3) The incomplete and inaccurate information referred to in subsection (2) includes—

- (a) errors in transcription ;
- (b) arithmetical errors in the goods declaration or supporting documents ;
- (c) omissions of elements of the dutiable value, such as foreign inland freight ;
- (d) errors in the conversion of foreign currency ;
- (e) incorrect deductions ;
- (f) an incorrect declaration of a tariff provided that the nature and other physical characteristics of the goods have been accurately described ;and
- (g) a discrepancy between the quantity of the goods shown in the shipping documents and the actual quantity where the error is typographical.

(4) Amendments to the goods declaration shall not be permitted after the Service has —

- (a) informed the declarant that it intends to examine the goods ;
- (b) established that the goods declaration, or any particular contained in the declaration is incorrect except for inadvertent or immaterial inaccuracies specified in this section ; or
- (c) released the goods.

Invalidation of goods declaration.

50.—(1) The Service shall, at the request of a declarant, invalidate a declaration already accepted where it is satisfied that —

- (a) the goods are immediately to be placed under another customs procedure ; and
- (b) as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

(2) Where the Service has informed the declarant of its intention to examine the goods, a request for invalidation of the declaration shall not be accepted before the examination takes place.

(3) The declaration shall not be invalidated after the goods have been released.

Additional requirement regarding declarations.

51.—(1) Declarants shall be persons who have customs mandate to operate in the customs territory.

(2) In this Act, whenever more than one person is responsible for the performance of any obligation, the performance of the obligation by any one of such persons shall be deemed to be performed by all of them, and whenever liability for the payment of duties, excise Customs duties, other Customs duties, fees or assessments or penalties, is applicable to two or more persons, each of such persons shall be jointly and severally liable for the amount due and payable.

Verification of goods declaration and examination of goods.

52.—(1) The Service may, for the purpose of verifying the accuracy of a goods declaration —

- (a) examine the declaration and all of the supporting documents ;

- (b) require the declarant to present additional information or documents ;
- (c) examine some or all of the goods ; and
- (d) take samples of the goods for analysis or for detailed examination.

(2) All costs incurred in the transportation and handling of goods for the purpose of examination, sample taking shall be borne by the declarant.

(3) Except where an examination or taking of sample is in connection with an offence or a random check, a declarant shall be present or represented during the examination or the taking of samples to provide the Service with any assistance required to facilitate the examination or taking of samples.

(4) The Service shall not be liable for the payment of any compensation of damage or loss in respect of any verification of goods declaration and examination of goods carried out under the provisions of this section but shall bear the costs of its analysis and examination.

53.—(1) Goods declaration which comply with the conditions prescribed in the Act and regulations made under this Act shall be accepted by the Service provided that the goods to which the declaration relate have been presented to the Service and are available for customs controls.

Acceptance of goods declaration.

(2) Where the Service approves that the goods declaration may take the form of an entry in the declarant's records and the Service has access to those records, the declaration shall be deemed to have been accepted the moment the goods are entered into the records.

(3) Where a goods declaration is lodged at a customs office other than the office at which the goods are presented, the goods declaration shall be accepted when the office at which the goods are presented confirms the availability of the goods for the application of customs controls.

(4) The date of acceptance of the goods declaration by the Service shall be the date of the application of the customs procedure.

54. Goods shall not be released from customs control unless the —

Release of goods.

- (a) goods declaration has been presented to and accepted by the Service ;
- (b) conditions pertaining to any restriction, where the goods are subject to a restriction, have been satisfied ;
- (c) declarant or other responsible person has made arrangements to provide security as required by this Act and regulations made under this Act ; and
- (d) declarant or other responsible persons has paid all duties, excise Customs duties, other Customs duties, charges and assessments and penalties determined to be due on the goods, except where the Service has authorised deferred payment under any applicable provisions of this Act.

Prohibition and restriction on imports and exports.

55.—(1) Import and exports shall where applicable, be subject to prohibitions and restrictions relating to—

- (a) public security, public morals and public policy ;
- (b) prevention or relief of critical shortage of food stuffs ;
- (c) the protection of the health and life of humans, animals or plants ;
- (d) the protection of the environment ;
- (e) the protection of national treasures possessing artistic, historic or archaeological value ;

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(f) currency and other negotiable instruments as prescribed in the Money Laundering Prohibition Act ;

(g) the protection of the environment as contained in relevant laws and conventions ;

(h) fishery conservation ;

(i) controlled goods imported or exported in line with relevant international laws, conventions and agreements :

(i) relevant international laws, conventions and agreements on the Trade of Wild Endangered Species of Fauna and Flora (CITES),

(ii) chemicals monitored under the global shield program of the World Customs Organisation.

(2) Goods prohibited under any law or regulation found within the customs territory shall, at first instance, be deemed to have been imported illegally and the Service shall take appropriate enforcement measures in respect of the goods.

(3) The President may by order—

(a) prohibit the importation or exportation of all or any specified goods ; and

(b) notwithstanding the provisions of paragraph (a) allow the importation or exportation of all or any specified goods with the general or special permission in writing of a specified authority or authorities.

Conveyance to the appropriate place.

56.—(1) Goods brought into the customs territory shall, without delay be conveyed by the persons who —

(a) brought in the goods ; or

(b) assumes responsibility for the carriage of the goods after the goods have been brought into the customs territory, by the specific route and in accordance with any instruction issued by the Service to a customs control zone, customs office, a special economic zone or to any other place as may be designated by the Service.

(2) Goods destined for a special economic zone shall be conveyed directly to the free zone.

(3) Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory shall be responsible for compliance with the provisions of subsection (1).

(4) Notwithstanding the provision of subsection (1), special provisions may be made applicable to letters, postcards and printed matter generally or their electronic forms or to goods carried by travelers, goods transported in pipeline and wires, or other goods of negligible economic importance provided that the special provisions do not adversely affect customs controls.

(5) Where, by reasons of unforeseen circumstances or force majeure, the provisions of subsection (1) cannot be complied with, the person responsible shall promptly inform the Service of the situation, including the precise location of any goods and means of transport involved and the Service shall determine the customs control measures to be applied to assure that the goods and means of transport are conveyed to a place designated by the Service.

57.—(1) Goods brought into the customs territory shall be presented to the Service immediately upon the arrival of the goods at the place designated by the Service under section 47 of this Act by the person—

Presentation
of goods to the
Service.

(a) who brought the goods into the customs territory ;

(b) in whose name or on whose behalf the person who brought the goods into the customs territory acts ; or

(c) who assumed responsibility for carriage of the goods after they were brought into the customs territory.

(2) Notwithstanding the obligation of the persons mentioned in subsection (1), presentation of the goods may be effected by—

(a) any person who immediately places the goods under a customs procedure ; or

(b) the holder of an authorisation for the operation of storage facilities or any person who carries out an activity in a zone.

(3) The person presenting the goods shall refer to customs declaration which has been lodged in respect of the goods.

(4) The provision of this section shall not preclude the application of any special provisions with respect to letters, postcards and printed matters generally or their electronic forms or to goods carried by travelers, goods transported in pipelines and wires as well as any other goods of negligible economic importance, provided that those do not adversely affect customs controls.

58.—(1) The permission of the Service must be obtained prior to the unloading or trans-shipment of goods from any means of transportation of the goods to the designated places.

Unloading of
goods.

(2) The permission referred to in subsection (1) shall not be required in the event of an imminent danger requiring the immediate unloading of all or part of the goods provided that the Service is informed in writing immediately thereafter.

Examination
of goods at
examination
bay.

59.—(1) subject to the provisions of this Act, the Service may at any time require goods to be unloaded and unpacked at designated examination bays for the purpose of examining the goods, taking of samples or examining the means of transport carrying the goods.

(2) Goods presented to the Service shall not be removed from the place where they have been presented for examination without the permission of the Service.

(3) Non-intrusive inspection equipment shall be provided by the terminal operator or warehouse operator to facilitate clearance of goods.

Goods
uncleared and
missing
goods.

60.—(1) On the 30th day after the completion of discharge of the importing ship, aircraft or vehicle or at such times as the Service may direct, the proper officer shall, in respect of every ship, aircraft or vehicle, deliver to the person administering the area within which the discharge took place or, where there is no such persons, to the owner of the ship, aircraft or vehicle, or his agent, a list of goods unloaded from such ship, aircraft or vehicle and not yet released by the proper officer.

(2) On the receipt of the list specified in subsection (1), the person administering the area, or where there is no such person, the owner of the ship, aircraft or vehicle, or his agent shall immediately transfer all such goods to the Government warehouse, where it is not available, it shall be constructively warehoused within the premises or to such other place as the proper officer may approve.

(3) Where any persons fail to comply with the provisions of subsection (2), the person commits an offence and is liable to a fine of ₦500 per m² per day.

(4) Where any imported goods remain uncleared at the expiration of 30 days from the date of completion of discharge of the importing ship, aircraft or vehicle, the proper officer shall inform the person administering the area within which the discharge of the ship, aircraft or vehicle took place or, where there is no person administering such area the owner of the ship, aircraft or vehicle or his agent to remove or store all or any such goods to or at a Government warehouse or such other place as the proper officer may approve and a person fails to comply with such direction within 24 hours after such direction is given, he is liable to a penalty of ₦1,000,000 and the proper officer shall cause all or any such goods to be removed to a Government warehouse or such other place as he may approve.

(5) Where under subsection (1) or (4), goods are removed to or stored at a place approved by the proper officer such place shall be deemed to be a Government warehouse and such goods shall be deemed to have been removed to and deposited in a Government warehouse.

(6) Where any goods which have been reported in any ship, aircraft or vehicle but have not been released by the proper officer nor removed to a Government warehouse are not produced to the proper officer on demand, such goods shall be deemed to have been imported and removed for use in Nigeria and, without prejudice to any remedy in respect of any contravention of this or any other Act in respect of such goods, the person responsible shall, if so required by the proper officer within one year from the date of the report of such goods, pay any duty chargeable on the importation of such goods, unless he proves to the satisfaction of the Management Committee that the goods have not been imported.

(7) In subsection (6), “persons responsible” means—

(a) in respect of goods shown to the satisfaction of the Service to have been uploaded into an area administered by any person other than the agent or owner of the ship, aircraft or vehicle concerned or any officer in the service of the Government of the Federation, the person administering that area ; and

(b) in respect of any other goods, the owner of the ship aircraft or vehicle concerned.

(8) Where it is necessary for the purpose of determining the amount of any duty chargeable under subsection (6) to classify any goods and assess the value, quantity, weight, measurement or strength, such goods shall be deemed to be of such description and of such value, quantity, weight measurement or strength as may be determined by the proper officer having regard to the information in his possession relating to it.

(9) Without prejudice to the provision of section 119 of this Act, if any goods removed to a Government warehouse under this section are not cleared by the importer—

(a) in the case of goods which are in the opinion of the Service of a perishable nature, forthwith ;

(b) in any other case, within 14 days after the goods has been so removed or such longer time as the customs Service may in any case allow, the customs Service may sell them.

61.—(1) Goods that are of non-preferential origin shall be placed under the customs procedure as provided under this Act.

(2) Subject to the provisions of this Act, a declarant shall be free to choose the customs procedure to place the goods, and the conditions for that procedure, notwithstanding the nature, quantity, country of origin, consignment or destination of the goods.

62.—(1) Subject to the laws applicable to the rules of preferential origin, all goods originating in the customs territory of preferential agreement shall be presumed to have the status of preferential origin, unless the contrary is provided.

Customs procedure relating to goods that are of non-preferential origin.

Goods of preferential origin.

(2) The Service shall by regulations provide for—

(a) exceptions to the provision of subsection (1) ;

(b) means by which the customs status of Economic Community of West African States goods may be established ; and

(c) how goods which originated from Economic Community of West African States can be differentiated from goods, when placed under certain customs procedures, are not Economic Community of West African States goods.

(3) Economic Community of West African States goods shall become non—Economic Community of West African States goods where the —

(a) goods have moved out of the customs territory of Economic Community of West African States ;

(b) declaration for release of the goods for free circulation is invalidated after release in accordance with the provisions of this Act ; and

(c) goods are placed in a customs procedure inconsistent with the status of Economic Community of West African States goods, as may be determined by regulations.

Temporary
storage of
goods.

63.—(1) Except where goods are immediately placed under a customs procedure for which a customs declaration has been accepted, or have been admitted into a free zone, non—preferential goods and services shall be deemed to have been placed under temporary storage.

(2) Where goods are not declared for a customs procedure, the following non-preferential goods and services shall be deemed to be declared for temporary storage of goods procedure —

(a) goods brought into the customs territory ; and

(b) goods for which the external transit procedure has ended.

(3) A cargo document may constitute a declaration for the temporary storage procedure.

(4) The Service may require the holder of the goods to provide a guarantee ensuring payment of the amount of duties, excise Customs duties, other Customs duties and fees or charges which may be incurred.

(5) Unless extended by the Service for good cause, 28 days is the allowable period for temporary storage.

(6) If for any reason goods cannot be placed or continue to be maintained under the temporary storage procedure, the Service shall promptly take all necessary measures to place the goods under an appropriate customs procedure.

(7) Goods under the temporary storage procedure shall be stored only in places authorised by the Service for temporary storage.

(8) Goods under the temporary storage procedure shall be subject only, to such handling as is designed to ensure their preservation in an unaltered state without modifying the appearance or characteristics of the goods.

64.—(1) Goods may be moved under the transit procedure from one point to another within or outside the customs territory without being subject to —

Goods moved under transit procedure.

(a) import duties ;

(b) excise Customs duties and other Customs duties ;

(c) other charges and fees, except for cost-based user fees for escort services where required ; and

(d) commercial policy measures where the measures do not prohibit the entry or exit of goods into or from the customs territory.

(2) The movement contemplated in subsection (1) shall take place in one of the following ways —

(a) from a customs office of entry to a customs office of exit ;

(b) from a customs office of entry to an inland customs office ;

(c) from an inland customs office to a customs office of exit ; and

(d) from one inland customs office to another inland customs office.

(3) To the extent practicable, physically separate transit infrastructure shall be provided at border crossing for goods subject to transit procedure and such transit procedure shall be simplified and expedited.

(4) The carrier consignee or any other person responsible for the carriage of goods subject to transit procedure shall have the responsibility of —

(a) submitting goods declaration for transit procedure to the Service, provided that the Service may accept as a goods declaration a commercial or transport document for consignment that adequately describes the goods and meets all other requirements of the Service ;

(b) presenting goods to the relevant offices of the Service ;

(c) submitting to the Service prior to the carriage of the goods of a guarantee adequate to cover any potential loss of revenue ; and

(d) using means of transport, security measures and personnel adequate to reasonably ensure the safe transport of the goods to their destination.

(5) The Service shall take all actions necessary to enable the customs office of destination to identify the goods and detect any unauthorised interference.

(6) The actions referred to in subsection (5) include —

(a) the use of customs seals ;

(b) the use of an approved means of transport ;

(c) full examination of the goods and recording of the results of the examination on a document, based upon the application of risk management ;

(d) stipulating a particular routing and time limit ; and

(e) requiring a customs escort.

(7) A change in the customs office of destination shall not be accepted without prior notification to the Service.

(8) Transfer of the goods from one means of transport to another may be allowed without the authorisation of the Service as long as the customs seal of fastenings are not broken and other security requirements are maintained.

(9) The customs transit shall terminate when the goods and related documents are presented at the customs office of destination and the Service determines that the goods are intact and that transit has taken place in compliance with the conditions imposed by the Service such as landing certificate.

(10) Goods that are trans-shipped shall not be subject to the payment of duties, excise Customs duties, other Customs duties and customs fees as long as the conditions for trans-shipment imposed by the Service are followed.

(11) For trans-shipped goods, the following procedure are applicable —

(a) only a single goods declaration shall be required for trans—shipment, and the Service may accept as the goods declaration any commercial or transport documentation that meets its requirements ;

(b) the Service may take action to ensure that goods to be transshipped will be identifiable at exportation and that unauthorised interference will be readily detectible ; and

(c) the Service may fix a time limit for the exportation of goods declared for trans-shipment.

Goods leaving
customs
territory
temporarily.

65.—(1) Subject to regulations made by the Service, goods may be temporarily exported from the customs territory without being subjected to duties or excise Customs duties, other Customs duties and fees on export or subsequent re-importation into the customs territory in the same condition.

(2) Goods that are temporarily exported and are returned after having been advanced or improved in value abroad shall be subject to a duty on the value of the advancement or improvement.

Customs
procedure.

66.—(1) Goods presented to the Service shall be placed under a customs procedure.

(2) Except as otherwise provided, the declarant shall be free to choose the customs procedure for the goods, the conditions for that procedure, notwithstanding the nature, quantity, the country of origin, consignment or destination of the goods.

PART IX — DETERMINATION OF DUTIES AND CUSTOMS DUTIES

67.—(1) When lodging a declaration under the provisions of this Act, declarants shall —

(a) determine and declare the classification, valuation and origin of the goods applying —

(i) the nomenclature of the relevant international convention and agreements on the harmonised commodity description and coding system,

(ii) the provisions of the relevant international conventions and agreements on implementation of Article VII of the General Agreement on Tariffs and Trade,

(iii) the official currency of the Federal Republic of Nigeria, using the prevailing official exchange rate issued by the Central Bank of Nigeria, and applicable at the time of submission of declaration of the goods into Nigeria or the exportation of the goods from Nigeria,

(iv) rules of origin as may be specified in applicable international agreements and this Act, and

(v) international best practice ; and

(b) exercise reasonable care in the determination and declaration of the tariff classification, valuation and origin of goods.

(2) A declarant shall be liable to penalties for any negligent or false statements made knowingly or intentionally in contravention of the provisions of this Act or its regulations.

68.—(1) The Service shall be responsible for —

(a) applying in accordance with classification to the provisions of the relevant international convention and agreements on the harmonised commodity description and coding system as contained in this Act to imported, exported and excise goods ;

(b) applying for valuation in accordance with the provision of the relevant international convention and agreements on implementation of Article VII of the General Agreement on Tariffs and Trade as contained in this Act to imported, exported and excise goods ;

(c) accept origin declaration in accordance with specific agreements on preferential rules of origin as contained in this Act to imported, exported and excise goods ;

(d) determining the correctness of declarants' statements and documentation regarding the classification, valuation and origin of imported, exported, and excise goods ; and

(e) providing general information to the traders regarding the standards governing the classification, valuation and determination of origin through publications, educational programmes and enquiry points.

Determination of classification, valuation and origin of imported and exported goods by the declarants.

Determination of classification, valuation and origin of imported and exported goods by the Service.

(2) The Service shall carry out the responsibilities referred to in subsection (1) in a timely and efficient manner providing sufficient details to enable declarants to carry out their responsibilities under this Act and its regulation.

Transaction
value.

69.—(1) The primary basis for the customs value of goods shall be the transaction value.

(2) The transaction value is the price actually paid or payable for the goods when sold for export to the Federal Republic of Nigeria adjusted, when necessary, in accordance with the provisions of Article 8 of the Agreement on Customs Valuation.

(3) The price actually paid or payable is the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods.

(4) The transaction value shall be applied if —

(a) there are no restrictions as to the disposition or use of the goods by the buyer than restrictions which —

(i) are imposed or required by law or by the Federal Republic of Nigeria,

(ii) limit the geographic area in which the goods may be resold, or

(iii) do not substantially affect the value of the goods ;

(b) the sale or price is not subject to some conditions or consideration for which a value cannot be determined with respect to the goods being valued ;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provision of this section ; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that the transaction is acceptable under the provisions of this section.

(5) For the purpose of this section, persons shall be deemed to be related if—

(a) they are officers or directors of one another's businesses ;

(b) their relationship is one of employer and employee ;

(c) any of such person directly or indirectly owns, controls or holds 5 *per cent* or more of the outstanding voting stock or shares of either of the person ;

(d) one of the persons directly or indirectly controls the other ;

(e) the persons are directly or indirectly controlled by a third person ;

(f) together, the persons directly or indirectly control a third person ; or

(g) the persons are members of the same family.

(6) The fact that the buyer and seller are related shall not solely constitute grounds for rejecting a transaction value.

(7) Where the buyer and seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that there is no proof to the contrary that the relationship influenced the price.

(8) Where the Service has grounds to believe that the relationship amongst persons concerned in a transaction influenced the price, it shall communicate the grounds to the persons concerned and provide them with opportunity to respond within a reasonable period of time.

(9) In a sale between related persons, the transaction value shall be accepted if the declarant demonstrates that the transaction value closely approximates one of the following values occurring at or about the same time the—

(a) transaction value in sales to unrelated buyers of identical or similar goods for export to Nigeria ; and

(b) Customs value of identical or similar goods as determined under sections 70 and 71 of this Act.

(10) In determining the transaction value under this section, there shall be added to the price actually paid or payable for the imported goods—

(a) the following costs, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods—

(i) commissions and brokerage, except buying commission,

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question, and

(iii) the cost of packing whether for labour or materials, to the extent that these costs are incurred by the buyer but excluded from the price actually paid for the goods ;

(b) the value, apportioned as appropriate, of the goods and services listed in this paragraph, where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable—

(i) materials, components, parts and similar items incorporated in the imported goods,

(ii) tools, dies, moulds and similar items used in the production of the imported goods,

(iii) material consumed in the production of the imported goods,

(iv) engineering, development artwork, design work and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods, and

(v) royalties and license fees related to the goods being valued that the buyer must pay either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable ;

(c) the cost of transport of the goods to the port or place of importation ;

(d) the loading, unloading and handling charges associated with the transport of the goods to the port or place of importation ; and

(e) the cost of insurance.

(11) Any addition to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

(12) Additions shall not be made to the price actually paid or payable in determining the customs value except as provided in this section.

Transaction
value of
identical
goods.

70.—(1) Where the customs value of goods cannot be determined under the provisions of section 69 of this Act, the customs value shall be the transaction value of identical goods sold for export to Nigeria and exported at or about the same time as the goods being valued.

(2) In the application of the provision of this section, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value and where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used, provided that such adjustment can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(3) Where more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the customs value of the imported goods.

(4) In determining customs value under this section, the addition to transaction value authorised by section 69 (10) of this Act shall be taken into account.

Transaction
value of
similar goods.

71.—(1) Where the customs value of the imported goods cannot be determined under the provision of sections 69 and 70 of this Act, the customs value shall be the transaction value of similar goods sold for export to Nigeria and exported at or about the same time as the goods being valued.

(2) In the application of the provision of this section, the transaction value of similar goods in a sale at the same commercial level and substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) When no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of difference attributable to commercial level or to quantity, shall be used :

Provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(4) Where more than one transaction value of similar goods is found, the lowest of such value shall be used to determine the customs value of the imported goods.

(5) In determining customs value under this section, the additions to transaction value authorised by section 69(10) of this Act shall be taken into account.

72.—(1) Where the customs value of the imported goods cannot be determined under the provisions of sections 69 and 70 of this Act, the customs value shall be determined under the provisions of this section, or where not possible, under the provisions of section 74, except that at the request of the declarant, the order of application of this section and section 74 of this Act shall be reversed.

Deduction
value.

(2) Subject to the provisions of this section, where the imported goods or identical or similar goods are sold in Nigeria in the condition imported, the customs value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom the goods were bought, subject to deductions of the following—

(a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind ;

(b) the usual cost of transport and insurance and associated costs incurred within the country of importation ; and

(c) the customs duties and other Customs duties and charges payable in Nigeria by reason of the importation or sale of the goods.

(3) Where neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject to the provisions of subsection (2), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after the importation.

(4) Where neither the imported goods nor identical nor similar imported goods are sold in Nigeria in the condition imported, then, if the declarant so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Nigeria who are not related to the persons from whom such goods were bought, due allowance being made for the value added by the further processing and the deductions provided for in subsection (2).

Computed value.

73.—(1) The customs value of imported goods under the provisions of this section shall be based on a computed value consisting of the sum of—

(a) the cost or value of materials and fabrication or other processing used in producing the imported goods ;

(b) an amount for profit and general expense equal to that usually reflected in sale of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Nigeria ; and

(c) in determining customs value under this section, the additions to transaction value authorised by section 69 of this Act shall be taken into account.

(2) A person not resident in Nigeria may be required to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value.

(3) Information supplied by the producer of the goods for the purposes of determining the customs value in this section may be verified in Nigeria with the agreement of the producer and provided sufficient advance notice is given to the Government of the country concerned that Government does not object to the investigation.

Residual value.

74.—(1) Where the customs value of the imported goods cannot be determined under the provisions of sections 70-73 of this Act, the customs value shall be determined using reasonable means consistent with the principles and general provisions of relevant international convention on implementation of Article VII of General Agreement on Tariff and Trade 1994 and on the basis of data available in Nigeria.

(2) Customs value shall not be determined under the provisions of this section on the basis of —

(a) the selling price in Nigeria of goods produced in Nigeria ;

(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values ;

(c) the price of goods on the domestic market of the country of exportation ;

(d) the cost of production other than computed value which have been determined for identical or similar goods in accordance with the provisions of sections 70 and 71 of this Act ;

- (e) the price of goods for export to a country other than Nigeria ;
- (f) minimum customs values ; or
- (g) arbitrary or fictitious values.

(3) Where the declarant so requests, the declarant shall be informed in writing of the customs value determined under the provisions of this section and the method used to determine the value.

75. If in the course of determining the customs value of imported goods, it is necessary for the Service to delay the final determination of the customs value, the declarant shall be allowed to take delivery of the goods from customs control under a customs procedure if he has provided a sufficient guarantee or security to the Service assuring the payment of customs duties, Customs duties and fees for which the goods may be liable.

Delay in the determination of customs value.

76. The valuation methodology contained in sections 69-74 of this Act shall be used to determine the value of goods for export and for the assessment of all duties, Customs duties and fees on imports, exports and the collection of statistics.

Valuation methodology for the determination of goods for exports.

77. Nothing in the valuation methodology contained in sections 69-74 of this Act shall be construed to restrict or question the right of the Service to satisfy itself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

Rights of the service to investigate value claims.

78. The country of origin of goods shall be determined to enable the application of—

Origin of goods.

- (a) the respective rate of customs duties under the applicable law ; and
- (b) any quantitative restrictions on the importation of goods in Nigeria.

79.—(1) Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

Rules of origin.

(2) The goods listed in this subsection shall be deemed to have originated in a single country or territory—

- (a) mineral products exploited from its soil, territory water or sea-bed ;
- (b) vegetable products harvested or gathered in that country or territory ;
- (c) live animals born and raised in that country or territory ;
- (d) products obtained from live animals in that country or territory ;
- (e) products obtained from hunting or fishing conducted in that country or its territorial waters or sea-bed ;
- (f) products obtained by maritime fishing and other products taken from the sea by a vessel of that country or territory ;

(g) products obtained aboard a factory ship of that country or territory solely from products of the kind covered by paragraph (f) ;

(h) products extracted from marine soil or subsoil outside that country's or territorial waters provided that the country or territory has sole rights to work that soil or subsoil ;

(i) scrap and waste from manufacturing and processing operations and used article collected in that country or territory and fit only for the recovery of raw materials ; and

(j) goods produced in that country or territory solely from products referred to in paragraphs (a)—(i).

(3) Goods, the production of which involves more than one country or territory, shall be deemed to originate in the country or territory where they underwent their last substantial transformation.

(4) Goods that become new and different products as a result of a manufacturing operation shall be deemed to be substantially transformed.

(5) A change in tariff heading or subheading may constitute proof of substantial transformation.

Preferential
rules of origin.

80.—(1) Rules of origin shall be divided into non—preferential and preferential rules.

(2) In order to benefit from preferential tariff rates or non—tariff preferential measures, goods must originate in a country or territory with which the Government has concluded a preferential trade agreement or accords preferential treatment on unilateral basis.

(3) The rules of preferential origin shall be set out in applicable preferential trade agreements and in laws ratifying and enforcing those trade agreements or establishing preferential treatment on a unilateral basis.

(4) Goods shall be deemed to be of Economic Community of West African States and other preferential origin if they originate from an Economic Community of West African State and other preferential origin, as determined by the applicable preferential rules of origin.

Non-
preferential
rules of origin.

81. Non-preferential rules of origin apply to all goods except those good that benefit from preferential rules of origin as result of an applicable international agreement or unilateral action by the Government.

Evidence of
origin.

82.—(1) When an origin has been indicated in the customs declaration, the Service may require the declarant to prove the origin of the goods.

(2) Documentary evidence of origin shall be a declaration of origin in English language by the manufacturer or exporter or a certificate issued by a designated authority in the country of production.

(3) Declarations and certificates of origin may be verified under mutual assistance agreements between the Service and other customs administrations of other countries and by other means.

(4) Where the declarant provides proof of origin of goods, the Service may, in the event of reasonable doubt, request for any additional evidence needed in order to prove origin.

PART X—CUSTOMS DEBT AND PAYMENT

83.—(1) A customs debt on importation shall be incurred through the placing of goods liable to import duties, excise Customs duties, other Customs duties and fees under the following customs procedures—

Customs debt
on
importation.

(a) release for free circular ; and

(b) any other customs procedure that results in the imposition of import duties, excise Customs duties, other Customs duties and fees.

(2) A customs debt shall be incurred at the time of acceptance of the customs declaration by the Service.

(3) The declarant shall be the debtor, and in the event that the declarant represents another person, the person on whose behalf the customs declaration is made, shall also be a debtor.

(4) Where a customs declaration is prepared on the basis of information which leads to all or part of the customs duties, excise Customs duties, other Customs duties and fees not to be collected, any person who provided the information, who was required to prepare the declaration and who knew or reasonably ought to have known that the information provided was false shall also be a debtor.

84.—(1) A customs debt on exportation shall be incurred through the placing of goods liable to export duties, excise Customs duties, other Customs duties and fees under the export procedure, the outward processing procedure, or any other export procedure that result in imposition of duties, excise Customs duties, other Customs duties and fees where applicable.

Customs debt
on
exportation.

(2) The declarant shall be the debtor, and in the event that the declarant represents another person, the person on whose behalf the customs declaration is made shall also be a debtor.

(3) Where a customs declaration is prepared on the basis of information resulting to the non-collection of all or part of the export duties, excise Customs duties, other Customs duties and fees where applicable, any person who provided the information for the preparation of the declaration knowing that the information provided is untrue, misleading or false or who reasonably ought to have known that the information provided is untrue, misleading or false shall also be a debtor.

Customs debt through non-compliance.

85.—(1) For goods liable to import or export duties, excise Customs duties, other Customs duties and fees, a customs debt on importation or exportation is incurred for non-compliance with any of the following—

(a) an obligation laid down in any customs legislation concerning the introduction of goods into or exit from the customs territory, their removal from customs controls, or the movement, processing, storage, temporary admission or disposal of goods within the customs territory ;

(b) an obligation laid down in any customs legislation concerning the end-use of goods within the customs territory ; and

(c) a condition governing the placement of goods, under a customs procedure or the granting, by virtue of the end-use of goods, of a duty, excise tax, other tax or fee exemption or reduce rate.

(2) A customs debt is incurred when—

(a) an obligation giving rise to the customs debt is not fulfilled or ceases to be fulfilled ;

(b) a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty, excise tax, tax or fee exemption or reduced rate was not fulfilled.

(3) In the circumstances referred to under subsection (2), the debtor shall be any person who—

(a) was required to fulfill the obligation concerned ;

(b) was aware or ought reasonably to have been aware that an obligation under any customs legislation was not fulfilled and who acted on behalf of the person who was under a duty to fulfill the obligation ;

(c) provided a guarantee in connection with the obligation ; or

(d) participated in the act which led to the non-fulfillment of the obligation.

(4) Any person who acquired or held the goods referred to in subsection (1) and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under customs legislation was not fulfilled shall be a debtor.

Joint and several liability of debtors.

86. Where two or more persons are liable for payment of one customs debt, they shall be jointly and severally liable for the full amount of the debt.

Place where customs debt is incurred.

87.—(1) A customs debt is incurred at the place where the customs declaration is lodged and in all other cases, at the place where the event from which the debt arose took place.

(2) Where it is not possible to determine the place where the debt arose, the customs debt shall be incurred at the place where the Service determines that a customs debt has been incurred.

(3) Where the good have been entered for a customs procedure which has not been discharged, and the place cannot be determined as provided in subsection (1) within a specified period of time, the customs debt shall be deemed to have been incurred at the place where the goods were placed under the applicable customs procedure or were introduced into or exported from the customs territory under that procedure.

(4) Where the information available to the Service establishes that customs debt was incurred in several places, the customs debt shall be deemed to have arisen or incurred at the place where it was first incurred.

88.—(1) The debtor shall be notified of the customs debt in the form prescribed by the Service, at the place where the customs debt is incurred or is deemed to have been incurred.

Notification of customs debt and entry into account.

(2) The notification referred to in subsection (1) shall not be given in the following situations —

(a) where, pending a final determination of the amount of duty, excise tax, other tax and fees owed, a provisional customs debt determination has been made ; and

(b) in other cases, where the Service is exempted by legislation or regulation from notifying the debtor of the customs debt.

(3) Where subsection (2) is not applicable, a debtor shall be notified of the customs debt within 14 days of the date on which the Service determines the amount of customs debt payable.

(4) A person shall not be liable for a customs debt for which a notice was not served as required under this section and section 89 of this Act.

(5) Notice of customs debts which are negligible shall not be served to a debtor and for the purpose of this subsection negligible shall have the meaning assigned to it by regulations.

89.—(1) A debtor shall not be notified of a customs debt after the expiration of seven years' period from the date on which the customs debt was incurred.

Limitation on customs debt.

(2) Where a customs debt was incurred as a result of an act for which a criminal prosecution was conducted, the seven years period referred to in subsection (1) shall not apply.

(3) Where an appeal is lodged in accordance with the provisions of this Act, the period referred to in subsections (1) and (2) shall not apply from the date on which the appeal is lodged until the appeal is finally determined.

Payment of
customs debt.

90.—(1) A customs debt shall be paid by the debtor within the period prescribed by the Service and stated in the notification.

(2) Unless extended by the Service, the prescribed period for payment of a customs debt shall not exceed 30 days following a notification.

(3) The Service may on request by the debtor, extend the period for payment in the following situations —

(a) upon an application for remission of duty made in accordance with the provisions of this Act ;

(b) where goods are to be confiscated, destroyed or abandoned to the Government ;

(c) where the customs debt was incurred as a result of non-compliance with this Act or other relevant legislations involving more than one debtor ; or

(d) in other cases where a debtor shows good cause.

(4) Payment shall be made by the debtor to the Service by electronic funds transfer or by other electronic means.

(5) Cash payments of customs debt shall not be accepted.

(6) The Service may accept credit cards, bank cheques to facilitate travelers and low value shipments as may be defined by regulations.

(7) After payment has been made, a receipt constituting proof of payment shall be issued by the Service to the debtor.

Deferment of
payment.

91.—(1) At the request of a debtor and upon the provision of a guarantee and a proof of fulfilling the criteria set out in Part XII of this Act for special simplified treatment, the Service may permit deferment of payment of the duty, excise tax, other Customs duties and fees for a period of 30 days.

(2) Where payment is deferred, the period of deferment shall begin on the day following the day on which the debt is notified to the debtor.

Enforcement
of payment
arrears and
interest.

92.—(1) Where a customs debt remains unpaid within the prescribed period, the Service shall take all necessary legal measures to recover the debt.

(2) Interest on arrears shall be charged from the date the payment became due until the date the payment is received by the Service and the rate of interest on any arrears shall be the monetary policy rate or other appropriate rate applied by the Central Bank of Nigeria at the time the payment became due.

Repayment
and remission
of customs
duties,
Customs
duties and
fees.

93.—(1) A customs duty, excise tax, other Customs duties and fees made to the Service may be repaid or remitted by the Service on the grounds that—

(a) payee was overcharged ;

(b) goods were defective or not in compliance with the contract ;

- (c) customs declaration was invalidated ;
- (d) an error was made by the Service ; or
- (e) there are equitable considerations requiring repayments.

(2) Repayment and remissions may be made at the request of the person concerned, his representative or by the Service.

(3) Where the situation which led to the anomaly resulted from the deception or fraud by the person concerned, no repayment or remission shall be made by the Service.

(4) Where repayment or remission is not made by the Service within three months after the decision had been taken granting repayment, interest shall be paid by the Service to the person concerned based on monetary policy rate or other appropriate rate applied set by the Central Bank of Nigeria at the time the repayment was due.

(5) The interest paid shall be the monetary policy rate or other appropriate rate applied by the Central Bank of Nigeria at the time repayment was due.

(6) Where repayment or remission of a customs debt has been granted in error, the Service shall notify the debtor, in the form prescribed, at the place where the debt was incurred or deemed to have been incurred and the provision of section 88 of this Act shall apply to the outstanding customs debt corrected, remaining unpaid within the prescribed period.

94.—(1) A customs debt shall be terminated or cancelled by —

- (a) payment of the amount of the debt ;
- (b) remission by the Service of the amount of the debt ;
- (c) invalidation of the customs declaration giving rise to the debt ;
- (d) confiscation of the goods giving rise to the debt ; or
- (e) the total destruction and irretrievable loss of the goods.

(2) In the event of confiscation referred to in subsection (1) (d), the customs debt shall for the purposes of penalties applicable to customs offences be deemed not to have been cancelled where the customs debt provides the basis for determining penalties.

(3) Where two or more persons are liable for payment of a customs debt and remission is granted to one or more than one person, the customs debt shall be cancelled only as to the specific persons to whom the remission is granted.

Termination or
cancellation of
customs
duties.

PART XI—CUSTOMS GUARANTEES AND SECURITY

Guarantee for existing or potential customs debt and performance of condition on requirement.

95.—(1) The Service may require a guarantee to be provided to ensure the—

(a) payment of the amount of duties, excise Customs duties, other Customs duties and fees corresponding to a customs debt ; and

(b) performance, conditions or requirements imposed under any applicable law.

(2) In special circumstances, where a monetary penalty has been imposed or goods subject to seizure are released pending the resolution of the penalty action, the Service may, at its discretion, request for a guarantee equal to the lesser of the value of the goods or the monetary penalty may be required.

(3) A debtor, a person who may become a debtor, or a third person guarantor approved by the Service, may be required by the customs to provide a guarantee to it.

(4) The "third person guarantor" referred to in subsection (3) is an authorised dealer bank.

(5) The Service shall require only one guarantee to be provided in respect of specific goods or a specific declaration, and such guarantee provide for a specific declaration shall not be less than the amount of duty, excise tax, other tax and fees corresponding to the customs debt in respect of the goods covered by or released against that declaration, whether or not the declaration is correct.

(6) Where a guarantee is required to be furnished, the Service may authorise a comprehensive guarantee to cover the amount of duties, excise Customs duties, other Customs duties and fees corresponding to the customs debt arising from multiple transactions over a specified period of time, not to exceed one year from issuance or renewal and in the case of a customs bond covering multiple transactions the guarantee shall not be lower than the outstanding customs debt at any given time.

(7) Guarantees shall be required from Federal or State Government agencies or Local Government Councils in respect of the activities in which they engage as public authorities.

Compulsory guarantee.

96.—(1) Guarantees shall be required for—

(a) customs licensed agents ;

(b) customs warehouse and free zones ;

(c) freight forwarders and transport firms ;

(d) traders that import or export goods valued at an annual amount to be determined by the Service ; and

(e) any person that the Service determines may not pay a customs debt, based on the application of risk management criteria.

(2) When the amount can be established with certainty at the time a guarantee is required, the Service shall fix the amount of a compulsory guarantee at an amount equal to the duty, excise tax, other tax and fee obligation of the debtor.

(3) Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the Service, of the duty, excise tax, other tax and fee obligation that will correspond to the customs debt which may be incurred.

(4) When a comprehensive guarantee as defined in section 95 (6) of this Act is provided for the customs debts, the amount of such guarantee shall be set by the Service at a level enabling the Service debt to be covered by the guarantee at all times.

97.—(1) A person may opt to submit a guarantee to the Service and the submission of such a guarantee shall be taken into consideration in determining whether expedited treatment is to be given to the person's goods.

Optional
guarantee.

(2) The provision of an optional guarantee by a person shall be a factor considered by the Service in determining whether that person's goods shall be entitled to expedited treatment or otherwise.

98.—(1) A guarantee may be provided in anyone of the following forms by—

Forms and
choice of
guarantee.

(a) a cash deposit or electronic payment made in the currency of the Federal Republic of Nigeria, or by any other means of payment recognised by the Service as equivalent to a cash deposit or as may be specified in regulations ;

(b) an undertaking given by a guarantor such as financial Institutions, insurance or similar person approved by the Service ; or

(c) any other forms of guarantee defined in regulations made under this Act, and approved by the Board, providing an equivalent assurance that the amount of a customs debt, present or future, will be paid.

(2) The person providing a guarantee may choose any form of guarantee from among the types of guarantee listed in subsection (1).

(3) The Service may refuse to accept the form of a guarantee chosen where it is incompatible or inconsistent with applicable customs procedure.

(4) The Service may require that the form of guarantee chosen be maintained for a specific period of time.

99.—(1) For the purpose of this Act, a guarantor must be a third person established in the customs territory and approved by the Service.

Guarantor and
form of
guarantee to
be approved
by the service.

(2) The guarantor shall enter into a binding agreement to pay the secured amount of duties, excise Customs duties, other Customs duties and fees constituting a customs debt in the event of default.

(3) The Service may refuse to approve a guarantor or the type of guarantee proposed, where the guarantor or the type of guarantee proposed do not appear certain to ensure payment within the prescribed period for payment of the amount of the customs debt.

Comprehensive guarantee.

100.—(1) Comprehensive guarantee provided for under section 95 (6) of this Act may be granted only to persons that —

(a) are established in the customs territory ;

(b) have a demonstrated record of compliance with the customs and tax requirements ;

(c) are regular users of the customs procedures involved and are known to the Service to have the capacity to fulfill their obligations in relation to those procedures.

(2) Where a comprehensive guarantee is to be provided for a customs debt, a person may be authorised to use a comprehensive guarantee with a reduced amount provided that the following criteria are met —

(a) a satisfactory system of managing commercial and where appropriate, transport records, as determined by a customs audit conducted, which allow the application of appropriate customs controls ; and

(b) proven financial solvency based upon audited accounting records.

Additional or replacement guarantee.

101. When the Service establishes that a guarantee provided does not adequately ensure payment of the amount guaranteed within the prescribed period, it shall require the persons responsible for the guarantee to provide an additional guarantee covering any additional liability or to replace the original guarantee with a new guarantee, provided all such guarantees are duly confirmed.

Release of guarantee.

102. The Service shall release a guarantee upon the full and final payment of the customs debt covered by the guarantee.

PART XII— CUSTOMS REPRESENTATIVES AND AUTHORISED ECONOMIC OPERATORS

Appointment of customs representative liaison agent.

103.—(1) A person shall have the choice of transacting the business of importation, exportation, movement and storage of goods, and other business with the Service either directly or by designating a licensed customs representative to act on his behalf.

(2) Any such person electing to transact business with the Service on his own account shall have fulfilled all the licensing requirements imposed by this Act or regulations made under this Act.

(3) Where a person elects to do any of the business envisaged under this Act such a person shall not be treated favorably nor be subject to more stringent requirements than those transactions which are handled for the person concerned by a customs representative and a customs representative shall have the same rights as his principal when conducting customs business.

(4) A customs representative shall be established within the customs territory and shall be subject to —

(a) the licensing and regulatory requirements imposed by this Act and regulations made under this Act ;

(b) must be a certified member of a Freight Forwarding Association as approved by the Federal Government.

104.—(1) Customs representative may be either directly, in which case the customs representative shall act in the name of and on behalf of another person, or indirectly, in which case the customs representative shall act in his own name but on behalf of another person.

Customs representative required to disclose identity of principal.

(2) When customs representation is indirect, the Service may require the customs representative to disclose the identity of the person whom he is representing.

105. An officer under employment in the Service shall not engage in business as a customs representative for any person.

Customs officer not to act as customs representatives.

106.—(1) A person shall not for compensation make entry of, or lodge a goods declaration for another person or act for another person in connection with other customs transactions unless licensed under the provisions of this Act and regulations made under this Act.

Requirement for acting as customs representative.

(2) The Service shall make regulations concerning the licensing and regulating of customs representatives, including qualifications regarding citizenship, residence, and knowledge of the laws, regulations and customs procedures of the Federal Republic of Nigeria required for a person to engage in the business of a customs representative.

(3) A person shall not be licensed as a customs representative, or maintain a license as a customs representative if he—

(a) has been convicted of a customs offence or other criminal offences in the past 10 years ;

(b) has consistently failed to fulfill his obligations to principals or to the Service, including repeated instance of gross negligence or infringement of customs rules and regulations ;

(c) has failed to pay the license fee required by the Service and to comply with other licensing requirements ;

(d) is not a registered member of an approved Freight Forwarding Association in Nigeria ; or

(e) is not a citizen of Nigeria.

(4) The Service shall provide prompt written notice to a customs representative of a decision not to conduct business with that representative, setting forth reasons for its refusal to conduct business.

(5) Customs representatives shall be liable to the Service for the prompt payment of all Customs debts imposed on their Principals and on themselves and they shall be subject to penalties for failure to meet these obligations, as may be provided in this Act and in regulations made under this Act.

(6) Before any person is licensed as a customs representative, he shall furnish a guarantee in the form and for the amount as the Service may require under regulations made under this Act.

(7) A customs representative may be required at any time to produce documentary evidence of its right to transact business with the Service for and on behalf of another person and the proof shall be a document in such form as the Service may require.

(8) The Service shall also maintain a registry of authorised customs representatives on the Service's website.

(9) The record keeping provisions contained in this Act shall apply to customs representatives.

(10) Any person who carries on business as a customs representative in violation of the provisions of subsection (1) commits an offence and is liable on conviction to a fine of ₦1,500,000 or imprisonment for a term of two years or both.

(11) Any licensed customs representative who violates the provisions of this Act or regulations made under this Act shall be liable to such penalties as may be prescribed in the regulations.

107. The Service shall hold consultations with customs representatives together with the traders.

108.—(1) A person who is established in the customs territory and who meets the conditions set out in this Part may apply to the Service to be designated as an authorised economic operator as set out in section 111 of this Act.

(2) The Service may designate an applicant as a “Customs Simplification Authorised Economic Operator” or as a “security and safety authorised economic operator”.

Right to formal consultants with the Service.

Authorised economic operators.

(3) A customs Simplification Authorised Economic Operator shall be entitled to simplified customs procedures, as is provided in this Act and regulations made under this Act.

(4) A security and safety authorised economic operator shall be entitled to simplified customs procedures relating to security and safety, as is provided in this Act and regulations made under this Act.

(5) The provisions of this Part shall become effective 90 days after the Service issues regulations providing for the procedures for this Part.

109. A customs Simplification Authorised Economic Operator may be authorised by the Service to use the following special procedures—

Customs
Simplification
Authorised
Economic
Operator.

(a) release of goods from customs control on the provision of minimum information necessary to identify the goods and permit subsequent completion of a goods declaration ;

(b) clearance of good at the declarant's premises ;

(c) use of single goods declaration for all imports or exports during a given time period when goods are imported and exported frequently by the same person ;

(d) use of commercial records to self—assess duty, excise tax, other tax and fee liability and to ensure compliance with other customs requirements ;

(e) lodgment of goods declarations by means of entries in the records of the authorised economic operator ; and

(f) other simplified procedures that may be authorised by the Service.

110. A security and safety authorised economic operator may be authorised by the Service to use the following special procedures—

Security and
safety
authorised
economic
operator.

(a) a reduced data set for release of good from customs control ;

(b) expedited processing and release of goods ;

(c) a minimum number of cargo security inspections ;

(d) priority use of non-intrusive inspection techniques when inspection is required ;

(e) access to customs offices and customs personnel after normal hour in order to expedite shipments, provided the safety of the officer is guaranteed ;

(f) priority processing during periods of elevated threat conditions or security incidents ;

(g) priority consideration of applications for Customs Simplification Authorised Economic Operator status ; and

(h) other simplified procedures relating to security and safety that may be authorised by the Service.

Criteria for granting status as authorised economic operator.

111.—(1) The criteria for granting the status of Customs Simplification Authorised Economic Operator are —

- (a) demonstrated compliance with customs and tax requirements ;
- (b) a satisfactory system of managing commercial and, where appropriate, transport records, allowing appropriate Customs controls ;
- (c) good financial standing ;
- (d) established procedures for communicating with the Service and measurement, analysis and adequacy and integrity of the prompt reporting violations of customs law to the Service ;
- (e) regular education and training of personnel regarding customs procedures ;
- (f) demonstrated practical standards of competence and professional qualifications directly related to simplified procedures ;
- (g) provision of a financial guarantee ;
- (h) use of modern information and communications technology including electronic data exchange ; and
- (i) implementation of required security standard.

(2) The criteria for granting the status of security and safety authorised economic operator shall be the following —

- (a) demonstrate compliance with customs and tax requirements ;
- (b) a satisfactory system for managing commercial, and where appropriate, transport records, allowing appropriate customs controls ;
- (c) good financial standing ;
- (d) established procedures for communicating with the Service and promptly reporting security concerns to the Service ;
- (e) regular education and training of personnel regarding security procedures ;
- (f) a system to protect confidential security information ;
- (g) use of modern information and communication technology, including electronic data exchange ;
- (h) implementation of crisis management and incident recovery procedures ; and
- (i) implementation of monitoring, improvement processes to ensure the security management system.

(3) The Board shall issue regulation providing necessary clarification for the criteria contained in this section, and the development of these regulations and specifics of the criteria shall be in collaboration with private sector stakeholders.

112. The status of a Customs Simplification Authorised Economic Operator or security and safety authorised economic operator may be suspended or revoked by the Service if the authorised economic operator fails to comply with the conditions contained in this Part and regulations made under the provisions of this Part.

Suspension of revocation.

PART XIII—STATUS OF GOODS AND CUSTOMS PROCEDURES

113.—(1) A customs declaration appropriate for a particular procedure shall be submitted to the Service by the person concerned for goods intended to be placed under a customs procedure.

Types of Declarations and Customs Procedures.

(2) The Service shall require the lodgment of an original declaration electronically, except for simplified declarations for low value shipments or personal declarations and other exceptions, as may be provided for by regulations.

(3) To support goods declaration, the Service shall demand for documents required for customs control or for compliance with applicable customs procedure and to ensure that all requirements of customs and excise laws have been complied with.

(4) All supporting documents used to facilitate the processing of the declaration must be in English language.

(5) A goods declaration shall be lodged in connection with following procedures—

- (a) release for free circulation ;
 - (b) re-importation ;
 - (c) exportation ;
 - (d) transit or trans-shipment ;
 - (e) warehousing or duty free shops ;
 - (f) drawback ;
 - (g) temporary admission into the customs territory with the declared intention of subsequent exportation ;
 - (h) destruction of goods or rejection of goods in favour of the Government ;
- and
- (i) special procedures.

114.—(1) The Service may authorise declarants to place goods under a customs procedure on the basis of a simplified declaration which may not require some of the particulars and supporting documents normally requested for.

Simplified declaration.

(2) The use of simplified declarations may be authorised in the following circumstances —

- (a) for low value shipments ;

(b) in situations where the declarant, for reasons deemed valid by the Service, does not have all the information required to make a full declaration and agrees to provide the additional information required at a later time ;

(c) for travelers ;

(d) for authorised economic operators ; or

(e) for emergency relief consignments.

(3) For authorised economic operators, a simplified declaration may take the form of an entry in the declarant's records.

(4) The Service shall make regulations containing the required content of simplified declarations providing for when such simplified declaration may be used.

(5) For the purposes of this section, "low value shipments" means shipments of a value to be determined in regulations issued by the Service.

Post entry
modification.

115.—(1) When a declarant submits a simplified declaration to the Service under section 114 of this Act and the declarant is an authorised economic operator or has submitted a simplified declaration because the declaration did not have all the information required to make a full declaration, the declarant shall submit to the Service further particulars necessary to complete a full declaration for the customs procedure concerned.

(2) For authorised economic operators, this further submission of particulars for the goods concerned may be of periodic and recapitulative nature.

(3) The time periods for submission of such further particulars shall be set by regulations issued by the Service.

(4) The subsequent submission of particulars and the simplified declaration shall be deemed to constitute a single document taking effect on the date on which the simplified declaration is accepted by the Service.

(5) When the simplified declaration takes the form of an entry in the declarant's record and access to those records by the Service using electronic data exchange, the declaration shall take effect from the date on which the goods are entered in the declarant's records.

(6) The place where the further submission is to be lodged shall be the place where the simplified declaration has been lodged.

Competent
customs
officers.

116.—(1) The Service shall determine by regulations the location and competence of the various customs offices situated in the customs territory.

(2) Where a customs office is located at a common border crossing, to the extent possible, the Service shall correlate the business hours and competence of such an office with the customs administration of the concerned foreign country.

(3) At common border crossings the Service shall, as far as practicable, operate joint customs controls with the customs administration of the concerned foreign country.

(4) To the extent possible, the Service shall establish adjacent or joint customs office at common border crossings to facilitate joint controls with the customs administration of the concerned foreign country.

(5) To facilitate trade, customs offices shall operate reasonable and appropriate hours, taking into account the nature of the traffic and of the goods and customs procedure at the location or place in question.

(6) The Service may extend the normal working hours of customs offices to facilitate trade and in such instances, a cost-based user fee may be assessed by the Service on persons using these special services.

117.—(1) The Service may authorise a person to lodge at the customs office with jurisdiction over that person's principal place of business, a customs declaration for goods which are to be presented to another customs office and in such cases, the customs debt shall be deemed to be incurred at the customs office at which the customs declaration is lodged.

Centralised
customs
clearance.

(2) The custom office at which the customs declaration is lodged shall carry out the formalities for verification of the declaration, payment of the customs debt, and for granting release of the goods.

(3) The customs office at which the goods are presented shall carry out any examination requested by the customs office at which the customs declaration is lodged and shall release the goods, taking into account information received from that office.

(4) With the exception of controls for security and safety purposes, or as a consequence of evidence that customs laws are being violated, the customs office at which the goods are presented shall not carry out an independent examination of the goods.

(5) The Service shall issue regulations for this section governing the —

(a) granting of authorisations referred to in subsection (1) and the conditions under which such authorisation is to be granted ;

(b) conditions when such authorisations may be suspended or revoked ;

(c) specific roles of the customs offices involved ; and

(d) time for completion of all customs formalities.

PART XIV—RELEASE OF GOODS

118.—(1) Goods intended for use or consumption within the customs territory shall be placed under the release for free circulation procedure.

Release for
free
circulation
procedure.

(2) Release for free circulation entails the —

(a) collection of duties, excise Customs duties, other Customs duties fees, and the customs debt due ;

(b) application of any commercial policy measures, prohibitions and restrictions so long as the procedure were not applied at an earlier stage ; and

(c) completion of other formalities required in respect of the importation of the goods.

Sale, disposal
or destruction
of goods.

119.—(1) The Service shall with the order of court, direct the disposal of goods by sale, destruction as prescribed in this Act or as the customs management may deem fit, in cases where —

(a) one or more of the obligations imposed by the customs law concerning the introduction of goods into the customs territory has not been fulfilled, or the goods have been withheld from customs control ;

(b) the goods cannot be released on the ground that —

(i) it has not been possible, for reasons solely attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the Service,

(ii) the documents which must be produced before the goods can be placed under, or release from, a customs procedure requested have not been made available by the declarant,

(iii) payment or a guarantee which should have been made or provided in respect of a customs debt have not been made or provided within the period prescribed, or

(iv) the goods are subject to prohibitions or restrictions ;

(c) the goods have not been removed from customs custody within such time as customs regulations may provide after their release ;

(d) after their release, the goods are determined by the Service not to have fulfilled the condition for their release ; and

(e) goods are abandoned to the Government in accordance with the provisions of this Part.

(2) Goods which have been abandoned to the Government, seized or confiscated shall be deemed to be placed under the temporary storage procedure.

(3) For abandoned goods, temporary storage shall terminate on final sales, destruction or disposal of the goods.

(4) The goods shall be disposed by Public auction or tender whose dates shall be adequately publicised in advance through national newspapers, television and the website of the Service in English language.

(5) The value so determined shall form the reserve price in all cases, the procedure for the auction of all goods under this section shall be established by the Board.

(6) The sales by Auction Act shall not apply to sales under the Customs and Excise Laws when conducted by an officer authorised by the Board.

120. Where a person imports goods into the customs territory and abandons such goods, the person or the holder of the goods shall bear the cost of destruction or disposal of the goods.

Abandonment
of goods.

PART XV—WAREHOUSES

121.—(1) Goods may be admitted to a customs warehouse under the warehouse procedure by any person with the right to dispose the goods stored or to be stored without the payment of duties, excise Customs duties, other Customs duties and fees.

Warehousing
of goods.

(2) A general customs warehouse may be used by any person and a private customs warehouse may be used by the person designated where necessary to meet the special requirement of trade.

(3) The provisions of this section are not applicable to government warehouses except as may be prescribed.

(4) A government warehouse is a place provided by the Government and designated by the Service for the deposit of seized or forfeited goods and for other purposes relating to the enforcement of the customs and excise laws, where not available, the terminal operators shall provide a place designated as government warehouse.

122.—(1) A warehouse shall not be operated as a customs warehouse without a license issued by the Service to the warehouse keeper.

Licensing of
warehouses
and warehouse
keepers.

(2) The Service may make regulations for licensing warehouses and warehouse keepers which regulations may make provisions —

- (a) for the maintenance of appropriate inventory control systems ;
- (b) for proof of financial solvency ; and
- (c) setting standards for the qualifications of employees, contractors and service providers of a warehouse.

(3) The Service may, upon application made to it on the prescribed form —

- (a) license any building as a warehouse for the deposit of goods for warehouse purposes ; or
- (b) may, where the application has failed to fulfill the prescribed conditions for the grant of a license, refuse to issue a license to the applicant.

(4) Where the Service has issued a license to the applicant under this section, it may at any time revoke the license.

(5) A building may be licensed by the Service as —

(a) a general bonded warehouse, for the warehousing of goods which are the property of the warehouse keeper or of any other person ; or

(b) a private bonded warehouse, only for the warehousing of goods which are the property of the warehouse keeper.

(6) A license issued under this section shall —

(a) be in such form as the Service may prescribe ;

(b) conform with such terms and conditions as the Service may by regulations prescribe ;

(c) be subject to the payment of such fees as may be specified by the Service ; and

(d) expire on the 31 December of each year.

(7) A license shall not be issued to an applicant under this Part until the applicant has —

(a) furnished a bank guarantee for the due payment of all duties, excise Customs duties, other Customs duties and fees in an amount as the Service may prescribe ;

(b) provide any additional guarantee as the Service may prescribe ; and

(c) give an undertaking to comply with customs and excise laws.

(8) A warehouse keeper who, without the prior written approval of the Service, makes any alteration to, or addition to, a warehouse shall be liable to a penalty of ₦10,000,000 and upon review may, at the determination of the Service, have the license revoked.

(9) A warehouse keeper who uses his warehouse, or permits the warehouse to be used, in contravention of the conditions of the license shall be liable to a penalty of ₦10,000,000 or revocation of the license or to both.

(10) An owner or occupier of a building who use the building or permits it to be used, for the deposit of goods for warehousing purposes without a valid license issued under this section shall be liable to a penalty of ₦20,000,000 and, in addition to a penalty of ₦1,000,000 for each day, or part of a day, during which the building is used or is permitted to be so used for warehousing purposes.

Termination of
warehouse
license.

123.—(1) The Service shall give a written notice of intention to revoke or not to renew the license of a warehouse three months prior to the date the revocation is to take effect or the license is due to expire.

(2) The notice referred to in subsection (1) shall specify the date the license is due to terminate and shall be deemed to have been served on all persons interested in any goods deposited in that warehouse if addressed and served on the warehouse keeper.

(3) After the date of issuance of the notice referred to in subsection (1), no goods shall be accepted for deposit for warehousing in the warehouse.

(4) Where —

(a) after the date specified in the notice or such later date as the Service may in any case allow, any goods upon which duty has not been paid remain in the warehouse ; or

(b) after the notice has been served, any goods deposited for warehousing in the warehouse, the proper officers may, take the goods to a Government warehouse, and the Service may, for good cause, permit such goods to be re—warehoused in another warehouse.

124.—(1) A bonded warehouse keeper shall at his own expense—

Warehouse keeper to provide facilities.

(a) provide and maintain at the warehouse office accommodation and related facilities conducive for work by a proper officer and other employees at the warehouse as the Service may prescribe ;

(b) provide and maintain appropriate working tools, equipment and appliances, and such other facilities, for examining, securing and taking account of goods, as the officer in charge may require ;

(c) stack and arrange the goods in the warehouse to allow reasonable access to and examination of every container or lot of such goods at all times ; and

(d) provide all necessary labour and materials for the storing, examining, packing, marking, cooping, weighing and taking stock of the warehouse goods whenever the officer so requires.

(2) Where any warehouse keeper fails to comply with any of the provisions of this section, the Service may direct that no further goods shall be warehoused by that warehouse keeper until compliance by the warehouse keeper with any requirement prescribed to the satisfaction of the Service.

(3) A warehouse keeper who contravenes any direction given by the Service under the provision of subsection (2) shall be liable to a penalty of N20,000,000 in addition to a fine of N1,000,000 for each day, or part of a day, during which such contravention continues.

125.—(1) The Service may by regulations specify the times at which goods may be received and removed from a warehouse.

Removal of goods and receiving of goods into a warehouse.

(2) Where goods are received or removed in contravention of this section, or regulations made by the Service under this section, the bonded warehouse keeper and the person responsible for removing the goods commit an offence and are severally liable on conviction to a fine of N20,000,000 or imprisonment for a term of five years or both and repeated violations of the provision of this section may result in the revocation of the warehouse license.

126.—(1) Upon the arrival of any goods at a bonded warehouse, the warehouse keepers shall immediately report the arrival to the proper officer, and where the warehouse keeper fails to report the arrival of any goods, he is liable to a fine of N3,000,000.

Warehousing procedure.

(2) Goods which are declared for warehousing shall be deemed to be duly warehoused from the time the goods are certified by the Service and entered into the record inventory of the warehouse operator.

(3) Except as otherwise provided in this Part or as may be permitted by the Service, all goods shall be warehoused in containers or lots in which they were entered for warehousing, and goods warehoused in contravention of the provision of this subsection shall be forfeited.

(4) The warehouse keeper shall mark the containers or lots of warehoused goods in such manners as the proper officer in charge may direct, subject to any such further directions, the warehouse keeper shall keep the goods so marked while they are warehoused.

(5) A warehouse keeper who fails to comply with the provisions of subsection (4) is liable to a fine of ₦3,000,000.

(6) The Service shall issue regulations governing warehousing procedures.

(7) Warehouse keepers shall maintain inventory management systems that are in accordance with the Service's requirements.

(8) Information and communication technology shall be applied to warehousing procedures and record keeping to the extent practicable in international best practice.

Customs
control of
warehouses.

127.—(1) The Service shall maintain customs control over public and private customs warehouses and such control measures may include —

(a) a requirement that warehouses be double locked, secured by both a lock of the warehouse keeper and of the Service ;

(b) permanent or intermitted supervision by proper officers ;

(c) inventories of goods and audits of records ; and

(d) unannounced spot checks.

(2) The customs office responsible may give direction to the warehouse keeper on the parts of a warehouse where goods may be kept and the manner in which goods are to be deposited and kept.

(3) Where goods are deposited contrary to any directions of the Service, the warehouse keeper is liable to a fine of ₦3,000,000.

(4) The Service may by regulations impose special conditions, consistent with industrial standards for the storage of hazardous materials.

(5) The Service may place restrictions on any part of the warehouse at any time for administrative purpose.

(6) Goods of a combustible or inflammable nature or with characteristics requiring special care, storage or treatment shall not be warehoused together with other goods not requiring such special care or treatment.

(7) Except as otherwise provided for in this section or is permitted or directed by the Service, if goods deposited in a warehouse are moved from the part of the warehouse in which they were deposited, or any alteration is made to the goods, marks, numbers of such goods, their containers or lots, such goods shall be forfeited.

(8) Goods admitted into a warehouse shall be withdrawn from the warehouse not later than one year after admission into a warehouse.

128. The warehouse keeper shall produce to the Service, on request, any goods deposited in his warehouse which has not been lawfully removed from the warehouse and where he fails to produce the goods, he commits an offence and is liable on conviction to a fine six times the value of the goods or imprisonment for a term of five years or both.

Responsibility for production and safe custody of warehouse goods.

129.—(1) A person entitled to dispose warehoused goods shall be allowed, for reasons deemed valid by the Service, to perform the following operations in respect of the warehoused goods, to —

Repacking and other authorised operations.

(a) inspect them ;

(b) take samples, without payment of duties, excise Customs duties, other Customs duties and fees ;

(c) carry out operations necessary for the preservation of the goods ; and

(d) carry out such other normal handling operations as are necessary to improve the packaging or to prepare the goods for shipment such as breaking bulk, grouping of packaging, sorting and grading, and repacking.

(2) Any person who contravenes any condition imposed by the Service under this section is liable to a fine of ₦500,000.

130.—(1) The transfer of ownership of warehoused goods shall be allowed.

Additional provision regarding warehoused goods.

(2) Where goods are found to have deteriorated, spoilt or damaged, for reasons other than force majeure while under the warehouse procedure, such goods shall be allowed to be declared under the release for free circulation procedure in their deteriorated or damaged state or for destruction at owner's expense if the claimed deterioration or damage is substantiated through examination by the Service.

(3) The Service may direct the disposal of goods deteriorated, spoilt or damaged for reasons other than force majeure at the owners' expense in cases where the goods may endanger health or contamination of other goods in storage.

131.—(1) Before any goods are removed from a warehouse, the proprietor or owner of the goods shall deliver to the officer responsible, a declaration in such form and manner as provided for in this Act and regulations made under this Act.

Removal of warehouse goods.

(2) Goods shall be deemed to have been duly declared under this section when the declaration has been accepted and signed by the officer.

(3) Subject to the provision of this Act, goods shall not be removed from a warehouse until any customs debt chargeable on the goods has been paid.

(4) Warehoused goods shall not be removed from a warehouse except with the authority of, and in accordance with any direction given by, the customs office responsible.

Closure of a warehouse.

132.—(1) Where a customs warehouse is closed, the person concerned shall be given 90 days after written notice of the closure to remove their goods to another customs warehouse or place the goods under another customs procedure.

(2) Failure to remove goods from a closed warehouse within the time allotted by the Services shall result in forfeiture of the goods.

General offence relating to warehouse.

133.—(1) Any person who, except with the authority of the proper officer, opens any of the doors or locks of a bonded warehouse or government warehouse or makes or obtains access to any such warehouse or government warehouse or to any goods warehoused therein commits an offence and is liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of five years or both.

(2) Any person who fails to leave any bonded warehouse or government warehouse or any part of a bonded warehouse or government warehouse when requested to do so by any officer commits an offence and is liable to a fine of ₦5,000,000 or to imprisonment for a term of three years or both.

(3) Any person who, except as permitted under this Act, willfully destroys or damages any goods in a bonded warehouse or government warehouse commits an offence and is liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of five years or both.

(4) Where—

(a) except as permitted by the Service, any goods which have been entered for warehousing are removed without being duly warehoused or are otherwise not duly warehoused ;

(b) any goods which have been deposited in a warehouse or government warehouse are unlawfully removed there from ; or

(c) any goods entered for warehousing are concealed either before or after they have been warehoused,

those goods shall be liable to forfeiture, and any person who removes or conceals any goods as aforesaid commits an offence and is liable on conviction to a fine of ₦25,000,000 or imprisonment for a term of 10 years or both.

PART XVI — SPECIAL ECONOMIC ZONE PROCEDURE

134.—(1) The location and area of operation of a special economic zone shall be as may be determined by applicable laws, rules and regulations on export processing zone or oil and gas special economic zone or such other laws and as may be made.

Relationship between the Service and free zones.

(2) The perimeter, entry and exit points of the area of special economic zone shall be subject to customs supervision, and persons, goods and means of transport entering or leaving shall be subject to customs controls.

(3) Goods admitted into a special economic zone shall undergo processes necessary for operations, improved packaging, marketable quality, or preparation for shipment, consumption in the zone or delivery into the customs territory.

(4) Subject to the special economic zone authorisation by a free administrative authority examination, unstuffing, value addition, processing and manufacturing operations may be conducted in a free zone.

(5) The Service in collaboration with administrative authority of a special economic zone may issue regulations governing examination, unstuffing, value addition, processing and manufacturing operations conducted in a free zone.

(6) Any person who contravenes the provision of this section pertaining to special economic zone procedure, or the implementing regulations, commits an offence and is liable to a fine of ₦30,000,000 or imprisonment for a term of five years, or both.

135.—(1) Subject to the provision of any law establishing special economic zone generally or relating to any specific free zone, any industrial, commercial or service activity shall be permitted in a special economic zone and the carrying on of such activities, shall be subject to advance notification to the Service.

Buildings and activities in a free zone.

(2) The Service may impose prohibitions or restrictions on the activities referred to in subsection (1), having regard to the nature of the goods, the requirements of customs supervision, security or safety.

136.—(1) Foreign or domestic goods admitted into a special economic zone shall undergo the prescribed customs procedures applicable to special economic zone.

Goods brought into a special, economic zone and requirement for guarantee.

(2) Evidence of the special economic zone status for the goods as obtained by the licensee from the relevant authority shall be a part of the document to be submitted to the customs office responsible before the goods are moved to the designated stacking area.

137.—(1) Where goods are admitted from a special economic zone into the customs territory, such goods shall be placed under the appropriate customs procedure and extant import laws including payment of duties, Customs duties and fees.

Special economic zone goods imported into customs territory.

(2) Where goods are admitted from a special economic zone into the customs territory and placed under a customs procedure the goods shall be deemed as non-Economic Community of West African States goods or other non-preferential goods unless their origin as Economic Community of West African States or preferential goods has been established under a special economic zone procedure.

(3) Goods may be admitted into the customs territory from a special economic zone using special expedited treatment procedures, including the customs scheduling system also referred to as the "urgent release" procedure, for time sensitive operations, provided that the payment of all customs debts are guaranteed by a transaction bond.

(4) Where goods are exported from a free zone, for the purpose of applying export formalities, the goods shall not be regarded as goods unless it is —

(a) established that the goods have customs status of Economic Community of West African States goods ; and

(b) processed in accordance with all extant Customs duties, duties and excise fees.

Customs control measures applicable into special economic zone.

138. The following customs control measures shall be applicable in free zone —

(a) Special economic zone shall be managed in a manner that ensures safety and accounting of goods consistent with Customs procedure applicable in free zone ;

(b) proper accounts of goods introduced into special economic zone shall be kept using special registers or the relevant declaration and information technology shall be used for effective control of the circulation of goods ;

(c) the Service may at any time carry out checks of goods stored in warehouses or any storage facilities located within a free zone ;

(d) periodic audits of records, quantity counts of goods in a special economic zone inventory, spot checks of selected transactions or procedures, and review of recordkeeping, security or conditions of storage in a Free zone ;

(e) Officers knowledgeable in a special economic zone procedures shall be assigned to free zones as may be necessary for the proper application of customs control measures and special economic zone operators shall provide sufficient office space in the special economic zone for officers to carry out their responsibilities ; and

(f) additional control measures may be applied, in consultation with a special economic zone authority, in accordance with the provisions of this act and as may be prescribed by regulations made under this Act.

139. Goods admitted into a special economic zone which is entitled to exemption from or repayment of import duties and Customs duties when exported shall qualify for such exemption or repayment when introduced into a free zone.

Exemption and refunds of duties and Customs duties.

140. For customs control measures, persons carrying on business in a special economic zone shall maintain manual or automated inventory control and record keeping systems or combination of both systems capable of —

Inventory and record keeping systems.

(a) accounting for all goods, including goods of Nigerian, Economic Community of West African States origin or other countries temporarily deposited, admitted, stored, exhibited, manipulated, manufactured, destroyed, transferred, or removed from a free zone ;

(b) producing accurate and timely reports and documents as may be required by the Service ;

(c) identifying shortage and overages of goods in a special economic zone in sufficient detail to determine the quality, description, tariff classification, special economic zone status, and value of the missing or excess goods ;

(d) providing all the information necessary to make entry for goods being transferred to the customs territory ; and

(e) providing an audit trail to customs forms from admission through manipulation, manufacture, destruction or transfer of merchandise from a special economic zone either by special economic zone or customs authorised inventory method.

141.—(1) In exceptional circumstances as may be determined by the special economic zone authority, a limit may be imposed on the duration of stay of goods in a free zone.

Duration of stay of goods and closure of zone.

(2) In the event of the closure of a free zone, persons carrying on approved activities in the special economic zone shall be given six months notice from the date of closure of the special economic zone to remove their goods to another special economic zone or to place the goods under another customs procedure.

(3) Goods not removed or placed under another customs procedure within the six months period provided in subsection (2) shall be forfeited.

(4) The Service may extend the period referred to in subsection (3) where reasonable grounds exist for the extension.

PART XVII—TEMPORARY ADMISSION PROCEDURE

142.—(1) Under the temporary admission procedure, non-Economic Community of West African States goods intended for re-export may be admitted into the customs territory with total or partial relief from duties, excise Customs duties and other Customs duties, and fees without subjecting the goods to commercial policy measures where the entry of the goods are not prohibited.

Scope of temporary admission.

(2) Customs regulations shall provide circumstance in which temporary admission may be granted.

(3) In appropriate cases, temporary admission shall not be granted to goods already admitted under another customs procedure or consumable goods.

(4) Goods admitted on temporary basis shall be permitted to undergo procedure necessary for preservation while in the customs territory.

(5) The temporary admission procedure may be used where —

(a) the goods are not intended to undergo any change, except normal depreciation resulting from use ;

(b) it is possible to ensure that the goods placed under the temporary admission procedure can be identified, except where, due to the nature of the goods or the intended use, the absence of identification measures is not likely to result in abuse of the procedure ;

(c) the person using the temporary admission procedure must not be established outside the customs territory ;

(d) there is a clear intention to re-export the goods on the part of persons who owns or controls the goods ;

(e) a guarantee is submitted covering the duties, excise Customs duties, other Customs duties and fees that the goods will be assessed if the goods are not re-exported ;

(f) the Service specifies a time limit for re-exportation as provided for in section 143 (3) of this Act ;

(g) use of the goods is limited to the declared purpose of the temporary admission ; and

(h) all additional requirement for total or partial duty relief imposed by international agreement or customs regulations are met.

Period for temporary admission procedure.

143.—(1) The Service shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a different customs procedure.

(2) The maximum period during which the goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be twelve months.

(3) In exceptional cases, when the authorised use cannot be achieved within the allotted time period, the Service may extend the period for temporary admission for an initial one year and extension of six months, and another six months if necessary, which shall be final.

(4) Where the extension is not enough for authorised use, the goods shall be converted for home use, otherwise the goods shall be re-exported.

144. Prior authorisation may be required by the Service for certain temporary admissions and in those instances that are in line with the provision of this Act or where temporary admission procedure accords with Government acceptable Convention on temporary admission, documents and guarantee issued by an international organisation recognised by Government acceptable Convention, shall be accepted by the Service in lieu of the submission of a declaration for temporary admission procedure and guarantee as provided for in this Part.

Prior authorisation and acceptance of international documents.

PART XVIII—DRAWBACKS

145.—(1) "Drawback" means the amount of duties, excise Customs duties, remissions, abatement and other Customs duties repaid under the drawback procedure.

Meaning and application of the drawback procedure.

(2) A drawback of duties, excise Customs duties, remissions, abatement and other Customs duties may be paid in respect of —

(a) imported goods subsequently exported in the same condition as imported ;

(b) imported goods used or consumed in goods manufactured in the Federal Republic of Nigeria which are subsequently exported ; or

(c) imported goods, where the same quantity of domestic or imported goods of the same class or kind is used in goods manufactured in the Federal Republic of Nigeria which are subsequently exported.

(3) For the purpose of subsection (2), goods shall be deemed to be exported if they are —

(a) placed in any area that may be declared a special economic free zone, a customs warehouse, a duty-free shop, or otherwise exported ;

(b) designated as stores under this Act and supplied for use on board a conveyance outside the customs territory ;

(c) used for equipment, repair or construction of ships or aircraft as may be prescribed by regulations ; or

(d) used or designated for use in such other manner as may be prescribed by the Service.

(4) An application for drawback shall be in such form and manner as may be prescribed by regulations ;

(5) An application for drawback of duties, excise Customs duties and other Customs duties paid on imported goods shall be made within one year from the date of exportation of the imported goods.

(6) Notice of an intent to apply for drawback shall be submitted to the Service at the time a declaration is lodged to import goods that will be subject to the drawback procedure, provided that the Service shall not deny the payment of

drawback on grounds that at the time of importation of the goods, the declarant did not declare the intention of claiming a drawback upon exportation.

(7) A drawback shall not be granted unless the person applying for drawback provides such documentary evidence in support of the application as may be required by the Service.

(8) A drawback shall be paid immediately after the claim has been verified and the payment of drawback shall be made by electronic means.

(9) The Service shall issue regulations for the effective implementation of the provisions of this section.

Calculation of drawbacks.

146.—(1) Drawbacks shall be calculated by deducting from the amount of duties, excise Customs duties and other Customs duties paid on the goods, an amount equivalent to the proportionate cost to the Service for administering the drawback programme.

(2) The amount of drawback shall be reduced by the value of any merchantable scrap or waste resulting from the manufacturing process.

Offences and penalties relating to drawbacks.

147.—(1) Where any person obtains or attempts to obtain, or does anything for any person to obtain any amount as drawback of any duty or tax in respect of any goods which a person is not lawfully entitled to or which is greater than the amount he is entitled to, such a person commits an offence and if the offence is committed with intent to defraud, the person is liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of three years or both.

(2) Any goods in respect of which an offence under subsection (1) is committed, shall be forfeited.

PART XIX — EXPORT PROCEDURE AND COASTWISE CARRIAGE OF GOODS

Exporter to lodge export declaration.

148.—(1) Goods destined to leave the customs territory including oil and gas shall be covered by an export declaration lodged at the relevant customs office before the goods are taken out of the customs territory.

(2) The provision of subsection (1) shall not apply to goods carried on any means of transport passing through the territorial waters or air space of Nigeria only or that are subject to the international transit procedure.

Customs supervision and exit formalities.

149.—(1) Goods leaving the customs territory shall be subject to customs supervision and may be subject to customs controls and where appropriate, the service may determine the route to be used for exportation and the time limit for the goods to leave the customs territory.

(2) Goods leaving the customs territory shall be presented to the customs office at the place of exit or at any other place designated by the Service and the following exit formalities shall apply —

(a) collection of export duties and fees, if applicable ;

(b) repayment or remission of import duties, excise Customs duties, and other Customs duties ; and

(c) application of prohibitions and restrictions on exports relating to —

(i) public morality, policy or security,

(ii) protection of the health and life of humans, animals or plants,

(iii) protection of the environment,

(iv) protection of national treasures possessing artistic, historical or archaeological value,

(v) the protection of intellectual property,

(vi) money laundering and other cash transfers contrary to law,

(vii) fishery conservation, and

(viii) commercial policy measured.

(3) Goods leaving the customs territory shall be presented to the Service by the —

(a) exporter ; or

(b) person in whose name or on whose behalf the person who exports the goods acts ; or

(c) person who assumed responsibility for carriage of the goods prior to their export.

(4) Release for exit shall be granted to condition that the goods leave the customs territory in the same condition as when the export declaration was accepted.

(5) The Service may not require evidence of the receipt of the goods at their destination.

150.—(1) Where any person —

(a) except as provided under this Act, exports or is involved in exporting —

(i) any goods chargeable with a duty which has not been paid ; or

(ii) any goods contrary to any prohibition ; or

(b) loads for exportation or as stores or brings to any place in Nigeria for the purpose of exporting or loading as stores any goods the exportation of which is contrary to any prohibition, or assists or is involved in the loading or bringing of the goods with intent to evade any duty or any prohibition, the person commits an offence and liable on conviction to —

(i) imprisonment for a term of two years without the option of a fine,

(ii) forfeiture of the goods where the exportation is prohibited, or

(iii) where duty is chargeable, a fine of ₦3,000,000 or two times the value of goods, whichever is greater.

Penalties for improper exportation of goods.

(2) A person who, except as provided under this Act —

(a) loads or causes to be loaded any goods into a ship, aircraft or vehicle for exportation or as stores, or removes or causes to be removed any goods from a customs territory for exportation before the export declaration has been accepted by the Service ;

(b) exports or causes to be exported, or brings or causes to be brought to any place in Nigeria for exportation before goods concealed in a container holding goods of a different description ; or

(c) directly or indirectly exports or declares for exportation or causes to be exported or declare for export any goods found not to correspond with the declaration made,

commits an offence and is liable on conviction to imprisonment for a term of five years without an option of fine.

(3) Where goods loaded or retained on board any ship, aircraft or vehicle for exportation or as stores are unloaded in Nigeria without a written authorisation or permit by the proper officer, and unless any duty chargeable and unpaid on the goods is paid or drawback paid in respect of the goods repaid, the master of the ship, the captain of the aircraft, or any person in charge of the vehicle or involved in the unloading, reloading, landing or carrying of the goods from the ship, aircraft or vehicle without authorisation, permit, payment or repayment, commits an offence and is liable on conviction to a fine of ₦50,000,000 or imprisonment for a term of 10 years and the goods shall be forfeited.

Temporary
export
procedure and
return of
goods in the
same state.

151.—(1) Goods that were exported may be imported into the customs territory free of duties, excise Customs duties and other Customs duties under temporary export procedures, provided that the goods have not undergone any manufacturing processing or repairs aboard.

(2) Temporary export may be made applicable to both Economic Community of West African States origin goods and non-Economic Community of West African States origin goods.

(3) Goods declared as temporary export are not eligible for the refund or remission of import duties, excise Customs duties and other Customs duties on exportation.

(4) Imports of temporary exports in the same state shall be allowed, where—

(a) only a part of the exported is imported ;

(b) the temporary exports are imported by a person other than the person who exported the goods ;

(c) the goods have been used or damaged or have deteriorated during their stay outside the customs territory ;

(d) the goods have undergone operations or necessary maintenance processes, provided that their value at exportation has not been enhanced by those processes ; and

(e) the goods returned were initially placed under another customs procedure, provided that any duties, excise Customs duties and other Customs duties remitted or refunded on exportation are repaid.

(5) The declaration for goods placed under the temporary exports procedure shall include a notice of the exporter's intent to return the goods ; provided that the import of temporary exports may be allowed without a declaration of intent on justifiable grounds.

(6) The Service shall specify by regulations the requirement relating to the identification of the goods subject to the notice of intent to return.

(7) Goods exported with a notice of intent to return may be granted conditional relief from any applicable export duties and Customs duties.

(8) Return of temporary export in the same state shall be allowed for a period not exceeding eighteen months from the date of the exportation of the goods or in exceptional cases, when the authorised use cannot be achieved within the allotted time period, the Service may extend the period for temporary exportation.

(9) Goods declaration in writing shall not be required for temporary exports of packings, containers, pallets and means of transport for commercial use which are in use for international transport of goods, unless the Service is satisfied that these packings, containers, pallets and means of transport for commercial use can be properly identified and that any duties, excise Customs duties, other Customs duties and fees chargeable have been paid.

152.—(1) Coastwise carriage of goods procedure means the customs procedure under which goods in free circulation and imported goods are conveyed when the goods are —

(a) transported in a vessel other than the vessel in which the goods were brought into the customs territory ; and

(b) loaded on board a vessel at a place in the customs territory and transported to another place in the customs territory, where the goods are unloaded.

(2) The Service may, subject to such condition and restriction as it may impose, permit goods brought by an importing ship to a customs port in the customs territory but consigned to and intended to be delivered at some other customs port to be transferred under the coastwise carriage of goods procedure to another ship for carriage by sea to that other customs port.

(3) For the purpose of this Act, goods transferred and carried in accordance

Procedure of
coastwise
carriage of
goods.

with subsection (2) shall be deemed to be carried coastwise.

(4) Imported goods carried coastwise under this section shall not be unloaded at the customs port of destination until a declaration under another customs procedure has been made, except where the goods are —

(a) unloaded for deposit in a customs control zone under the temporary storage procedure provided for in this Act and duly deposited in the customs control zone ; or

(b) admitted into a special economic zone.

(5) The Service shall allow goods to be transported under the coastwise carriage of goods procedure on board a vessel carrying other goods at the same time, provided that all the goods can be identified and all other customs requirement will be fulfilled.

(6) For the purpose of customs control, the Service may require that goods in free circulation being transported under the coastwise carriage of goods procedure be separated from other goods carried on board a vessel.

(7) The Service may affix identification marks, customs seals or use other customs control measures to facilitate identification of the goods.

(8) Prior to a coastwise carriage of goods, the Service shall require the master of the vessel or other person responsible, to present only a single document giving details of the vessel, listing the goods to be carried under the coastwise carriage of goods procedure and stating the ports in the customs territory at which the goods are to be unloaded.

(9) The document referred to in subsection (8) shall on approval by the Service constitutes the authorisation for the conveyance of goods under the coastwise carriage of goods procedure.

(10) The Service regulations may designate the ports that are approved for loading and unloading of goods subject to the coastwise carriage of goods procedure and the hours during which loading and unloading may be carried out.

(11) Where the transport of goods under the coastwise carriage of goods procedure is interrupted by accident or force majeure, the master of the vessel or other person responsible shall take reasonable precaution to prevent the goods from entering into unauthorised circulation and to promptly advise the Service of the nature of the accident or other circumstances that interrupted the journey.

(12) The Service shall allow goods under the coastwise carriage of goods procedure to be loaded or unloaded upon arrival of the vessel at the place of unloading or loading.

Transire.

153.—(1) In this part, "transire" means a permit for goods to pass through or across one customs control zone to another.

(2) Subject to the provision of this section and except as permitted by the

Board, before any consignment is moved from any customs control zone to another, the importer or his representative shall deliver to the proper officer an account of the cargo in such form and manner and containing such particulars as the Service shall direct, and that account when dated and signed by the proper officer shall be the transire, that is to say, the clearance of the consignment from that port or place and the pass for any goods to which the account relates.

(3) Where the goods taken on board a means of conveyance are to be carried to different places, the applicant shall deliver a separate account relating to the goods taken on board for each such place.

(4) The Service may, subject to such condition as it deems fit to impose, grant a general transire in respect of any means of transport and any goods carried in it.

(5) The Board may, subject to such conditions as it sees fit to impose, grant special transire in respect of any ship exclusively engaged in fishing.

(6) Any such general or special transire may be revoked by the Service by notice in writing delivered to the applicant or the owner of the ship.

154. The President may by order prohibit the coastwise carriage of any goods excepts as may be provided in the order.

Power to prohibit coastwise carriage of goods.

155.—(1) Where —

Offence in connection with coastwise carriage of goods.

(a) a vessel carrying goods under the coastwise carriage of goods procedure departs from any place without sufficiently accounting for the goods and without a transire duly delivered to the Service ;

(b) a coasting vessel deviates, without prior permission from her scheduled voyage except for some unavoidable cause, the proof of which shall lie on the master of vessel ; or

(c) a coasting vessel deviates from her voyage or takes on board or discharges any goods at sea without prior permission and the master does not report that fact in writing at the first Customs port or other place in the Customs territory at which the ship arrives, the master of such ship commits an offence and is liable on conviction to a fine of ₦25,000,000 or imprisonment for term of five years or both.

(2) Goods which are loaded, carried, unloaded or otherwise dealt with in contravention of the provision of this section or of any condition imposed by the Service under this section shall be forfeited.

(3) Where goods are carried coastwise contrary to any prohibition or are brought to any place in the Customs territory for the purpose of being so carried, the goods shall be liable to forfeiture and any person concerned in the coastwise carriage or the intended coastwise carriage of such goods shall be liable on conviction to a fine of ₦25,000,000 or imprisonment for a term of five years or both.

Stores.

156. In this Part "stores" means —

(a) goods intended for consumption by the passengers and crew on board vessels, aircraft and other means of conveyance, whether for sale or not ;

(b) goods necessary for the operation and maintenance of vessel, aircraft and other means of conveyance ; or

(c) goods for sale to the passengers and crew of vessels, aircraft and other means of conveyance with a view to being landed, which are either on board during arrival or are taken on board during the stay in the customs territory.

(2) Stores shall be exempted from the payment of duties, excise Customs duties and other Customs duties if retained on board the vessel, aircraft or other conveyance while in the customs territory, and the quantities of such stores are deemed reasonable having regard to the number of passengers and crew, and to the length of stay of the conveyance, provided the length of any of the stay is considered reasonable.

(3) Stores may be issued to members of the crew of a vessel undergoing repairs in a dock or shipyard in the customs territory, provided the stay in a dock or shipyard is considered to be of a reasonable duration.

(4) The operator of a ship, aircraft, or other conveyance shall take appropriate measures to prevent the unauthorised use of stores, including sealing when necessary.

(5) Treatment of goods as stores shall apply equally, regardless of the country of registration or ownership of the vessel, aircraft or other conveyance.

(6) The requirement for a goods declaration shall be dispensed with for stores, provided a stores' inventory in a form acceptable to the Service is maintained on board the vessel, aircraft or other conveyance.

(7) Stores on board a vessel, aircraft or other conveyance that have arrived in the customs territory shall be allowed—

(a) to be placed under another customs procedure, subject to compliance with the relevant conditions ; or

(b) subject to prior authorisation from the Service, to be transferred to other vessels, aircraft or other conveyances engaged in international traffic.

(8) Based on the application of risk management, the Service may take inventory of stores on board, and after the quantities permitted have been issued, place the remainder under customs seal.

(9) On account of mandatory customs control, the Service may require the removal of stores from the vessel, aircraft or other conveyance for secure storage in another place during the stay of the conveyance in the customs territory.

(10) Vessels and aircraft which depart from the customs territory to a foreign destination shall be entitled to take on board, free of duties, excise Customs duties and other Customs duties—

(a) stores for consumption by the passengers and the crew, and stores to be taken away in such quantities as the Service may deem reasonable, having regard to the number of passengers and crew, the length of voyage or flight, and quantities of stores already on board ; and

(b) stores for consumption necessary for operation and maintenance of the vessel or aircraft, in such quantities as are deemed reasonable for operation and maintenance during the intended voyage or flight, having regard to any quantity of stores already on board.

PART XX—CROSS BORDER E-COMMERCE, POSTAL AND EXPRESS SHIPMENTS

157. In this Part—

"*cross-border e-commerce*" means all transactions which are affected digitally through a computer network (the internet), and result in physical goods flows subject to customs formalities ;

"*postal items*" means letter-post and parcels, as described in the Acts of the Universal Postal Union, when carried by or for the postal service ;

"*express shipments*" means the international transport of small packages of goods or correspondence by air or a combination of air and surface transport on an expedited basis using courier service ;

"*postal service*" means any public or private body authorised by the Government to provide the international service governed by the Acts of the Universal Postal Union ;

"*e-commerce stakeholder*" means a party involved in e-commerce transaction and may include ; sellers or vendors, platforms, marketplaces, buyer or consumer, brokers, express carriers, logistic providers, postal operators, and payment providers ;

"*low-value shipment*" means goods classified under categories 2 and 3 in the World Customs Organisation (WCO) Guidelines for the Immediate Release of Consignments by Customs ;

"*carrier*" means the person actually transporting goods or in charge of or responsible for the operation of the means of transport ;

"*de minimis threshold*" means a minimum value or a minimum amount of duties and Customs duties, established by the national legislation, below which no duties and Customs duties will be collected ;

"*fulfilment house or centre*" means a warehouse which may be run on behalf of a third-party business and provides primary services which includes order management, break bulk services, warehouse management, inventory controls,

Definition of terms under this Part.

unpacking and repacking of goods, printing of relevant commercial or shipment documentation, processing returns, and repair services ;

"e-commerce platform or marketplace" means a party which operates an information network system that provides web pages as a virtual trading venue where both parties (consumers or buyers and vendors) can buy or sell goods ; and

"scales" includes weights, measures, weighing and measuring machines or such similar instruments used for the weighing of goods.

e-Commerce
and express
shipping
procedures.

158.—(1) The Service shall —

(a) provide for a separate and expedited procedure for express shipments ;

(b) provide adequate facilities for the processing of express shipments ;

(c) permit express shipments to be processed at the facility of the courier service under appropriate customs controls ;

(d) maintain a high degree of control over express shipments by use of risk management, internal security, tracking technology, and other appropriate control measures ;

(e) allow submission through electronic means of a single manifest covering all goods contained in a shipment transported by express shipment service ;

(f) collect and share appropriate data with e-commerce stakeholders and partner Government agencies, as it may become necessary under the prevailing circumstances ;

(g) the Service shall put in place a standing cross border e-commerce committee whose duties will be to continually review the clearance procedures of cross border e-commerce shipments with the aim of meeting current realities and trade facilitation.

(2) Persons or carriers transporting express shipments shall submit all information necessary for the release of the express shipment electronically to the Service prior to the arrival of the express shipment.

(3) Where a satisfactory guarantee has been submitted covering potential liability for duties, excise Customs duties, other Customs duties and fees, express shipments shall in the usual course, be released for free circulation or in accordance with a requested customs procedure within six hours after arrival of the shipment and submission of the necessary documents to the Service.

(4) The Service shall put in place the appropriate customs procedure as stated in subsection (3) and publish such procedures for ease of adoption and implementation.

(5) The Service may by regulation put in place a nominal value or a de minimis threshold under which shipments may be exempted from the payment of duty, excise Customs duties and the requirement of formal entry document which shall be determined solely based on data analysis and Government policy.

(6) The nominal value or de minimis threshold shall be determined solely through data analysis, Government fiscal and monetary policies.

(7) The Service may assess fees limited to the actual cost of the services provided for express shipment services.

(8) The Service shall make regulations to give effect to the provisions of subsection (1) (a), and such regulation shall commence 90 days after it is made.

159. The Service may enter into a memorandum of understanding with the postal services which shall specify the respective responsibilities of the Service and the postal service in respect of the customs treatment of postal items.

Administrative responsibility for postal and e-commerce items.

160.—(1) The customs clearance of postal items or low value shipments shall be carried out expeditiously.

Clearance of postal items and low value shipments.

(2) For the purpose of clearance, postal items or low value shipments shall be classified under categories 2 and 3 in the World Customs Organisation Guidelines for the immediate release of consignments except where circumstances dictate otherwise as determined by the Service.

(3) The Service shall put in place the appropriate and simplified procedure or system to enable payment of import duties and Customs duties for items delivered to the addressee.

(4) The importation of postal items shall be allowed whether or not they are intended to be released for free circulation or placed under another customs procedure.

(5) The postal service shall produce postal items for the purposes of customs control.

(6) The Service may not require the following categories of postal items to be provided —

(a) post cards and letters containing personal messages only ;

(b) literature for the blind ; and

(c) printed papers not subject to duties, excise Customs duties, other Customs duties and fees.

(7) Appropriate Forms shall constitute the goods declaration for postal items where all the information required by the service are contained on those Forms ;

(8) Declarations made on the appropriate Form shall be required in the following instances —

(a) shipments above the nominal value or de minimis threshold as may be specified by regulations ;

(b) goods subject to prohibition or restrictions or to export duties, excise Customs duties, or other Customs duties ;

(c) goods, the export of which must be certified ; or

(d) imported goods intended to be placed under a procedure other than release for free circulation.

(9) Postal items or low value shipment shall not be subject to customs formalities when conveyed in transit, except in the case involving fulfilment houses or centre.

(10) Where such shipments are stored in a fulfilment house or centre within Nigeria before onward transit to another territory, customs formalities shall be guided by international agreements.

(11) The procedures for the collection of any duties, Customs duties and fees on postal items or low value shipments shall be simplified.

(12) Where the Service may not be able to collect duties and excise Customs duties directly, subject to the terms of a memorandum of understanding between the Service and the postal service, the postal service may collect any duties, Customs duties and fees due at the time the postal items are delivered and remit the amount collected to the Federation account in line with the import guideline and documentation requirements.

(13) A person who fail to remit duties, Customs duties and fees collected to the Federation Account commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of at least five years, or both.

Repayment or remission of duties and Customs duties by Service.

161.—(1) Where imported postal items are not delivered or rejected by the addressee, repayment or remission of import duties and Customs duties shall be granted upon request in respect of goods contained in the post items, provided that the goods are —

(a) re-exported ; or

(b) destroyed or abandoned without cost to the Service.

(2) The Service shall put in place the appropriate and simplified procedure or system to enable remission of import duties and Customs duties for items not delivered or rejected by the addressee.

(3) Postal services and carriers shall make full disclosure of all postal items or low value shipment not delivered or rejected by the addressee, and on which duties and Customs duties have been paid and remissible.

PART XXI—TRAVELERS AND DUTY FREE SHOPS

Definition under this part.

162. In this Part —

"*traveler*" means —

(a) any person who does not normally reside in Nigeria, who enters and leaves Nigeria (a non-resident) ; or

(b) any person who normally reside in Nigeria, who leaves and returns to Nigeria (a returning resident) ;

"*personal effect*" means all articles, new or used, which a traveler may reasonably require for personal use during a journey, taking into account all the circumstances of the journey, but excluding any goods imported or exported for commercial purposes as determined by regulations ;

"*means of transport for private use*" means road vehicles or trailers, boats or aircraft together with their spare parts and normal accessories and equipment, imported or exported exclusively for personal use by a person and not for the transport of person for remuneration, industrial or commercial transport of goods ;

"*dual channel system*" means a simplified customs controls system allowing travelers on arrival to make a declaration by choosing between two types of channels, one channel, identified by green symbols, is for the use of travelers carrying goods in quantities or value not exceeding those admissible duties free and which are not subject to import prohibitions or restrictions, and the other, identified by red symbols, is for other travelers ; and

"*duty free shop*" means a shop under customs control, generally located at an exit point, such as an airport or seaport or national boundary, at which travelers leaving or entering Nigeria may purchase goods free of duties and Customs duties.

163.—(1) The Service shall designate customs offices at which customs formalities relating to travelers may be carried out.

Customs
office for
travelers.

(2) In determining the location and responsibility of customs offices and the hours of business, the Service shall take into account the geographic locations where travelers enter and exit the customs territory, the modes of transportation and the volumes of passenger traffic at the locations.

164.—(1) The Service shall facilitate international travelers, consistent with the application of appropriate customs controls, to ensure that —

Facilities of
travelers.

(a) internationally standardised electronic advance passenger information shall, where feasible, be used to apply risk management and facilitate the customs control of travelers and the clearance of their goods ;

(b) whenever possible, the dual channel system shall be used for the customs control of travelers and the clearance of their accompanying goods carried and their means of transport for private use ;

(c) oral declarations in respect of personal effects of travelers may be accepted ;

(d) transit passengers who do not leave a designated, secured transit area may not be subject to any customs control ; and

(e) travelers entering or leaving the customs territory by their means of transport for private use shall be permitted to accomplish all necessary customs formalities without having to leave the means of transport in which they are traveling.

(2) Goods carried by the travelers shall be stored, subject to the conditions prescribed by the Service until cleared, under the appropriate customs procedure in the following cases —

(a) at the traveler's request ; or

(b) where the goods concerned cannot be cleared immediately.

(3) Unaccompanied baggage or baggage arriving or leaving before or after the traveler, shall be cleared under the procedure applicable to accompanied baggage or under another simplified customs procedure and any clearance on behalf of a traveler.

(4) Personal searches of travelers shall be carried out only in exceptional cases and when there are reasonable grounds to suspect smuggling or other offences, personal search shall be conducted based on a progressively elaborated basis, from less intrusive to more intrusive steps as defined by the regulations.

(5) Personal searches shall be carried out by officers of the same gender as the person being searched except where there is an immediate threat to an officer or public safety in which case, steps necessary to minimise or alleviate the threat shall be taken.

(6) Where appropriate, the use of credit cards shall be accepted as a means of payment by travelers for duties, excise Customs duties, other Customs duties and fees due and for services rendered by the Service.

Personal effects of travelers.

165.—(1) Subject to the prohibitions and restriction imposed on imports by this Act and other legislations, returning residents may re-import free of duties, excise Customs duties and other Customs duties personal effects and their means of transport for private use taken with them at the time of their departure from Nigeria and which were in free circulation in Nigeria.

(2) The Service may in appropriate cases, require documentary proof that personal effects and means of transport were owned and used in Nigeria by the returning resident prior to the returning resident's departure.

(3) At the request of residents leaving Nigeria, the Service shall take identification measures for certain articles to facilitate re-importation free of duties and Customs duties.

(4) The Service may in exceptional cases require a temporary exportation declaration for the personal effects and means of transport for private use of residents leaving Nigeria.

(5) Subject to the prohibitions and restrictions imposed on imports by this Act and other legislations, the Service shall permit the temporary importation of personal effects of non-residents and shall not require a declaration or other customs document or security for the importations unless the personal effects —

- (a) exceed, in value or quantity, limits provided for in the regulations ; or
- (b) are deemed by the Service to be a loss of revenue.

(6) The following shall be deemed to be travelers' personal effects —

- (a) clothing, toiletries and other articles of a personal nature ;
- (b) personal jewelry ;
- (c) cameras and associated accessories ;
- (d) portable projectors and associated accessories ;
- (e) binoculars ;
- (f) portable musical instruments ;
- (g) portable sound reproduction devices ;
- (h) portable personal computers and associated devices ;
- (i) cellular telephones ;
- (j) portable radios ;
- (k) other portable electronic devices intended for personal use ;
- (l) baby carriages and strollers ;
- (m) wheelchairs ;
- (n) personal sporting equipment ; and
- (o) other identifiable personal items.

(7) Any traveler arriving Nigerian borders shall be entitled to personal effects as prescribed under subsection (6) without requirement of a declaration under this section or security for the carriage of such personal effects, except it exceeds in value or quantity, limits provided for in customs regulations or under the provision of this Act.

166.—(1) In addition to the admission of personal effects of travelers free of duties and Customs duties as provided in this Part, travelers may import goods intended for free circulation in Nigeria not exceeding an amount to be specified in the regulations free of duties and Customs duties ; provided that, this exemption may only be utilised once in every six months.

Other goods
admissible
duty and tax
free.

(2) For all goods imported for personal use, items over the exemption limit provided for in subsection (1) shall be subject to entry based on extant tariff value under provisions for a simplified goods declaration, and the specified limits shall apply to all travelers, whether Nigerian residents or non-residents.

Definition
under this
Part.

167.—(1) Subject to the prior approval of the Service, a duty—free shop may be established for the exportation or importation of duty and tax free goods by travelers departing or arriving in the customs vessel or vehicle in which the traveler departs or be purchased prior to customs clearance in duty free store territory by aircraft, vessel or vehicle or on foot to or from a contiguous country, and such goods are to be personally carried by the traveler in the same aircraft, vessel or vehicle in which the traveler departs or be purchased prior to customs clearance in the duty free store.

(2) Goods sold by duty free shops to departing travelers shall be delivered only to travelers immediately departing the customs territory, and each duty—free shop shall maintain procedures to ensure that duty and tax free goods sold to travelers will be exported from the customs territory.

(3) The procedures referred to in subsection (2) may include —

(a) recording the passport and boarding pass of the traveler ; and

(b) delivering the goods directly to the means of transport, where appropriate.

(4) Goods sold to arriving passengers may only be sold for immediate importation into Nigeria by a traveler, and the duty-free shop shall maintain procedures to ensure that the duty and tax-free goods sold to travelers entering Nigeria are recorded and the duty-free store shall maintain a record of the passengers' flight information, passport, date and time of sale.

(5) Goods originating from Nigeria and goods that were admitted into the customs territory under the release for free circulation, warehousing, or any other customs procedure may be placed in a duty-free shop for display and sale, provided that such goods shall be deemed to have been exported and qualify for any applicable refund of duties and Customs duties as a result of the exportation.

PART XXII — PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Power to
detain, arrest
or seize.
Cap C28,
LFN, 2004.

168. The Service shall have the powers to detain, arrest or seize any importation or exportation that infringes or contravenes the Copyrights Act.

PART XXIII—EXCISE CUSTOMS DUTIES

Definition of
terms under
this Part.

169. In this Part —

“*ammunition*” and “*firearms*” have the meaning provided under the Firearms Act ;

“*authorised methylator*” means a person authorised to methylate spirit under section 179(2) of this Act ;

Cap. F28,
LFN, 2004.

“*beer*” means ale, porter, stout and any other description of beer and any liquor which is made or sold as a description of beer or as a substitute for beer which on a sample of at any time is found to contain more than one percent

and not more than ten *per cent* of pure alcohol, but does not mean fermented liquor of a kind made elsewhere otherwise than upon the licensed premises of a brewer for sale, which the Service accepts as a liquor usually made by local methods in or about Nigeria ;

"*bonded warehouse*" means a warehouse —

(a) subject to bond or other conditions as may be specified in regulations ; and

(b) which is not situated on the manufacturer's production premises and into where excisable goods may be placed without giving rise to a dutiable transaction as a result of the removal of the excisable goods from the production premises into the warehouse which otherwise may be taken to be a dutiable transaction ;

"*brewer*" means a person carrying on brewing trade or business and holds a valid excise license for that purpose ;

"*excise trader*" means any person carrying on a trade or business under any applicable provision of the excise laws, whether or not that trade or business is a trade or business requiring an excise license ;

"*gravity*" and "*original gravity*" have the meaning contained under section 195 of this Act ;

"*mentholate*" means the denaturing of spirit and "*mentholate*" and expressions of like kind shall be constructed accordingly ;

"*percent of pure alcohol*" means the percentage of ethyl alcohol by volume at 15.6 degrees centigrade or 60 degrees fahrenheit ;

"*spirit*" means ethyl alcohol and includes all liquors mixed with ethyl alcohol and all mixtures compounded with or prepared from ethyl alcohol which on a sample analysis at any time is found to contain not less than 2.5 *per cent* of pure alcohol, but does not include methylated spirits or other denature spirits, or wine, beer, cider, perry or other fermented liquors which do not contain more than 20 *per cent* of pure alcohol ;

"*sugar*" means sugar of any description and any saccharine substance, extract or syrup and includes any material capable of being used in brewing except malt or corm ;

"*tobacco manufacturer*" means a person carrying on a trade or business as a tobacco manufacturer and holds a valid license for that purpose ; and

"*wine*" means any liquor made or sold as a description of wine or as a substitute for wine and which, on a sample analysis at any time, is found to contain no more than 24.5 *per cent* of pure alcohol, with the exception of palm wine or any other wine of a kind produced elsewhere than upon the licensed premises of a distiller for sale, which the Service accepts as produced by local methods in Nigeria.

Imposition of
excise duty.

170.—(1) For the purpose of this Act, excise duty shall be —

(a) imposed and chargeable on excise goods produced in the Excise Factory ;
and

(b) collected at the time a dutiable transaction occurs.

(2) The excise duty to be imposed shall be based on the value of excisable goods or by a stated amount per unit of excisable goods, as specified in the regulations.

(3) In the case of excisable goods produced in the customs territory, the dutiable transaction is the removal of excisable goods from the production premises, however goods are not considered to be removed from the production premises during the time they are stored in a bonded warehouse.

(4) For imports, the dutiable transaction is the entry of excisable goods into the customs territory of Nigeria, and the term "entry" for excise duty purpose has the same meaning as for customs purposes.

(5) Goods removed from the production premises for export or for loading as stores on a vessel bound out of Nigeria are exempted from excise duties.

(6) The Service may by regulations specify restrictions and make provisions for accounts to be rendered for goods exempted from excise duties.

Collection of
excise
Customs
duties.

171. The Service shall ensure the monthly collection of excise Customs duties on excisable goods and the duty due for each month shall be paid by a manufacturer of excisable goods within the first 21 working days of the succeeding month, failure of which the duty shall attract a penalty of 10 *per cent* of the amount due for each month the excise duty due remains unpaid.

Amount of
excise duty.

172.—(1) Where excise duty is based on number of units, the amount of excise duty is the stated amount per unit multiplied by the quantity of units.

(2) Where the excise duty is based on the value of the excisable goods, the amount of excise duty is a percentage of value determined by multiplying the value of the excisable goods by the excise duty rate.

(3) For excisable goods produced in the customs territory, the value of excisable goods is determined on the basis of the compensation receivable by the duty payer from the customer or any other person excluding excise duty and value added tax, but not more than the ex-factory gate which is the value at which the product will ordinarily be sold at the factory gate which is exclusive of selling and distribution expenses, related charges and other non-production related expenses excise duty and value added tax and if the producer sells at both wholesale and the retail, the value used for excise duties purposes is the ex-factory price.

(4) For imports, the amount of the dutiable transaction is the customs value of the goods, determined in accordance with customs law, but not less than the cost, insurance and freight invoice exclusive of other charges and levies excluding

excise duty and value added tax, plus the amount of customs duties and other Customs duties payable on the import of the goods into the customs territory excluding excise duty and value added tax.

(5) Except for returnable containers, the price of the container is included in determining the value of excisable goods.

(6) The manufacture of excisable goods without a valid license is prohibited and a license is required to meet the conditions specified under the Part.

173.—(1) Excisable goods are those goods as may be specified in regulations made under this Act.

Excisable goods.

(2) The amount of excise duty imposed on excisable goods is the amount specified under this Part and in regulations made by the Service.

PART XXIV—MANUFACTURE OF SPIRITS

174.—(1) A person shall not manufacture spirits whether by distillation of fermented liquor or by any other process, without a valid spirits manufacturer excise license, issued subject to conditions specified under this Act.

License to manufacture spirits.

(2) A person to whom an excise license has been issued and who carries on business in accordance with the conditions of that license, is authorised to —

- (a) manufacture spirits, whether by distillation of a fermented liquor or by any other process ;
- (b) process or use a still for distilling, rectifying or compounding spirits ;
- (c) distil or process any low wines or feints ; or
- (d) brew, make or possess any wort wash fit for distillation.

175.—(1) The Minister shall make regulations, to bring into full effect the provisions of this Part.

Power to regulate the manufacture of spirits.

(2) The regulations referred to in subsection (1) shall include provisions —

- (a) to control the manufacture of spirits, whether by distillation of a fermented liquor or by any other process for the purpose of calculating, securing and collecting the excise duty on spirits ;
- (b) to regulate the removal of spirits from the premises of a spirits' manufacturer or in or out of a bonded warehouse ; and
- (c) restricting the delivery of immature spirits for use in Nigeria.

176.—(1) Any person who fails to comply with regulations made under section 184 of this Act is liable on conviction to penalty of up to ₦2,000,000 or such other amount as may be specified by regulations.

Contravention of regulations.

(2) In addition to the penalty specified in subsection (1), the spirits, vessels, utensils, or materials used for distilling or otherwise manufacturing or preparing spirits without a license shall be forfeited.

(3) Where an account is taken by an officer in charge and a discrepancy occurs in the quantity of spirit in the records of spirits manufacturer, and the quantity that ought to be in that manufacture's record, according to the officer's record or records kept in accordance with the requirement of section 175 of this Act, then —

(a) if an excess is found, the excess is subject to forfeiture ; and

(b) if a deficiency is found that cannot be accounted for to the satisfaction of the Service, the spirits manufacturer is liable to pay a fine double the excise duty on the spirits or pure alcohol in a quantity equal to the quantity of the deficiency.

Offences.

177.—(1) An unauthorised person shall not carry on any of the activities listed under section 181 of this Act.

(2) An unauthorised person who contravenes the provision of section 181 of this Act commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of one year.

(3) Where there is insufficient evidence to convict a person for an offence under section 181 of this Act, and it is proved that the offence was committed on a part of premises belonging to or occupied by that person in such circumstances that it could not have been committed without that person's knowledge, that person is liable on conviction to a fine of ₦1,000,000 or imprisonment for a term of 6 months.

(4) All spirits, stills, vessels, utensils, wort, wash, and other material for manufacturing, distilling or preparing spirits found in the possession of any person found to have committed an offence under section 181 of this Act, or found on any premises on which such an offence has been committed, are subject to forfeiture.

(5) Notwithstanding any other provision contained in this Act relating to seized goods, an officer who seized any such goods under subsection (4) may at his discretion spill, break or destroy the seized goods.

Offences of unauthorised removal of spirits.

178.—(1) It is unlawful for a person to do any of the following —

(a) conceal in, or without the consent of the custom officer in charge, remove from, the premises of a spirits' manufacturer any wort, wash, low wines, feints or spirits ;

(b) knowingly buy or receive any wort, wash, low wines, feints, or spirits that have been concealed or removed ;or

(c) knowingly buy, receive, or possess any spirit which have been removed from the production premises before the excise duty payable on the spirits have been paid or secured.

(2) Any person who violate the provisions of subsection (1) commits an offence and is liable on conviction to, pay a fine of six times the value of the

goods or ₦2,000,000, whichever is greater, or imprisonment for a term of two years or both in addition to forfeiting the goods.

179.—(1) It is unlawful to methylate spirits without a spirits' manufacturer excise license, as defined under subsection (2), containing the specific authorisation to methylate spirit.

Authority to manufacture methylated spirits.

(2) The Service may authorise a licensed spirits manufacturer to methylate spirits and a person authorised to methylate spirit in this Act is to be known as an authorised methylator.

(3) The Service may at any time on reasonable grounds revoke or suspend an authorisation granted under this section.

180. The Minister may make regulations —

(a) regulating the methylation of spirits ;

(b) for the maintenance of records of spirits which may be used, and the substances which may be mixed with spirits for methylation ; or

(c) prescribing the manner in which accounts are to be kept of stock of methylated spirits in the possession of an Authorised methylator.

Power to regulate methylated spirit.

181.—(1) The provision of this section applies to methylated spirits, methyl alcohol, or any mixture containing methylated spirits or methylated alcohol.

Prohibition on the use of methylated spirits.

(2) It is unlawful for any person to —

(a) prepare or attempt to prepare liquor to which this section applies for use as beverages or as a mixture with a beverage ;

(b) sell the liquor produced contrary to the provision of paragraph (a), whether prepared or not, as beverages or mixed with a beverage ;

(c) use any liquor or its derivative in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine ; or

(d) sell or possess an article in the preparation of which the liquor or any derivative thereof has been used ; or

(e) except as may be permitted by the Service and in accordance with conditions imposed by the Service, purify or attempt to purify liquor or, after the liquor has once been used, to recover or attempt to recover the spirit or alcohol contained in the liquor by distillation or condensation or in any other manner.

182.—(1) When an account is taken by an officer in charge and a balance arrived at as to the quantity of methylated spirits in the stock of a spirit manufacturer, and the quantity at hand differs from the quantity that ought to be in the manufacturer's possession according to the records kept by the Service in compliance with the provisions of this Act then —

Penalties.

(a) if an excess is found, the excess is subject to forfeiture ;

(b) if a deficiency is found that cannot be accounted for to the satisfaction of the Service, the spirits manufacturer is liable to pay a fine double the excise duty on spirits of pure alcohol in quantity equal to the quantity of the deficiency.

(2) Any person who fails to comply with any regulations made under section 180 of this Act commits an offence and is liable on conviction to a fine of ₦1,000,000 or imprisonment for a term of six months or both, for each act constituting the contravention of the provision of subsection (1) and the spirits or methylated spirits that are the object of non-compliance is liable to forfeiture.

(3) Any person who contravenes the provision of section 181 of this Act commits an offence and liable on conviction to a fine double the duty payable or ₦1,500,000 or imprisonment for a term of two years, and the liquor in respect of which the offence was committed is subject to forfeiture.

(4) Any person who methylates spirits without authorisation commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years or both.

PART XXV—MANUFACTURE OF BEER

Licensing requirement and excise duty on production of beer.

183. A person shall not brew without an excise license, issued subject to conditions specified in this Part.

Power to regulate the manufacture of beer.

184. The Minister may make regulations —

(a) regulating the manufacture of beer for calculating, securing and collecting the excise duty on alcoholic beverages ; and

(b) as to the books and other documents relating to sugar to be kept by brewers.

Ascertaining gravity of liquids.

185.—(1) For the purposes of excise duty—

(a) the expression "gravity" in relation to any liquid means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed as at 15.56 degrees centigrade or 60 degrees fahrenheit ;

(b) where the gravity of any liquid is expressed as a number of degrees, that number shall be the said ratio multiplied by one thousand ; and

(c) the expression "original gravity" in relation to any liquid in which fermentation has taken place means its gravity before fermentation.

(2) The gravity of any liquid at any time shall be ascertained by such means as the Service may approve and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

186.—(1) Any person who fails to comply with the regulations made under section 184 of this Act commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both, and any goods or article in respect of which the non-compliance was committed shall be subject to forfeiture.

Penalties.

(2) When an account is taken by the proper officer of sugar in a brewer's possession and the quantity on hand differs from the quantity that ought to be in the brewer's possession according to the Service record or records kept in compliance with section 184 of this Act, if —

(a) an excess is found, the excess is subject to forfeiture ; or

(b) a deficiency is found, and the quantity in the brewer's possession is less by more than 2 % than the quantity which ought to be in the brewer's possession and is not accounted for to the satisfaction of the Service, the deficiency beyond 2 % is deemed to have been used in the brewing of beer without the particulars thereof recorded in compliance with regulations and excise duty shall be charged as if that deficiency had been used.

(3) Where a brewer conceals any worts or beer, so as to prevent the officer in charge from taking an account of the worts or beer, the concealed items shall be subject to forfeiture.

187.—(1) Any person who brews beer, other than under and in accordance with an excise license, commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both, and the beer, worts, vessels, utensils, or materials used or which can be used for brewing, in the person's possession shall be subject to forfeiture.

Offences.

(2) A brewer who commits an offence under this Part, where after particular of any worts or beer have been recorded by the brewer under regulations made under section 184 of this Act, mix sugar with the worts or beer so as to increase the quantity, gravity, or original gravity of the worts or beer.

(3) Any person who commits an offence under subsection (2), is liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of five years or both, and the affected worts or beer shall be forfeited.

PART XXVI — MANUFACTURE OF TOBACCO AND ITS SUBSTITUTES

188. A person shall not manufacture any description of excisable tobacco and its substitutes without a valid tobacco manufacturer excise license, issued subject to conditions under Part XXIX.

Licensing requirement for tobacco manufacture and its substitute.

189. The Board may authorise the manufacture of tobacco by a tobacco manufacturer for securing the excise duty on tobacco and tobacco substitutes.

Power to regulate the manufacture of tobacco and its substitute.

Deferral of payment.

190. Payment of excise duty on manufactured tobacco and its substitutes may be deferred, subject to conditions specified in the regulations, but not beyond the 21st day of the month following the month in which the tax became due, provided that such deferred payment must be accompanied by an excise duty returns made in the form and manner specified by the Service.

Penalties and offences.

191.—(1) Any person who fails to comply with any regulations made under section 189 of this Act commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both, and the goods or materials in respect of which the non-compliance was committed is liable to forfeiture.

(2) Where a discrepancy occurs in the account taken by a proper officer and the balance arrived at of the quantity of tobacco and its substitutes in the factory of a tobacco and its substitutes manufacturer and in the quantity on hand differs from the quantity that ought to be in the manufacturer's possession according to the records kept by the Service in compliance with the provisions of this Act, then if —

(a) any excess is found, the excess is subject to forfeiture ; and

(b) Where a deficiency is found that cannot be accounted for to the satisfaction of the Service, the tobacco manufacturer is liable to pay a penalty of double the excise duty on a quantity of manufactured tobacco equal to the quantity of the deficiency.

Offences.

192.—(1) Any person who manufactures tobacco otherwise than under and in accordance with an excise license commits an offence and liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both.

(2) Where tobacco and its substrates are manufactured by an unlicensed person or where an unlicensed person possesses any plant, equipment or materials that are capable of being used for the manufacture of tobacco and its substrates, the manufactured tobacco, its substrates and any plant, equipment or material are subject to forfeiture.

PART XXVII—MANUFACTURE OF CARBONATED DRINKS

Licensing requirement and tax on production of carbonated drinks and other related beverages.

193. A person shall not manufacture carbonated drinks and other beverages without an excise license, issued subject to conditions specified in Part XXIX.

Power to regulate the manufacture of carbonated drinks.

194. The Minister shall make regulations —

(a) regulating the manufacture of carbonated drinks ;

(b) for calculating, securing and collecting the excise duty on carbonated drinks ; and

(c) as to the books and other documents relating to sugar to be kept by carbonated drinks manufacturer.

195.—(1) For the purposes of excise duty—

Ascertaining
gravity of
liquids.

(a) the expression "gravity" in relation to any liquid means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed as at 15.56 degrees centigrade or 60 degrees fahrenheit ;

(b) where the gravity of any liquid is expressed as a number of degrees that number shall be the said ratio multiplied by 1,000 ; and

(c) the expression "original gravity" in relation to any liquid in which fermentation has taken place means its gravity before fermentation.

(2) The gravity of any liquid at any time shall be ascertained by such means as the Service may approve and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

196.—(1) Any person who fails to comply with regulations made under section 194 of this Act commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both and any goods or article in respect of which the non-compliance was committed shall be subject to forfeiture.

Penalties.

(2) When an account is taken by the proper officer of sugar in a manufacturer's possession and the quantity on hand differs from the quantity that ought to be in the manufacturer's possession according to the Service record or records kept in compliance with section 194 of this Act, if —

(a) an excess is found, the excess is subject to forfeiture ; or

(b) a deficiency is found, and the quantity in the manufacturer possession is less by more than 2 % than the quantity which ought to be in the brewer's possession and is not accounted for to the satisfaction of the Service, the deficiency beyond 2 % is deemed to have been used in the manufacture of carbonated drinks without the particulars thereof recorded in compliance with regulations and excise duty shall be charged as if that deficiency had been used.

(3) Where a manufacturer of carbonated drinks conceals any carbonated drinks, so as to prevent the officer in charge from taking an account of the carbonated drinks, the concealed items shall be subject to forfeiture.

197.—(1) Any person who manufactures carbonated drinks other than under and in accordance with an excise license, commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both and the carbonated drinks, vessels, utensils, or materials used or which can be used for manufacturing, in the person's possession shall be subject to forfeiture.

Power to
revoke or
suspend
license.

(2) A manufacturer of carbonated drinks commits an offence under this Part where, after particulars of any carbonated drinks have been recorded by the manufacturer under regulations made under section 194 of this Act, mix sugar with the carbonated drinks so as to increase the quantity, gravity, or original gravity of the carbonated drinks.

(3) Any person who commits an offence under subsection (2) is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of five years or both, and the affected carbonated drinks shall be forfeited.

PART XXVIII—MANUFACTURE OF OTHER GOODS SUBJECT TO EXCISE TAX

Other goods subject to excise tax.

198. The provisions of this section apply to other excisable goods other than spirits, beer and tobacco as may be specified in the regulations.

License to manufacture excisable goods.

199. It is unlawful to manufacture excisable goods referred to in section 198 of this Act without an excise license issued, subject to conditions specified in section 202 of this Act.

Power to make regulations.

200. The Service may make regulations —

(a) regulating the manufacture of goods to which section 198 of this Act applies ;

(b) for calculating, securing and collecting the excise duty on the goods ;

(c) for the exportation or loading of the goods as stores in accordance with the customs laws without payment of the excise duty chargeable on the goods ; and

(d) as to the books, accounts and other documents relating to the goods to be kept by manufacturers.

Offences.

201.—(1) It is unlawful to manufacture excisable goods subject to section 202 of this Act otherwise than under and in accordance with an excise license, and any excisable goods a person makes or possesses without a proper license, and any plant, materials, vessels, utensils, or other material the person possesses that are capable of being used in the manufacture of the goods, are subject to forfeiture.

(2) A person who manufactures or possesses excisable goods and services without a proper license commits an offence and is liable on conviction to a fine of ₦5,000,000 or imprisonment for a term of three years.

(3) Failure to comply with any regulation made under section 200 of this Act constitutes an offence and any goods or article in respect of which the offence was committed are subject to forfeiture and a person convicted is liable to a fine of ₦5,000,000 or imprisonment for a term of three years or both.

PART XXIX — GENERAL PROVISIONS RELATING TO EXCISE LICENSES

Conditions of issuance of excise license.

202.—(1) Subject to the provisions of this Act, an application for an excise license relating to any premises in which any goods are manufactured, shall be in such form and shall contain such particulars as the Service may prescribe.

(2) The Service may in accordance with existing regulations refuse to issue an excise license to any person or in respect of any premises.

(3) Where the Service approves an application for an excise license under this Act or under any other enactment, it shall issue the license —

(a) if the license is one of which the applicant must pay a fee, only after verifying that the fee has been paid ; and

(b) only after verifying that the licensee has posted a financial guarantee in accordance with the requirement of this Part.

(4) An excise license shall be in such form as the Service may direct and shall expire on the 31 December, in the year of issue.

(5) An excise license shall be issued in respect of one set of premises only, and a person manufacturing excisable goods on multiple premises shall be required to have separate licenses for each location.

203. The Service may by notice in writing revoke or suspend any excise license if the holder of such license has —

Power to revoke or suspend license.

(a) been convicted of an offence under the excise laws ;

(b) been convicted of any offence involving dishonesty or fraud ;

(c) become bankrupt or has entered into any arrangement or compromise with or for the benefit of the creditors of the holder ;

(d) failed to maintain a financial guarantee in accordance with this Act ; or

(e) failed to pay any excise duty when due and payable.

204.—(1) If any excise license has been revoked, suspended, expired and has not been renewed, the licensee shall —

Effect of revocation.

(a) immediately cease to manufacture the goods in respect of which the license was issued ;

(b) promptly pay any due and outstanding excise duty on any excisable goods manufactured under the license ; and

(c) not dispose of any materials on the premises to which the license relates except in accordance with any conditions the Service may impose.

(2) Any person who fails to comply with the provisions and conditions imposed under this section commits an offence and is liable on conviction to a fine of ₦2,000,000 or an imprisonment for a term of two years or both, and any plant, equipment, excisable goods, or materials relating to non-compliance shall be forfeited.

205.—(1) The Service may, for the purpose of ensuring proper excise control, require the holder of an excise license, at the holder's expense, to provide and maintain at the licensed premises —

Provision of office space, facilities and accommodation by an excise license holder.

(a) office, lavatory, and sanitary accommodation, with appropriate furniture, lighting and cleaning, for use by a duly authorised officer ; and

(b) appliances and other facilities reasonably necessary to enable the officer in charge at any time to take account of or make an examination or search or to perform any of his duties at the licensed premises.

(2) A holder of an excise license shall also be required to provide a suitable living accommodation for the officer and where required, for members of the officer's household, where in the opinion of the Service, it is desirable that the officer should reside on or be near the premises for which the excise license is granted.

(3) If any holder of an excise license fails to comply with the requirements of subsections (1) and (2), the Service may revoke or suspend the excise license.

(4) The holder of an excise license must provide and maintain such fittings as are required for the purpose of affixing a lock that the officer in charge may require the license holder to affix to the licensed premises, or any part of the premises, or to any vessel, utensil, or any other apparatus whatsoever kept on the premises, and in default —

(a) the fitting may be provided or any work necessary for its maintenance to be carried out by the officer in charge, and the license holder shall, on demand, pay the expenses so incurred ; and

(b) if the license holder fails to pay the expenses on demand, the holder shall in addition be liable on conviction to a fine of ₦1,000,000 or imprisonment for a term of six months.

(5) The license holder is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years or both, if the license holder or the license holder's agent or servant —

(a) willfully destroys or damages the fitting or the lock or key provided for use on the licensed premises or a label or seal placed on the lock ;

(b) improperly obtains access to a place or article secured by the lock ;

(c) has the fitting or any article intended to be secured by means of the lock so constructed that the intention is defeated.

Books and records.

206.—(1) Every holder of an excise license shall keep at the licensed premises all records required under the excise laws, and shall make the required entries relating to the manufacture, storage and delivery of excisable goods and materials, and each entry shall be made legibly and shall not be altered in any manner other than by cancellation, or by amendment.

(2) All records required to be kept under the provisions of the excise laws shall at all times be available for inspection by the proper officer, and the officer may take copies of the records.

(3) Records may be kept in electronic form, subject to safeguards and conditions as the Service may specify in the regulations.

(4) An excise license holder who contravenes any of the provisions of this section is liable on conviction to—

(a) a fine of N5,000,000 and N50,000 for every day the default continues ;
or

(b) imprisonment for a term of three years.

207.—(1) Further to the requirement to comply with the provision of section 202 of this Act, a license holder, whenever required by the Service shall within the specified time frame —

Furnishing of
information.

(a) produce for inspection invoices, books or document, including electronic records in the license holder's possession relating to any excisable goods that the holder manufactured during the preceding 12 months ;

(b) answer questions regarding the description, manufacture, quantity, weight, volume, selling price, consignee, destination, cost of production, or manufacturer's profits, or any other matter relating to the manufactured goods which the Service may reasonably require for the purpose of carrying out the provisions of the excise laws or any regulations made under the excise laws ;

(c) produce any evidence the Service may deem necessary in support of any information furnished ; and

(d) make excise duty in the form and details and at such intervals as the Service may by regulations prescribe.

(2) The Service may require an excise license holder to submit annually, or at such other time as the Service may require, a certificate of audit by an approved accountant certifying —

(a) the correctness of all the books and records, including electronic records, required by or under this Act to be kept by the holder of the excise license ; and

(b) any of the matters referred to in subsection (1) (b) as the Service may require.

(3) For the purpose of this section, an "approved accountant" means an accountant who is a member of one of the professional bodies that the Service, by notice in the Federal Government Gazette, has declared to be approved for the purposes of this section.

(4) A license holder who without reasonable cause fails to comply with the requirements of this section commits an offence and is liable on conviction to —

(a) a fine of ₦5,000,000 and ₦50,000 for every day the default continues ;
or

(b) imprisonment for a term of three years.

Declaration of goods leaving premises.

208.—(1) Goods subject to excise duty and which have been manufactured by virtue of any provision of the excise laws or of any regulations made thereunder ; shall not be removed from the premises of manufacture unless the manufacturer delivers to the proper officer an entry of the goods in the form and manner containing such particulars as the Service may by regulations prescribe.

(2) Where goods declared in accordance with subsection (1) are found, whether before or after their removal from the premises of manufacture not to correspond with the declaration made the goods shall immediately be forfeited.

(3) Any person who removes or causes the removal of manufactured goods without an entry made in accordance with the requirement of subsection (1), commits an offence and is liable on conviction to pay a fine six times the value of the goods or ₦5,000,000 whichever is greater.

Making of entries.

209.—(1) Where the excise laws require a person to make entry of any premises, plant or equipment, the entry shall be made in manners containing the particulars, and the premises, plant, or equipment shall be marked, and kept marked, in such form as the Service may direct.

(2) Where a person who is required to make entry of any premises, plant, or equipment is a body corporate, the entry shall be signed by a director, general manager, Secretary, or other similar officer of the body, and except where authority for that person to sign has been given under the seal of the body, the entry shall be made under that body's seal.

(3) Where a person making entry into any premises, plant, or equipment fails to comply with the directives of the Service under this section, that person is liable to a fine of ₦1,500,000.

New or further entries of the same premises.

210.—(1) The Service may at any time, by notice in writing to the person who made and signed an existing entry requiring that person to make a new entry of any premises, plant, or equipment to which the existing entry relates, and the notice is valid if addressed to the person at, any premises for which the person signed an existing entry.

(2) The existing entry under subsection (1) shall, without prejudice to any liability incurred, become void at the expiration of 14 days from the delivery of the notice.

(3) Where the person who made the entry of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, the Service may permit a further entry to be made of the premises by some other person and the former entry shall be deemed to have been withdrawn and no longer valid.

Offences in connection with entries.

211.—(1) Where a person uses premises, plant, or equipment required to be entered for excise duty purposes without entry having been duly made, that

person is liable to a fine of ₦5,000,000, and the plant, equipment, or excisable goods found on the premises are liable to be forfeited.

(2) Where a person who has made entry of any premises, plant, or equipment fraudulently uses the premises, plant, or equipment for any purpose other than for the purpose for which an entry was made, the person commits an offence and is liable on conviction to a fine of ₦5,000,000 and the plant or equipment used for the fraudulent purpose shall be forfeited.

212.—(1) A Proper officer may at any time enter upon any premises without a warrant in respect of which an entry was made, or is required under the excise laws to be made, or any other premises owned or used by an excise trader for the purpose of ensuring compliance with provisions of excise laws and regulations made under the excise laws.

Power to enter premises.

(2) An officer who demands admission into the premises referred to in subsection (1) shall identify himself at the entrance, and if not immediately admitted, the customs officer and any person assisting the customs officer in the execution of his duties under this Act may use reasonable force as a last resort to enter the premises, including, when other means are ineffective, breaking open any door or window of the premises or breaking through any wall of the premises for the purpose of entering into the premises.

(3) A customs officer who has reasonable grounds to suspect that anything subject to forfeiture under this part is in or upon land or premises other than those of an excise trader may enter upon those premises, if need be by force, and search the land or premises and seize and remove anything the officer has reasonable grounds to believe to be subject to the forfeiture.

(4) An officer may inspect the premises and search for, examine, and take account of any machinery, vessels, utensils, goods or materials belonging to or in any way connected with that trade.

(5) An officer is authorised to make an account of and determine the balance of the quantity of stocks on hand on the premises of an excise license-holder.

(6) An officer who enters premises for excise duty purposes shall carry out his duties in an efficient and professional manner and, whenever compatible with effective excise duty enforcement, accommodate the reasonable convenience of owners or occupiers of premises regarding the time, place, and manner of a visit.

(7) An officer acting in accordance with the provisions of subsections (1) or (2) shall be given immediate access to the premises and an excise trader or any other person who refuses an officer immediate entry into any land or premises, commits an offence and is liable on conviction to a maximum fine of ₦1,500,000 or imprisonment up to one year, or both.

Power to obtain information from excise trader.

213.—(1) The Service has power to require from an excise trader to —

(a) produce for inspection, as and when required by the customs notice in writing, all invoices and other books or documents, including electronic records in the trader's possession that are or may be relevant to goods liable to excise duty purchased or sold by the trader during the 12 month period, or any part thereof, preceding the date the notice is served ;

(b) furnish answers to a proper officer's questionnaire regarding the description, quantity, weight, volume, purchase price, selling price, consignor, consignee, destination, or other matter relating to excisable goods ; and

(c) produce any evidence that a customs officer may reasonably require in support of the trader's responses.

(2) An excise trader who without reasonable cause fails to comply with the requirement of this section is liable to pay a fine of ₦5,000,000 for the failure to provide the required information and ₦50,000 for every day in default.

Power to prohibit the use of certain substance.

214.—(1) The Service, in cooperation with or through any national agency authorised by law to regulate toxic or dangerous substances, by notice in the Federal Government Gazette prohibit the use of a substance, whether solid, liquid, or gas in the manufacture or preparation for sale of excisable goods.

(2) The Service may publish directly a notice referred to in subsection (1) if it appears to its satisfaction that —

(a) the substance is used, or is capable of being used, in the manufacture or preparation for sale of excisable goods ;

(b) the substance is toxic or dangerous ;

(c) when used to manufacture excisable goods, the substance produces a toxic or dangerous chemical or artificial extract, product, or by-product ; or

(d) the use of the substance may prejudicially affect the interest of revenue.

(3) A person who knowingly makes use of a prohibited substance in the manufacture of the excisable goods commits an offence and is liable on conviction to a fine of at least ₦20,000,000 or imprisonment for a term of three years or both, and the excisable goods forfeited.

(4) A person in whose possession any prohibited substance is found commits an offence and liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of three years or both.

(5) Every director and principal officers of a body corporate who contravene the provision of this section is personally liable and shall be proceeded against and punished as provided under subsections (3) and (4).

Power to distrain where excise Customs duties remain unpaid.

215.—(1) Where any excise duty remains unpaid after a demand for payment, in accordance with the provision of this part has been made, the Service may authorise the levying of a distress trader upon —

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

(b) all machinery, plant, tool, ships, vehicles, animals, goods and effects used in the manufacture, sale or distribution of excisable goods found in any premises or on any land in the use or possession of such manufacturer or of any person on his behalf or in trust for him.

(2) The distraint procedure to be adopted by the Service in carrying the power conferred by this section shall be as prescribed in the regulations exercisable through a warrant authorising a person or an officer to levy by distress the amount of Customs duties due.

(3) For the purpose of levying distress under this section, a person authorised in writing by the Service may execute any warrant of distress using any reasonable force to enter any building if necessary and as a last resort, breaking open any building or place in the day time for the purpose of levying the distress.

(4) The authorised person or officer executing a warrant of distress may request a police officer or any other law enforcement officer to assist and it shall be the duty of any police officer or other law enforcement officer of whom the request is made to aid and assist in the execution of the warrant of distress and in levying the distress, unless in active pursuit of a suspect.

(5) The levying of any distress shall be at the cost of the owner of any property, goods, chattels, things or effects which shall be kept for 14 days, at the end of which time, if the amount due in respect of the excise duty and the cost and charges of any incidental to the distress are not paid, may be sold.

(6) The proceeds of the sale are to be used for settlement of amounts due in the following order —

(a) costs or charges of any incidentals to the sale and keeping of the distress ;

(b) the amount due as excise tax ; and

(c) the residue, if any, to the owner of the things distrained upon, so long as the owner makes a written request for payment within one year of date of sale.

(7) In exercising the powers of distress conferred by this section, the person to whom authority is given may distraint upon all of the manufacturer's goods chattels and effects, wherever they may be found.

(8) Where the manufacturer asserts that the levy of distress is made in error, the Service may within the 14 days period provide the manufacturer with the opportunity of an emergency hearing to prevent an erroneous sale.

216.—(1) Where goods otherwise subject to excise duty are allowed to be removed tax-free from the premises of a licensed manufacturer, entered into for the purpose of distraint because they are intended for an approved specified use

Removal of goods without payment of excise duties.

or purpose, no person shall be permitted to use or deal with the goods in a way contrary to the specified use or purpose without the permission of the Service and only after the payment of the excise duty due.

(2) Where goods otherwise subject to the excise laws are allowed to be removed tax—free from the premises of a license manufacturer entered into for the purpose of distrain, subject to a condition that they will not be sold or disposed of in a similar manner without payment of excise duty or on payment of excise duty at a reduced rate, no person is allowed to use or deal with the goods in a contrary manner except with prior notification and authorisation of the Service and only after payment of the excise duty due.

(3) Any person who knowingly uses or deals with any goods in contravention of the provisions of subsections (1) or (2) commits an offence and is liable on conviction to a fine of six times the value of the goods or ₦1,000,000 whichever is greater, and any goods used or dealt with in contravention of this section is liable to forfeiture.

(4) The provisions of this section shall apply whether or not financial guarantee, security, or collateral has been given for observance of the specified use or purpose or the condition for the payment of excise payable, and forfeiture of goods under this section shall not affect the liability of a person who has been given a financial guarantee, security, or collateral.

Financial
guarantee.

217.—(1) An applicant for excise license is required to post a financial guarantee, which must be maintained throughout the license periods.

(2) The amount of the financial guarantee shall be determined by regulations.

(3) An excise license holder may provide the financial guarantee by posting a bank-bond, providing a deposit of funds to be held in escrow, or other form of payment guarantee, subject to conditions and procedures specified by the regulations.

Right of
administrative
review.

218. An excise license holder, excise trader or any other affected person who is dissatisfied with a penalty, seizure or forfeiture imposed under this part, or who objects to the conduct of a customs officer in connection with the exercise of his duties under this section may make objection to and be heard by the Comptroller-General.

Emergency
hearing.

219.—(1) Where the Service has seized goods or other materials subject to forfeiture under this Part, and a hearing before the Comptroller-General cannot take place immediately, the licensed holder, excise trader or other affected person may request for an emergency hearing, which may —

(a) be made within two working days of the seizure of goods or other materials subject to forfeiture ;

(b) be made in writing directed to the Zonal Coordinators ; and

(c) state the reason why an emergency hearing is necessary.

(2) An emergency hearing may be denied unless it appears to at least one member of the zonal review body that delay will harm the affected person in a manner that cannot be adequately compensated for by a decision made after a hearing in the normal course, and if the case involves distraint permitted under section 215 of this Act, an emergency hearing is allowed only if the affected person asserts that there is a material and factual error in the distress warrant or by the executing officer as to the premises or things to be distrained.

(3) An emergency hearing, if allowed, may be held within seven working days of receipt of the written request.

(4) Where the full zonal review body is not available for an emergency hearing within the specified period, a member sitting alone may hear and decide the case subject to confirmation by the zonal review body.

(5) In this section, “zone” refers to customs control zone, and “zonal coordinator” and “zonal review body” shall be construed accordingly.

PART XXX—GENERAL OPERATIONAL POWERS AND CUSTOMS OFFENCES

220. In this Part—

“*administrative settlement*” means the procedures contained in this Part under which the Service is empowered to settle a customs offence either by a ruling or by means of concession settlement ;

“*concession settlement*” means an agreement under which the Service agrees to waive prosecution of a customs offence subject to undertakings by the person or persons charged with the offence ;

“*customs offence*” means a breach or attempted breach of customs law, and a customs offence may be subject to civil or criminal penalties depending upon the type and circumstances of the offence ;

“*extended border search*” means non-routine border searches that occur normally near the border, and extended border searches are permissible if they meet the following three-part test —

- (a) there is a reasonable certainty that a border crossing has occurred ;
- (b) there is a reasonable certainty that no change in the condition of the goods, luggage or person to be examined has occurred since the border crossing ; and
- (c) there is a reasonable suspicion that criminal activity has occurred.

221.—(1) An officer, if it appears to him that an aircraft is intended or likely to depart for a destination outside Nigeria from any place other than a customs control zone otherwise than as permitted in writing by the Service before customs clearance is given there from, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the departure.

General provisions and interpretation to this Part.

Power to prevent flight of aircraft.

(2) Any person who contravenes any instructions given under subsection (1) commits an offence and is liable to a fine of ₦5,000,000 or imprisonment for a term of three years or both, and if the aircraft flies in contravention of any such instruction or not withstanding any steps taken to prevent the flight, the operator of the aircraft and the captain shall each, without prejudice to the liability of any other person under this subsection, be severally liable unless he proves that the flight took place without his consent or connivance.

Power to
detain ship.

222.—(1) Where at the expiration of a period of 21 calendar days from the date of making report under the provisions of this Act, any ship, aircraft, or vehicle, or where no such report was made, the date when it should properly have been made, or such longer period as the Service may allow, any goods that are still on the board of the ship, aircraft, or vehicle, the Service may authorise the detention of that ship, aircraft or vehicle until —

(a) any expenses properly incurred in watching and guarding the goods beyond the said period, and

(b) where the goods are removed, by virtue of of this Act, from the ship, aircraft or vehicle to a Government warehouse, the expenses of that removal, have been paid to the Service.

(2) Where, in the case of any dilapidated or other ship or aircraft coming, driven or brought into Nigeria under legal process, by stress of weather or safety, or in the case of any vehicle which suffers any mishap, it is necessary to station any officer in charge, whether on board or otherwise, for the protection of the revenue, the proper officer may detain that ship, aircraft or vehicle until any expenses incurred have been paid to the Service.

Power to
refuse or
cancel
clearance of
ship or
aircraft.

223.—(1) For the purpose of the detention thereof under any power or duty conferred or imposed by or under this Act or any other enactment, or for the purpose of securing compliance with any provision of this Act or of any other enactment, being a provision relating to the importation or exportation of goods—

(a) the proper officer may at any time refuse clearance of any ship or aircraft ; and

(b) where clearance has been granted to a ship or aircraft any officer may at any time while the ship or aircraft is within Nigeria demand that the clearance shall be returned to him.

(2) Any such demand may be made either orally or in writing to the master of the ship or captain of the aircraft, and if made in writing may be served —

(a) by delivering it to him personally ;

(b) by leaving it at his last known place of abode ; or

(c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command.

(3) Where a demand for the return of clearance is made —

(a) the clearance shall forthwith become void ; and

(b) if the demand is not complied with, the master of the ship or the captain of the aircraft is liable to a fine of ₦5,000,000.

224.—(1) Without prejudice to any other provisions of this Act, the proper officer may examine any goods carried or to be carried in a coasting ship —

Power to examine goods carried in a coasting ship.

(a) at any time while they are on board the ship ; or

(b) at any place to which the goods have been brought for loading, or at which they have been unloaded from the ship, and for that purpose may require any container to be opened or unpacked, and any such opening, unpacking or any repacking shall be done by or at the expense of the master of the ship.

(2) Without prejudice to any other provisions of this Act, the proper officer may—

(a) board and search a coasting ship at any time during her voyage ;

(b) at any time require the master of a coasting ship to produce or bring to him for examination a transire and any other document which should properly be on board such ship ; and

(c) at any time ask the master of the ship such question concerning the ship, the goods and persons carried therein and her voyage as he may think fit, and if the master of the ship fails to produce or bring any such document to such officer, or refuses to answer any question, he is liable to a fine of ₦5,000,000.

225.—(1) The Service may make regulations as to the procedure to be followed by ship chandlers going on board or disembarking from any ship in Nigeria where such boarding or disembarking is for the purpose of trade.

Power to regulate boarding by ship chandlers.

(2) Without prejudice to the generality of the powers to make regulations conferred by subsection (1), regulations made thereunder may in particular —

(a) enable the Service to specify by notice, the manner in which and the period during which any trade may be carried on board any such ship by ship chandler ;

(b) provide for the inspection by officers of the Service of ship chandlers who are on board a ship for the purpose of trade ; and

(c) prescribe the form of application for and of the ship chandler's license to be used for the purposes of this section.

(3) Any person who contravenes or fails to comply with any regulation made under this section commits an offence and is liable on conviction to a fine of ₦1,500,000 and any goods or article in respect of which the offence was committed is liable to forfeiture.

Power to
patrol freely.

226.—(1) The person in charge of any ship, aircraft or vehicle employed in the enforcement of the customs and excise laws —

(a) may take such ship, aircraft or vehicle to any place in Nigeria, and

(b) keep any such ship, aircraft or vehicle at any place in Nigeria for such a time as he shall deem necessary,

and such person shall not be liable to any prosecution or action at law for so doing.

(2) Any officer engaged in the enforcement of the customs and excise laws may for that purpose patrol upon and pass freely over and enter any place in Nigeria, and such officer shall not be liable for prosecution.

(3) Marine customs officers shall patrol and maintain surveillance freely within Nigerian waters subject to the provisions of this Act.

(4) Nothing in this section shall authorise entry into any dwelling-house or building.

(5) Any person who interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose of enforcing the customs and excise laws commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years or both.

(6) Any person who fires upon any ship, aircraft or vehicle which is being used for the purpose of enforcing the customs and excise laws or by an officer while otherwise engaged in the execution of his duty commits an offence and is liable on conviction to death.

Power to
investigate
offences.

227.—(1) The Service may without previous notice and at any time enter any place, premises, or means of conveyance and make such examination and inquiry as deemed necessary where there are reasonable grounds to suspect that an offence has been committed under this Act.

(2) For an officer to execute his duties under this section, he shall obtain from the Comptroller-General or his designee written authorisation to enter any place or premises or means of conveyance and shall on demand by any person concerned produce a copy of the written authorisation.

(3) An officer may exercise any of his powers referred to in subsection (1) without a written authorisation if by reason of exigent circumstances, or in exercising extended border search it would not be practical to obtain the authorisation.

(4) Exigent circumstances include situations in which the delay necessary to obtain a written authorisation would result in danger to human life or safety, the loss or destruction of anything liable to seizure or evidence of a suspected violation of customs and excise laws.

(5) An officer may search any person who has arrived or is departing from the customs territory if he suspects on reasonable and probable grounds that the person has concealed on or about his person any thing which might contravene the laws of the Federal Republic of Nigeria or anything that can be used as evidence with respect to the contravention, or any goods or baggage the importation of which is prohibited or restricted, provided that —

(a) a person shall not be searched by a person not of the same gender except that in the case of a perception of immediate threat to the personal safety of the customs officer or others the search shall be limited to a search for weapons ;

(b) internal body searches shall be conducted by a qualified medical practitioner using procedures and apparatus considered to be reasonably safe under the circumstances ; and

(c) the officer may terminate the search if he concludes that no reasonable and probable grounds exist justifying the search.

(6) The Service may by any regulations articulate reasons to progress from less to more intrusive search techniques and the required approvals within the Service chain of command for progression to more intrusive personal examinations.

(7) To enforce the customs laws, the officers may enter and cross any private property at any time to access the borders of Federal Republic of Nigeria.

(8) Subject to applicable laws, the Service may order the removal of any dwelling or structure that is located within five meters of the borders and may construct within this boundary area any fence, wall or other structure or create another physical barrier to prevent the illegal crossing of the border.

(9) The Service may employ the use of modern scientific techniques and technologies in the course of investigations when it becomes necessary.

228.—(1) Any person who knowingly and willfully acts or omits to act in any matter, within the jurisdiction of the Service whether or not within the Federal Republic of Nigeria, intended or capable of depriving the Service its lawful duties, Customs duties, fees or other revenue through —

(a) falsifying, concealing or covering up by any trick, scheme or device a material fact ;

(b) making any materially false, fictitious, or fraudulent statement or representation whether written, electronic or verbal ; or

(c) making or using any false writing or document, including electronic document, knowing the same to contain any materially false, fictitious, or fraudulent statement or entry commits an offence and is liable on conviction to a fine of ₦3,000,000 or imprisonment for a term not more than three years.

(2) Nothing in this section shall be construed to relieve goods from forfeiture under other provision.

Customs offence subject to criminal penalties, including false statement, concealment.

Entry of goods for less than legal duty.

229.—(1) Any person who knowingly enters any goods upon payment of less than the amount of duty, excise Customs duties, or other Customs duties and fees legally due, shall be issued a demand notice of the difference with a penalty of 25 *per cent* of the duty liability.

(2) In addition to the provision of subsection (1), the person shall be liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years or both.

Concealing or destroying invoices or other documents.

230. Any person who —

(a) willfully conceals or destroys any invoice or other document, including electronic documents, relating to goods imported into or exported from the Federal Republic of Nigeria after an inspection of the goods has been demanded by the Service, or

(b) conceals or destroys at any time any such invoice or other document, including electronic documents for the purpose of suppressing any evidence of fraud in the invoice or other document, including electronic document,

commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term not more than three years or both.

Counterfeiting documents.

231. Any person who —

(a) counterfeits or falsifies any document which is required by or under the customs and excise laws or which is used for the transaction of any business relating to customs and excise,

(b) knowingly accepts, receives or uses any counterfeited or falsified document,

(c) alters any document after it is officially used, or

(d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to customs and excise,

commits an offence and liable on conviction to a fine of ₦10,000,000 or imprisonment for a term of 10 years or both.

False claims for refunds.

232. Any person who knowingly and willfully submits any false or fraudulent claim for the payment of drawback or the refund of duties, excise Customs duties or other Customs duties or fees in respect of the importation or exportation of goods, or knowingly and willfully makes or files any false affidavit or other document, including electronic document, with a view to securing the payment to himself or others of a drawback or refund greater than that legally due, commits an offence and liable on conviction to a fine of ₦5,000,000 or imprisonment for a term of five years or both.

233.—(1) Where a person —

(a) lands, or unloads in the customs territory, or removes from their place of importation or from any approved wharf, airport, examination station, customs station or customs area —

(i) any goods imported contrary to any prohibition, or

(ii) assists or is otherwise concerned in such landing, unloading or removal, or

(b) imports or is concerned in importing any goods contrary to any prohibition, whether or not the goods are landed or unloaded, with intent to evade any prohibition,

commits an offence and on conviction, liable to imprisonment for a term of five years without the option of a fine if the goods are subject to an absolute prohibition or imprisonment for a term of three years and forfeiture in case of a prohibition for trade.

(2) Any person who —

(a) imports or causes to be imported any goods concealed in a container holding goods of a different description, or

(b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry delivered on the goods,

commits an offence and is liable on conviction, if the goods are chargeable with duty, excise Customs duties or other Customs duties to imprisonment for a term of three years and to a fine of six times the true value of revenue lost and forfeiture of the item smuggled.

234.—(1) Where a person is found anywhere in Nigeria in possession of any goods to which this section applies, the person commits an offence unless he proves—

(a) that the goods were lawfully imported to Nigeria or as the case may be, that the duty chargeable on the goods have been paid ; or

(b) in the case of any person other than a seller of those goods, that he had no reason to suspect that the goods were unlawfully imported or that the duty chargeable on the goods had not been paid.

(2) This section applies to any goods, not being goods manufactured or otherwise produced in Nigeria —

(a) the importation of which is prohibited under this Act or any other enforcement ; or

(b) which have been imported into Nigeria without the duty chargeable on the goods having been paid.

Smuggling of goods into the custom territory.

Possession of smuggled goods.

(3) Any person who commits an offence under this section is liable on conviction to fine of six times the value of the lost revenue or imprisonment for a term of one year.

(4) The Service shall for the purpose of subsection (1) issue regulations providing the cases where the purchasers of imported goods have a duty to verify that imported duties and Customs duties have been paid.

Removing goods from customs control.

235. Any person who —

(a) without lawful authority, affixes or attaches a customs seal, fastening or mark, or any seal fastening or mark purporting to be a customs seal, fastening or mark, to any vessel, vehicle, warehouse, or package,

(b) without authority, willfully removes, breaks, defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing goods or baggage in customs custody,

(c) maliciously enters any bonded warehouse or any aircraft, vessel or vehicle containing bonded goods with intent to unlawfully remove from the bonded warehouse, aircraft, vessel, or vehicle or any goods or baggage therein, or unlawfully removes any goods or baggage in such aircraft, vessel, vehicle, or bonded warehouse or otherwise in customs control, or

(d) receives or transport any goods or baggage unlawfully removed from any aircraft, vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed,

commits an offence and is liable on conviction to a fine of six times the value of the lost revenue or to imprisonment for a term of at least ten years, or both.

Importation or exportation of stolen means of transport.

236. Any person who knowingly imports, exports, or attempts to import or export any—

(a) vehicles, vessel, aircraft, or part of any vehicle, vessel or aircraft, knowing the same to have been stolen, or

(b) vehicles or part of vehicles knowing that the Vehicle Identification Number (VIN) of such vehicle or part of motor vehicle has been removed, obliterated, tampered with, or altered,

commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years, or both.

Unlawful border passage.

237.—(1) Any person who knowingly constructs or finances the construction of a route, tunnel or passageway that crosses the international border between the Federal Republic of Nigeria and another country, other than a lawfully approved route, tunnel or passageway known to the Service and subject to inspection by the Service and other enforcement agencies, commits an offence and is liable on conviction to a fine of ₦20,000,000 or imprisonment for a term of 20 years or both.

(2) Any person who knows of or recklessly disregards the construction or use of a tunnel or passageway described in subsection (1) on the land owned by any person or under his control, commits an offence and is liable on conviction to a fine of at least ₦10,000,000 or imprisonment for a term of 10 years or both.

(3) Any person who uses a route, tunnel or passageway described in subsection (1) to unlawfully smuggle goods in violation of customs and excise laws, commits an offence and is liable on conviction to a fine of at least ₦20,000,000 or imprisonment for a term of 20 years or both.

238.—(1) Any person —

(a) who, while concerned in the commission of any offence against the customs and excise laws, is armed with any weapon ; and

(b) so armed, found in Nigeria in possession of any goods liable to forfeiture under the customs laws,

commits an offence and is liable on conviction to imprisonment for a term of 21 years.

(2) Any person who threatens an officer with a weapon or threatens to physically strike an officer either by body or weapon, commits an offence and is liable on conviction to imprisonment for a term of at least 10 years.

(3) Who intimidates, harasses or threatens an officer by any means other than the use of a weapon, commits an offence and is liable on conviction to imprisonment for a term of five years.

239.—(1) Any person who threatens an officer with a weapon or threatens to strike an officer with a weapon or threatens to inflict bodily harm on an officer commits an offence and is liable on conviction to imprisonment for a term of 10 years.

(2) Any person who strikes an officer with a weapon or by assault causes bodily injury to an officer commits an offence and is liable on conviction to imprisonment for a term of 20 years.

(3) Where death to an officer occurs as a result of the offences under subsections (1) and (2), the accused person shall be proceeded against as provided under the Administration of Criminal Justice Act.

240.—(1) Any person who disguises as an officer or as any law enforcement officer or agent and commits an offence against the customs and excise laws is liable on conviction to —

(a) imprisonment for a term of five years ; and

(b) forfeit any proceeds involved in the commission of the offence.

(2) Where a person, not being an officer for the purpose of carrying out any unlawful act, assumes the name, designation or character of an officer, the person

Offence involving the use of weapons.

Penalties for armed or bodily assault of an officer.

Act No. 13, 2015.

Disguising as a custom officer, impersonation, obstruction.

commits an offence and is liable to a fine of ₦5,000,000 or imprisonment for a term of five years or both.

(3) Where any person —

(a) obstructs, hinders, molests or assaults an officer in the performance of any duty or the exercise of any power imposed or conferred on him, or any person acting in his aid, in carrying out the provisions of this Act or any other customs and excise law,

(b) does anything which impedes or is intended to impede the carrying out of any search for anything liable to forfeiture under the provisions of this Act, the customs and excise laws or the detention, seizure or removal of anything liable to forfeiture,

(c) rescues, damages or destroys anything liable to forfeiture or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is liable to forfeiture, or

(d) prevents the arrest of any person by a person duly authorised for that purpose or authorised to carry out the actions referred to in this section or rescues any person arrested for an alleged unlawful act,

commits an offence and is liable on conviction to a fine of ₦5,000,000 or imprisonment for a term of five years or both.

Civil penalties for certain offences under the customs and excise laws.

241.—(1) It is unlawful for any person, without due regard to whether the Service is deprived of all or a portion of any lawful duty, excise tax, other tax or fee to —

(a) enter or introduce goods into the customs territory and zones by means of any document or electronically transmitted data or information, such as manifest transmission and single goods declaration ;

(b) enter or introduce any goods into the customs territory and zones by means of written or oral statement which is false in any material particular ; or

(c) aid or abet any other person in connection with the provisions of paragraph (a) or (b).

(2) Unless a part of a pattern of negligent conduct —

(a) clerical errors or mistakes, or

(b) repetition by electronic system of an initial clerical error shall not constitute a contravention of the provision of subsection (1),

provided that the burden of proof of a clerical error shall be that of the defendant.

(3) A grossly negligent violation of the provision of this section is punishable by a penalty in an amount not exceeding the lesser of —

(a) the value of the goods ;

(b) four times the duties, excise Customs duties, other Customs duties and fees of which the Service is or may be deprived ; or

(c) 40 *per cent* of the value of the goods if the violation did not affect the collection of a customs debt.

(4) Any negligent violation of the provision of this section is punishable by a penalty in an amount not exceeding the lesser of —

(a) the value of the goods,

(b) two times the duties, excise Customs duties, other Customs duties and fees of which the Service is or may be deprived ; or

(c) 20 *per cent* of the value of the goods, if the violation did not affect the collection of a customs debt.

(5) Where a defendant discloses the circumstances of a violation of the provision of subsection (1) before, or without knowledge of, the commencement of a formal investigation of a violation by the Service, the goods concerned shall not be seized and any monetary penalty to be assessed under this section shall not exceed —

(a) 100 *per cent* of his duties, excise Customs duties, other Customs duties and fees due as long as the person tenders the unpaid amount due at the time of disclosure or within such longer period as the service may determine ;

(b) 10 *per cent* of the value of the goods, if such violation did not affect the assessment of duties, excise Customs duties, other Customs duties and fees ;
or

(c) the interest on the unpaid customs debt computed from the date the debt was incurred, if the violation resulted from negligence or gross negligence and the person tenders the unpaid amount due at the time of disclosure or within such longer time as the Service may determine.

(6) Any person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge, and a formal investigation of a violation is deemed to be commenced on the date recorded in writing by the Service as the date on which facts and circumstances were discovered or information was received which caused the Service to believe that a possibility of a violation exists.

242.—(1) Where the Service has reasonable cause to believe that there has been a violation of section 250 of this Act and decides that further proceeding is required, it shall issue to the person concerned a written notice of its intention to claim for monetary penalty and such notice shall —

(a) describe the goods ;

(b) set out the details of the entry or introduction, the attempted entry or introduction, or the aiding or procurement of the entry or introduction ;

Procedure for penalties and administrative settlements.

- (c) specify all laws and regulations allegedly violated ;
- (d) disclose all material facts which establish the alleged violations ;
- (e) state whether the alleged violation occurred as a result of gross negligence, or negligence ;
- (f) state the estimated loss of duties, excise Customs duties, other Customs duties and fees, if any, and taking into account all the circumstances, the amount of the proposed monetary penalty ; and
- (g) inform such person of his right to make representation, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

(2) The provision of subsection (1) shall not apply where —

(a) the importation with respect to which the violation of section 250 of this Act occurs is non-commercial in nature ; or

(b) the *de minimis* rule is applicable to the amount of penalty claimed.

(3) After considering representations, if any, made by the person concerned under the notice issued under subsection (1), the Service shall determine whether any violation of section 253 of this Act, as alleged in the notice, has occurred.

(4) Where the Service determines that there was no violation, it shall promptly issue a written statement of the determination to the person to whom the notice was sent.

(5) Where the Service determines that there was a violation, it shall issue a written penalty claim to such person, and such written penalty claim shall specify all changes in the information provided, if any, in the penalty notice.

(6) A person shall be given a reasonable opportunity to make representations both oral and written, seeking remission or mitigation of the monetary penalty.

(7) At the conclusion of any proceeding, the Service shall provide to the person concerned with a written statement which sets out the final determination and the findings of fact and conclusions of laws on which such determination is based.

(8) The severity of any penalties applied in an administrative settlement of a customs offence shall depend upon the seriousness of the offence committed and the record of the person concerned in the dealings with the Service.

Concessionary settlement and mitigation of penalties.

243.—(1) On the petition of any person subject to administrative penalties, the Service may remit or mitigate Administrative penalties assessed under this Part assessed by an administrative settlement, if it finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such penalties.

(2) The Service may by regulation establish criteria for the mitigation and settlement of administrative penalties with the agreement of the party in breach and at the option of the party charged with the contravention, the Service may at any time refer a possible settlement to a higher level within the Service and no appeal may be taken from such a settlement.

(3) A person subject to an administrative penalty may at any time reject a concessionary settlement offered by the Service and lodge an appeal in court under the provisions of this Act.

244.—(1) Where under the provisions of a customs and excise law, a person is required to provide a scale for the purpose of that law, and the person provides, uses, or permits to be used a scale which is false and unjust, that person commits an offence under this section.

False scales.

(2) Where goods are to be weighed, counted, gauged or measured for the purposes of taking account of examinations by an officer, and where a person referred to in subsection (1), or any person by whom or on whose behalf the goods are weighed, counted, gauged or measured, does anything either before, during or after the weighing, counting, gauging and measuring, whereby the officer is or might be prevented from, or hindered, or deceived into taking a just account or making a due examination, the person commits an offence under this section

(3) Any person who commits an offence under this section is liable on conviction to a fine of ₦1,500,000 and any false or unjust scales and any goods in connection with which the offence was committed shall be forfeited.

PART XXXI—SEIZURE, FORFEITURE AND CONDEMNATION

245.—(1) An officer or any other person authorised in that behalf by the Service, may at any time seize or detain anything liable to forfeiture under the customs and excise laws which such officer or other person has reasonable grounds to believe is liable to forfeiture under the customs and excise laws.

Provision as to the detention, seizure and condemnation of goods.

(2) Anything seized or detained under the customs and excise law shall without delay be delivered into the care of the Service and, subject to the provisions, of this Part and the Schedule to this Act, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned as forfeited, be disposed of, in such manner as the Service may direct.

Schedule.

(3) The provisions of this Part and the Schedule to this Act shall have effect for the purposes of forfeiture, and all proceedings for the condemnation of anything as being forfeited, under the customs and excise laws.

Schedule.

246. Where —

Provision as to forfeiture.

(a) except as provided by or under this Act, any goods chargeable with a duty, excise tax, other tax or fee on exportation are exported without payment of the duty, excise tax, other tax or fee,

(b) any goods are exported or loaded for exportation as stores or are brought to any place in Nigeria for the purpose of being exported or loaded as stores and the exportation of the goods is or would be contrary to any prohibition,

(c) except as provided by or under this Act, goods are loaded into any ship or aircraft for exportation or as stores, or are removed from any customs station for exportation, before declaration outwards of the goods has been signed by the appropriate officer,

(d) any goods, being goods chargeable with any duties, other Customs duties or fees on exportation or goods the exportation of which is prohibited, are found after having been loaded for exportation to have been concealed in any manner on board any ship or aircraft or in any vehicle,

(e) any goods are exported or brought to any place in Nigeria for exportation concealed in a container holding goods of a different description,

(f) any goods are exported or brought to any place in Nigeria for exportation concealed or packed in any manner appearing to be intended to deceive an officer, or

(g) any goods declared outwards are found, whether before or after loading, not to correspond with the entry made in respect of the goods,

the goods concerned shall be forfeited.

Forfeiture of excisable goods.

247. Where, by or under any provision of this Act, goods of a kind subject to excise duty become liable to forfeiture by reason of an offence committed by an excise trader, and the goods of the kind subject to excise duty are not available for forfeiture, the Service may seize from the stock of that trader, goods of that kind and to such quantity as would attract the same amount of duty and Customs duties as the amount of duty and Customs duties on the goods liable to forfeiture,

Forfeiture of ships and other means of transport or conveyance.

248.—(1) Without prejudice to any other provision of this Act, where goods including any property and articles, have become forfeited under the customs and excise laws, any ship, aircraft, vehicle, animal, container (including any article of passenger's baggage) or anything whatsoever which has been used for the carriage, handling, deposit or concealment of the goods, including any article or property subject to forfeiture either at a time when it was liable or for the purposes of the commission of the offence for which it later became subject to the forfeiture, shall also be forfeited unless it is established that ownership of the means of conveyance is different from the ownership of the goods forfeited and that the act of the owner of the goods is without the knowledge and consent of the owner of the means of conveyance, in that case the means of conveyance shall not be subject to forfeiture.

(2) The burden of proof shall rest on the owner of the means of conveyance to prove that the person or persons engaged in the offence acted without his knowledge and that he had exercised reasonable duty of care in permitting the use of the means of conveyance by the person responsible for the violation.

(3) Any other thing mixed or packed in such a way to deceive an officer or found with the thing forfeited, shall also be forfeited provided that they are packed in a way to conceal the forfeited goods, or the proportion of the goods so mixed is significant compared to goods forfeited.

(4) Where any ship, aircraft, vehicle, animal or any other means of conveyance has become forfeited under the customs and excise laws, whether by virtue of subsection (1) or otherwise, equipment affixed to the means of the conveyance, all tackle, apparel, furniture or other things used in operating the means of conveyance shall also be forfeited.

249.—(1) Where any aircraft or vessel which is liable to forfeiture or inspection under the customs and excise laws does not bring to or stop when required to do so by an officer and remain still for such period as the officer requires, the master of the vessel, captain of the aircraft or person in charge of the vessel commits an offence and is liable on conviction to a fine of ₦10,000,000.

Penalties for failure of master to bring to or stop ship when required to do so.

(2) Where any ship liable to forfeiture or inspection under subsection(1) fails to bring or stop when required to do so by a government ship and, after the commander of the government ship has hoisted proper ensign and caused a shot to be fired as a signal, the ship liable to forfeiture or inspection still fails to bring to or stop, such government ship may, on the instruction of the commanding officer, fire upon the ship liable to forfeiture or inspection with any weapon lawfully carried.

(3) In this section “government ship” means a ship lawfully armed in the service of the Government.

250. Any ship, aircraft, vehicle or other means of conveyance which is found to be engaged in, to have been engaged in or to be about to depart on, a voyage, flight or journey while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods shall be forfeited.

Provisions as to forfeiture.

251.—(1) If any part of the cargo of a ship is thrown overboard, or staved or destroyed to prevent seizure after the ship has been properly summoned to bring to a stop by any ship employed in the enforcement of the customs and excise laws, the ships from which such cargo was thrown overboard or on which such cargo was staved or destroyed shall be forfeited and the captain or master of the ship commits an offence and is liable on conviction to a fine of ₦2,000,000 or imprisonment for a term of two years or both.

Penalties in lieu of forfeiture of large ship, aircraft or vehicle where responsible officer is implicated in the offence.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to or stop if the ship making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign.

Protection of officer in relation to seizure and detention of goods and means of transport.

252.—(1) Notwithstanding any other provision of this Act, a ship of 250 or more tons register or a commercial aircraft, vehicles for goods transport and buses for passenger travels shall not be forfeited under or by virtue of any provision of this Act, unless the offence in respect of or in connection with which the forfeiture is claimed —

(a) was substantially the object of the voyage or flight in connection with which the offence was committed ;

(b) in the case of a ship, was committed while the ship was under chase by a ship employed in the enforcement of the customs laws after failing to bring to or stop when properly summoned to do so ; or

(c) was used in repeated offences by crew, or other parties in the employ of the vessel or aircraft operator and the operator has failed to exercise reasonable care in the prevention of the use of the means of transport for illegal activities.

(2) For the purpose of this section, a ship shall be deemed to have been properly summoned to bring to or stop if the ship making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign.

(3) The exemption from forfeiture of any ship or aircraft under this section shall not affect any liability to forfeiture of goods carried in the ship, aircraft, vehicles or other means of conveyance.

Institution of legal proceedings.

253.—(1) Where any ship of 250 or more tons register or any aircraft would but for the provision of section 248 of this Act be liable to forfeiture for or in connection with any offence under the customs and excise laws and, in the opinion of the Service, a responsible officer of the ship, aircraft or vehicle is implicated either by his own act or by neglect in that offence, the ship, aircraft or vehicle is liable to such sum as the Service may deem fit but not less than ₦5,000,000.

Schedule.

(2) Where any ship, aircraft or vehicle is liable to a fine under subsection (1) but the Service considers that a penalty or fine is inadequate for the offence, it may take proceedings in accordance with the Schedule to this Act, in like manners as it might have taken but for section 238 of this Act proceedings for the condemnation of the ship, aircraft or vehicle if notice of claim had been given in that respect, for the condemnation of the ship, aircraft or vehicle in such sum of at least ₦5,000,000 or as the court may deem fit.

(3) Where any fine is to be imposed or any proceedings are to be taken under this section, the Service may, require such sum as it deem fit, but at least ₦5,000,000 shall be deposited with the Service to await its final decision or, as the case may be, the decision of the court, and may detain the ship or aircraft until that sum has been so deposited.

(4) No claim shall lie against the Service for damages in respect of the payment of any deposit or the detention of any ship under this section.

(5) For the purposes of this section, the expression “responsible officer” includes —

(a) in the case of a ship not carrying a passenger certificate, the master, a mate, the chief steward and an engineer ;

(b) in the case of a ship carrying a passenger certificate, the master, the purser, the chief steward and the chief engineer ;

(c) in the case of an aircraft, the captain, a pilot, a navigator, the chief steward and chief engineer ; and

(d) in the case of a vehicle, the driver.

(6) Without prejudice to any other grounds upon which a responsible officer may be held to be implicated by neglect, he may be so held if goods not owned by any member of the crew are discovered in a place under that officer's supervision in which the goods could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or after.

254.—(1) Where, in any proceedings for the condemnation of anything seized as liable to forfeiture under the customs and excise laws, judgment is given for the claimant, the court may, if it deems fit, certify that there were reasonable grounds for the seizure.

Jurisdiction over offences committed in a place other than land in Nigeria.

(2) Where any proceedings, whether civil or criminal, are brought against the Service or any person authorised by or under this Act to seize or detain anything liable to forfeiture under the customs and excise laws on account of the seizure or detention of anything, and judgment is given for the plaintiff or prosecutor, then if either—

(a) a certificate relative to the seizure has been granted under subsection (1) ;
or

(b) the court is satisfied that the Service and the officers acted in good faith believing reasonable grounds exist for seizing or detaining that thing under the customs and excise laws, the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment, provided that nothing in this Act shall affect any right of any person to the return of the thing detained or seized or compensation in respect of any damage to the thing or in respect of its destruction.

(3) Any certificate under subsection (1) may be proved by the production of either the original certificate or its certified copy signed by an officer of the court by which it was granted.

PART XXXII—LEGAL PROCEEDINGS RELATING TO CUSTOMS OFFENCES

255.—(1) Where or under any provision of the customs and excise laws, a fine or imprisonment is prescribed for any offence, such fine or imprisonment shall be enforceable by the ordinary procedure applicable in respect of criminal matters in the place in Nigeria where the proceedings are brought.

Adjustment of prescribed fees.

(2) Notwithstanding anything to the contrary in other law, no action shall be instituted against the Board in respect of any neglect, or default done by any officer, servant or agent of the Board with regard to the powers of the Board under section 10(1)(b) of this Act unless it is commenced within three months next after the act or negligence complained of, or in the case of a continuing damage or injury, within three months next after its ceasing.

(3) No suit be commenced against the Board before the expiration of a period of one month of intention to commence the suit shall have been served on the Board by the intending plaintiff or his authorised agent and the notice shall clearly and explicitly state the —

- (a) cause of action ;
- (b) particulars of the claim ;
- (c) name and place of abode of the intending plaintiff ; and
- (d) relief which he claims.

(4) No criminal proceedings may be instituted except within seven years of the commission of the offence.

Conduct of proceedings.

256.—(1) Where a criminal offence under the customs and excise law is committed on the water or in the air outside the area covered by the jurisdiction of any court in Nigeria, the offence shall, for the purpose of conferring jurisdiction, be deemed to have been committed at any place in Nigeria where the offender is found or to which he is first brought after the commission of the offence.

(2) The jurisdiction conferred under subsection (1) shall be in addition to and not in derogation of any jurisdiction or power conferred under any other enactment.

Offences punishable on indictment summarily.

257.—(1) Where, by or under this Act, a fine is prescribed in connection with an offence arising from the administration of the customs and excise law, the Service may, by regulations review and adjust such fines, after seven years from the commencement of this Act and thereafter every other four years.

(2) The adjustment factor to be used by the Service for the review and adjustment referred to in subsection (1) in this section shall be as follows —

adjustment factor equal to = $CPI(y-1)/CPI(2009)$

(3) The formula —

“*CPI (y—l)*” means the average Nigerian consumer price index (annual) for All Urban Consumers (*CPI—u*) for all items, 2009 = 100, unadjusted for seasonal variation as announced by the Nigerian Bureau of Statistics, for the calendar year prior to the April 1 date under consideration ; and

“*CPI (2011)*” means the average Nigerian Consumer Price Index (Annual) for All Urban Consumers (*CPI—D*) for All Item, 2009=100, unadjusted for seasonal variation, as announced by the Nigeria Bureau of Statistics, for the calendar year 2011.

(4) Fines under this Act shall be reviewed as follows —

adjusted fine = fine x adjustment factor

(5) The term —

“*adjusted fine*” means the new fine to be introduced under this section ;

“*fine*” means the fine under this Act in the first instance and adjusted fines for the subsequent years ; and

“*adjustment factor*” means the figure calculated under subsection (2).

(6) The provisions of this section shall also apply in the adjustment of other monetary provisions under this Act.

258.—(1) Any offence committed under this Act shall be prosecuted by the Attorney-General of the Federation.

Other provisions pertaining legal proceedings.

(2) Subject to the provision of section 174 of the Constitution of the Federal Republic of Nigeria, 1999, relating to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law, the Service may request for the consent of the Attorney-General of the Federation for a legal officer of the Service to prosecute criminal or other proceedings in respect of matters relating to customs and excise under the customs and excise laws.

Cap. C23, LFN, 2004.

259.—(1) Subject to the applicable rules, any offence under the customs and excise laws —

Power to retain measurement taken in certain cases.

(a) where punishable with imprisonment for a term of two years or more, with or without a fine, shall be punishable either on summary conviction or on conviction on indictment ; and

(b) in any other case, shall be punishable on summary conviction.

(2) Without prejudice to the powers of any other court of competent jurisdiction, any proceedings for condemnation under the Schedule to this Act or for the recovery of any duty or other sum payable under the customs and excise laws may be heard and determined, without limit of amount, by a court of summary jurisdiction.

Schedule.

260.—(1) Where liability for any offence under the customs and excise laws is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against jointly or severally.

Appeals by prosecutor from court of summary jurisdiction.

(2) In any proceedings for any offence or for the condemnation of anything as being forfeited under the customs and excise laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defense.

(3) Where, by or under any provision of the customs and excise laws a punishment is prescribed for an offence, and any person is convicted in the same proceedings of more than one such offence, that person shall be liable to that punishment for each such offence of which he is so convicted.

(4) Where a fine for any offence under the customs and excise law is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty chargeable on the goods, if they had been sold in the open market at or about the date of the commission of the offence for which the fine is imposed ; and a certificate as to the value of the goods under the hand of an officer shall be accepted as proof of such value, and shall be conclusive unless challenged by the person charged, in which event the court may proceed to hear evidence of value.

(5) Where an offence under the customs and excise laws which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to have committed the offence and is liable to be proceeded against and punished accordingly.

(6) In subsection (5) the word “director”, in relation to a body corporate established for the purpose of carrying on a business under public ownership in any industry or part of an industry or undertaking, being a body corporate, whose affairs are managed by the members, means a member and employee of that body corporate.

(7) Where, in any proceedings for an offence under the customs and excise laws, any question arises as to the duty or the rate chargeable on any goods, and where it is not possible to ascertain the relevant time of importation or exportation under Part VIII of this Act, the duty or rate shall be determined as if the goods had been imported or exported, as the case may be, without declaration at the time when the proceedings were commenced.

Application of penalties.

261.—(1) Where a person suspected of fraudulently evading payment of duty due on any goods or evading a prohibition relating to the goods is detained for any period not more than 24 hours by an officer in exercise of his powers under this Act and proceedings, whether or not a charge is preferred in respect of that person are thereupon or thereafter compounded under the provisions of this Act, any measurements, photographs or fingerprint impression taken under the authority of the Police Act or this Act during such detention may be retained and kept in the custody of the Service.

(2) Accordingly, section 68 (1) of the Police Act and this Act shall in any such case be jointly read and construed as if the provision of that section which

requires in certain cases the disposal of items, including measurements, photograph or fingerprint so taken, had been omitted, so however that measurements, photographs or fingerprint impressions retained under the power conferred by the forgoing subsection shall not be received in evidence without the consent of the judge hearing the case, in any prosecution of a person for an offence thereafter committed otherwise than under this Act.

Act No. 2,
2020.

262. Without prejudice to any right to require the statement of a case for the opinion of a superior court, a prosecutor may appeal to a superior court against any decision of a court of summary jurisdiction in proceedings for an offence under the customs and excise law.

Powers of the
Service to
compound
proceedings.

263. Any sum paid or recovered on account of any fine imposed under the customs and excise laws and all costs awarded in any proceedings relating to customs and excise laws to the Service or to any person discharging any duty under those laws shall be accounted for and paid to the Service as the Service may direct.

Proof of
certain
documents.

264. The Service may —

(a) without prejudice to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria, 1999, and subject to such directions whether general or special as may be given by the Attorney-General of the Federation, stay or compound any proceedings for an offence or for the condemnation of anything forfeited under the customs and excise laws ; or

Proof of other
matters.

Cap. C23,
LFN, 2004.

(b) without prejudice to other provisions of this Act and subject to such directions whether general or special as may be given by the Board, restore anything forfeited or seized under the customs and excise law.

265.—(1) Subject to the provision of any applicable law on the matter where, in any court any book or document in the official custody of the Service or any officer is required to be used as evidence as to the transactions to which it refers, copies of such books or documents or of extracts there from certified by the Service shall be admissible for that purpose, without the production of the original.

Evidence of
customs
officers.

(2) In any proceedings under the customs and excise laws certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of the officers of the Service or of other customs administrations, shall be sufficient evidence of the matters therein stated, unless the contrary is proved.

266.—(1) An averment in any process in proceedings under the customs and excise law that —

Scope.

(a) those proceedings were instituted by the order of the Service,

(b) any person is or was an officer,

(c) any person is or was appointed or authorised by the Service to discharge or is engaged by the order or with the concurrence of the Service in the discharge of any duty,

(d) the Service is or is not satisfied as to any matter as to which it is required by any provision of the customs and excise laws to be satisfied ;

(e) any goods thrown overboard, staved or destroyed were so dealt with in order to prevent the seizure of those goods,

(f) any person was engaged in, or any ship, aircraft, vehicle or other thing was employed or used in, the enforcement of the customs and excise laws, or

(g) the offence was committed or that any act was done in a specified place in Nigeria,

shall, unless the contrary is proved be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs or excise laws, any question arises as to the place from which any goods have been brought or as to whether or not any —

(a) duty has been paid or secured in respect of any goods,

(b) duty alleged to be payable is correctly assessed,

(c) goods or other things whatsoever are of the description or nature alleged in the process,

(d) goods have been lawfully imported or lawfully unloaded from any ship, aircraft or vehicle,

(e) goods have been lawfully loaded into any ship, aircraft or vehicle or lawfully exported,

(f) goods were lawfully brought to any place for the purpose of being loaded into any ship, aircraft or vehicle or exported, or

(g) goods are or were goods prohibited to be imported, exported or carried coastwise,

then, where those proceedings are brought by or against the Attorney—General of the Federation, the Service, or having been commenced by the police, are continued by the Service, the burden of proof shall lie upon the other party to the proceedings.

Evidence of a customs officer.

267. If in any proceedings under the customs and excise laws the question arises whether any person is an officer, his own evidence that he is customs officer shall be deemed sufficient unless the contrary is proved.

Appeals from the decisions of the Service.

268. The provisions in this Part relate only to appeals from the decisions or omissions of the Service and shall not apply to appeals for convictions in criminal offences.

269.—(1) Any person directly affected by a decision or alleged omission of the Service shall, on application, be given the reasons in writing for such decision or omission within a reasonable period of time.

Right of appeal.

(2) A person shall have the right to appeal against any decision or alleged omission by the Service relating to the —

- (a) classification, valuation or determination of the origin of goods ; or
- (b) application of other customs and excise laws which affects him directly and individually.

(3) An appeal shall be —

- (a) lodged in writing and shall state the grounds upon which it is being made ;
- (b) accompanied by supporting evidence ; and
- (c) lodged not later than 30 days after the date of the decision or omission in question.

(4) In addition to the provision of subsection (3), an additional time may be permitted for the submission of evidence not reasonably available at the time the appeal is lodged.

270. The right of appeal shall be exercised in accordance with the four stages—

Presumption of correctness.

(a) an application shall first be lodged with the Service command responsible for the decision or omission, which shall give its decision on the application in writing within 21 working days and where the customs office, dismisses the application, it shall furnish to the applicant the reason for the dismissal ;

(b) where the applicant is dissatisfied with the decision of the Service referred to in paragraph (a), an appeal may be lodged by the applicant to the Comptroller-General within 30 days of decision complained of ;

(c) where the applicant is dissatisfied with the decision of the Service referred to in paragraph (b), the applicant may request the escalation to the World Customs Organisation (WCO) ; and

(d) where the appellant is dissatisfied with the decision of the Comptroller-General, a further appeal may be lodged with a court of competent jurisdiction.

271.—(1) The lodging of an appeal by an appellant shall not constitute a stay of execution or suspension of the implementation of a decision in dispute.

Suspension of the implementation of a decision in dispute.

(2) Where there is an application for a stay of execution or suspension of implementation of a decision pending appeal, the Service or a court of competent jurisdiction shall suspend implementation of the decision or order the stay of execution in whole or in part pending appeal, where there is a good cause to believe that —

(a) the disputed decision is inconsistent with existing customs and excise laws ; and

(b) there is a likelihood of irreparable damage to the subject matter of the appeal or the person concerned.

(3) When an appeal is allowed, the Service shall execute the decision immediately, except where —

(a) the Service filed an appeal against the decision ;

(b) there is a further appeal against the decision by any of the parties to the appeal ; or

(c) the parties entered into an agreement with the Service not to execute the decision.

Suspense re-determination.

272. When a decision or alleged omission by the Service or the Board is a subject of an appeal to a court of competent jurisdiction, the decision or alleged omission shall be presumed to be correct unless the appellant demonstrates to the court that it is clearly erroneous as a matter of law or that it is not supported by substantial evidence on the record.

Re-examination, re-determination and valuation.

273.—(1) The Service may re-examine declarations and may re-determine the classification, valuation or the country of origin of the goods at any time within seven years after the lodgment of the goods declaration provided that a written notice to that effect shall be served on the declarant, stating reasons for the re-determination.

(2) Where the Service does not make a re-determination within seven years under this section, the original determination of the classification, valuation or country of origin of the goods shall be final, except in cases where the original determination was arrived at on the basis of false evidence or negligence or fraudulent action on the part of any concerned person.

(3) Subject to the provisions of this Act, re-determinations are not subject to review.

PART XXXIII—MISCELLANEOUS PROVISIONS

Professional and work ethics.

274.—(1) Subject to the approval of the Board, the Service shall develop policies and programmes to ensure professionalism, transparency and accountability by its officers, employees, consultants, customs licensed agents and contractors in carrying out their duties and responsibilities in this Act and under other customs and excise laws.

(2) For the purpose of attaining the standards required under the provision of subsection (1), the Service shall develop a Code of Conduct to guide against corrupt practices, conflict of interests and other related malpractices for officers, its contractors, customs licensed agents and consultants.

(3) In developing the Code of Conduct referred to in subsection (2), the Service shall make provision for appropriate sanctions and penalties for any violation of the Code of Conduct which may include provision for the dismissal of officers or any other appropriate sanctions and penalties as deemed fit to be meted out by the Service to any employee, customs licensed agents contractor, or consultant that violate the Code of Conduct.

275.—(1) Any sale of goods arising from the operation of this Act or under any other customs and excise law shall be carried out by an officer authorised by the Service to carry out such sales.

Sales under the customs and excise laws.

(2) Any sale of goods arising from the operation of this act, or under any other customs and excise law shall not be sold at a price less than the duty payable for such goods and other Customs duties and levies for such goods may be carried out by auction or as directed by the Board.

276. Where a claim is made to the Service for the repayment of any sum in respect of any amount paid by way of duty in excess of the amount chargeable in respect of that duty, the Service may, if it deems fit, require the claimant to defray, in accordance with such reasonable scales as the Service may determine, the administrative expenses incurred by the Service in connection with the repayment, provided that the excess duty payment did not originate from the error of the Service.

Recovery of customs expenses in refunding excess payment of duty.

277.—(1) Notwithstanding anything in any other enactments, it shall be lawful for officers of the Service, to carry firearms and ammunition on their persons or under their control on such occasions as may be specified by regulations.

Possession of arms by members of the Service.

(2) Provision shall be made by regulations for the safe custody of firearms and ammunition provided under the provision of subsection (1).

(3) The authorisation to possess and control arms and ammunition conferred under the provision of subsection (1) to officers of the Service not below the rank of Assistant Superintendent, shall extend to officers of the Service not below the rank of Inspector of Customs and to officers of the Service below that rank when acting under the personal supervision of such an officer.

278.—(1) The Service may, with the approval of the Board, reward exceptional and meritorious service rendered to it by any person in relation to any customs or excise matter, provided that the Board's approval may not be required for a reward not exceeding ₦5,000,000.

Rewards.

(2) The Service may, with the approval of the Board, reward exceptional and meritorious service rendered by any officer of the Service and such reward may include special promotion, letter of commendation, cash rewards or all as may be deemed fit by the Comptroller-General or the Board.

Procedure for coming into effects of regulations made under this Act.

Repeals and savings provisions.

279. The Board shall make regulations for the implementation of any provisions of this Act with the approval of the Minister.

280.—(1) The —

(a) Customs and Excise Management Act, Cap C45, Laws of the Federation of Nigeria, 2004,

(b) Customs and Excise Management (Disposal of Goods) Act, Cap. C46, Laws of the Federation of Nigeria, 2004,

(c) Customs and Excise Management (Special Penal and other Provisions) Act, Cap. C47, Laws of Federation of Nigeria, 2004,

(d) Nigeria Customs Service Board Act, Cap. N100 Laws of the Federation of Nigeria, 2004, and

(e) Pre-Shipment Inspection of Imports Act, Cap. P26, Laws of the Federation of Nigeria, 2004,

are repealed.

(2) The repealed enactments listed in subsection (1) are herein referred to as “the repealed enactment”.

(3) Without prejudice to the provisions of section 6 of the Interpretation Act, the repeal of the enactments listed under subsection (1), shall not affect anything done under the repealed enactments.

(4) Every order, regulations, requirement, certificate, notice, directions, authorisation, consent application, request or thing made, issued, given or done under any of the repealed enactments and in effect at the commencement of this Act, shall continue to be in effect and have effect as if made, issued, given or done under the corresponding provisions of this Act.

(5) All orders, regulations, directions terms, conditions, restrictions or forms having effect under any of the repealed enactments immediately before the commencement of this act relating to any customs and excise matter with respect to which the President, the Minister, the Board or the Service has under this Act power to make orders or regulations or give directions or impose terms, conditions or restrictions shall, have effect as if made, given, imposed or directed under this Act unless —

(a) revoked or varied as the case may be, by the President, the Minister, the Board or the Service ; or

(b) is inconsistent with the provisions of this Act.

(6) Any appointment, license granted, or approval given by the President, Minister, Federal Civil Service Commission, the Board, the Service or any officer

under any of the repealed enactments and in effect immediately before the commencement of this Act shall have effect as if made, granted or given under the corresponding provision of this Act.

(7) Any document referring to any of the repealed enactments shall be construed as referring to the corresponding provisions of this Act.

(8) All assets, funds, resources and other movable property which immediately before the commencement of the Acts was vested in any institution established under any of the repealed enactments shall be vested in corresponding institutions established under this Act.

281.—(1) In this Act —

Interpretation.

“*advance rulings*” means a written decision provided by the Service to an applicant prior to the importation of the goods covered by the application that sets forth the treatment that shall be provided to the goods at the time of importation, based upon the facts presented by the applicant which may pertain to tariff classification, valuation and origin, the method to be used to determine customs value, duty drawback, quotas, fees and charges applicable or additional matters ;

“*appeal*” means a written application by which an aggrieved person affected by a decision or omission of the Service seeks redress before a competent authority ;

“*assessment of duties, Customs duties and other charges*” means the determination of amount of duties, Customs duties and other charges payable ;

“*audit-based control*” means measures by which the Service verifies or satisfies as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned ;

“*Board*” means the governing Board of the Nigeria Customs Service ;

“*carrier*” means the person actually transporting goods, in charge of or responsible for the operation of the means of conveyance ;

“*carriage of goods coastwise*” means the procedure under which certain goods are loaded on board a vessel at a place in Nigeria and transported to another place in Nigeria, where they are unloaded ;

“*certificate of origin*” means the specified form identifying certain goods, in which the authority empowered to issue it certifies expressly that the goods to which the certificate relates to, originate in a specific country, and which may include a declaration by the manufacturer, producer, supplier, exporter or other competent person with knowledge concerning the origin of the goods ;

“*checking the goods declaration*” means the actions taken by the Service to satisfy themselves that the goods declaration is correctly made out and that the supporting documents required fulfill the prescribed conditions ;

“*clearance*” means the accomplishment of the customs formalities necessary to allow goods to enter home use, or to be exported, or to be placed under another customs procedure ;

“*Comptroller-General*” means the Comptroller-General of the Nigeria Customs Service ;

“*cost-based user fees*” means all fees and charges, excluding import and export duties and other Customs duties, imposed in connection with the importation, exportation and transit of goods and such fees and charges are imposed only for services rendered in connection with the importation and exportation of goods or for any formality required for undertaking such importation and exportation ;

“*customs control or customs controls*” means measures applied by customs to ensure compliance with customs law ;

“*customs control zone*” means an area within or outside the customs territory, and suitable for, or already recognised as, a center of international trade, and is normally part of an international port, an international land border crossing, an international airport, or export processing or free zone, and is suitable and able to provide a high level of service in terms of traffic flows and clearance demands which may be designated by the Comptroller-General as customs control zone for the purpose of administering or enforcing customs control ;

“*customs debt*” means the obligation on a person to pay the amount of duties, Customs duties and other charges which apply under customs legislation ;

“*customs duties*” means the duties provided for in the custom tariff to which goods are liable on entering or leaving the customs territory and includes other Customs duties collected on behalf of other government agencies ;

“*customs formalities*” means all the operations which must be carried out by the person concerned or by the Service in order to comply with customs law ;

“*customs law*” means the statutory and regulatory provisions relating to importation, exportation, excise, transit, trans-shipment movement or storage goods, the administration and enforcement which are specifically charged to the Service, and any regulations made by the Service under their statutory power ;

“*customs office*” means the customs administrative unit competent for the performance of customs formalities, and the premises or other areas approved for that purpose by the competent authorities ;

“*officer*” means any officer employed by the Service whose duty it is to require the performance of, or to perform, acts relating to enforcement of the customs laws ;

“*customs representative*” or “*third party*” means customs licensed agent, broker or any person who deals directly with the Service, for and on behalf of another person, relating to customs matters ;

“*customs territory*” means the territory in which the customs laws of Nigeria applies ;

“*decision*” means the action by which the Service decide upon a matter relating to customs law ;

“*declarant*” means any person who make a goods declaration or in whose name such a declaration is made ;

“*due date*” means the date when payment of duties, Customs duties or other charges is due ;

“*ECOWAS*” means the Economic Community of West African States ;

“*ECOWAS goods*” means goods originated in the customs territory of ECOWAS which shall be presumed to have the statues of ECOWAS goods unless it is established that they are not ECOWAS goods ;

“*examination of goods*” means the physical or electronic inspection of goods by the Service or designee of the Service to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the goods declarations ;

“*exporter*” means any person who at the time of exportation —

(a) owns any of the goods exported ;

(b) carries the risk of any goods exported ;

(c) represents the exporter or owner of any goods exported ;

(d) actually takes any goods out of the customs territory with the intention to export such goods ;

(e) is beneficially interested in any goods exported ; or

(f) bears ultimate legal liability for the exportation of goods ;

“*FAAC*” means Federal Allocation Account Committee ;

“*free zone*” means an export processing zone, free trade zone, free port, or special economic zone or similar region, which is a part of the territory of the Federal Republic of Nigeria where goods introduced are regarded as being outside the customs territory and therefore not subject to duties and Customs duties ;

“*goods declaration*” means a statement made in the manner prescribed by the Service, by which the persons concerned indicated the customs procedure to be applied to the goods and furnish the particulars which the Service require for its application ;

“*Government*” means the Government of the Federal Republic of Nigeria ;

“*guarantee*” or “*security*” means a commitment from bank which ensures to the satisfaction of the Service that obligation to the Service will be fulfilled, and security is described as “general” when it ensures that the obligations arising from several operations will be fulfilled ;

“*he*” includes “*she*” and “*his*” includes “*her*” ;

“*importer*” means any person who —

- (a) at the time of importation owns any goods imported ;
- (b) carries the risk of any goods imported ;
- (c) represents the importer or owner of any goods imported ;
- (d) actually brings any goods into the customs territory with the intention to import such goods ;
- (e) is beneficially interested in any goods imported ; or
- (f) bears ultimate legal liability for the importation of goods ;

“*Management Committees*” means the Committee set up under section 14(5) of this Act ;

“*Minister*” means the Minister responsible for finance ;

“*Mutual Administrative Assistance*” means actions of a customs administration on behalf of or in collaboration with another customs administration for the proper application of customs laws and for the prevention, investigation and repression of customs offences ;

“*omission*” means the failure to act or give a decision required of the Service under customs law within a reasonable time on a matter duly submitted to them ;

“*NAFDAC*” means National Agency for Food and Drugs Administration and Control ;

“*person*” means both natural and legal person, including Nigerian and Foreign government agencies ;

“*preferential tariff rate*” means tariff rates that are lower rates (including zero rates) than the normal tariff applied to imports and preferential tariff rate may be applied to the imports originating in countries that have acceded to bilateral or regional trade agreements with the Federal Republic of Nigeria ;

“*preferential origin*” means the economic nationality of goods related to trade agreements which grant members access to domestic market at preferential tariffs ;

“*non-preferential origin*” means to goods traded between countries not linked by any preferential trade agreement ;

“*regulations*” means regulations made pursuant of this Act ;

“*release of goods*” means the actions by the Service to permit goods ongoing clearance to be placed at the disposal of the persons concerned ;

“*repayment*” means the refund of duties and Customs duties paid on goods and the remission of duties and Customs duties where payment has not been made ;

“*risk*” means the likelihood of an event that may occur, with regard to the entry, exit, transit, transfer or end-use of goods moved between the customs territory and territories outside that customs territory, which would —

(a) prevent the correct application of customs laws or national legal measures,

(b) compromise the financial interests of Nigeria ;

(c) pose a threat to the security and safety of Nigeria and its residents, human, animal or plant health, or the environment ;

“*risk management*” means the systematic identification of risk and the implementation of all measures necessary for limiting exposure to risk ;

“*security*” or “*guarantee*” means commitment from bank which ensures to the satisfaction of the Service that an obligation to customs will be fulfilled, and security is described as “*general*” when it ensures that the obligations arising from several operations will be fulfilled ;

“*Service*” means the Nigeria Customs Service established under section 1 of this act ;

“*single window*” means a facility by which a person can submit documentation and data requirements for exportation, importation, excise and transit procedures to a single entry point by electronic means, provided that where such person is not resident in Nigeria, he has a representative resident in Nigeria who shall be legally responsible for submissions so made, and the single window then undertakes onward distribution of documents and data to all relevant authorities or agencies which require them ;

“*SON*” means Standards Organisation of Nigeria ;

“*temporary storage of goods*” means the storing of goods under customs control in premises and enclosed or unenclosed spaces approved by the Service, pending lodgment of the goods declaration ;

“*trader*” means any non-government person or persons involved directly or indirectly with import, export or excise transaction ;

“*trans-shipment*” means the customs procedure by which goods are transferred under customs control from the importing means of conveyance to the exporting means of conveyance ; and

“*transit procedure*” means the customs procedure by which goods are conveyed under custom control, from one custom office to another.

(2) The provision of this Act shall be interpreted to be consistent with the provisions of the following international agreements to the extent that such International Agreements and Convention have been approved or domesticated by the National Assembly in line with the provisions of the Constitution of the Federal Republic of Nigeria, 1999.

282. This Act may be cited as the Nigeria Customs Service Act, 2023.

Citation.

SCHEDULE

Section 245(2),(3), 253(2), 259(2)

PROVISIONS RELATING TO FORFEITURE AND CONDEMNATION

Notice of Seizure

1.—(1) The Service shall give 30 days' notice of the seizure of anything as forfeited and of the grounds thereof to any person who to its knowledge was at the time of the seizure the owner or one of the owners :

Provided that notice shall not be required to be given under this paragraph if that seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure ;
- (b) the owner or any of the owners of the thing seized or any servant or agent of the owner ; or
- (c) in the case of anything seized in any ship, aircraft or vehicle, the master of that ship, captain of that aircraft or person in charge of that vehicle.

2. Notice under paragraph 1, shall be given in writing and shall be deemed to have been duly served on the person concerned —

- (a) if delivered to him personally ;
- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business, or, in the case of a body corporate, at their registered or principal office ; or
- (c) where he has no address within Nigeria, or his address is unknown, by publication of notice of seizure in the Federal Government Gazette.

Notice of Claim

3. Any person claiming that anything seized or forfeited is not so liable shall, within one month of the date of the notice of seizure or, if such notice has been served on him, within one month of the date of the seizure, give notice of his or her claim in writing to the Service, provided that the Service may by its discretion, extend the period in which notice of a claim may be given.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside Nigeria, shall specify the name and address of a legal practitioner in Nigeria who is authorised to accept the service or process and to act on behalf of the claimant and service of process upon a legal practitioner so specified shall be deemed to be proper service upon claimant.

Condemnation

5. If on the expiration of the relevant period for the giving of notice of claim no such notice has been given to the Service or if in the case of any such notice given, any requirement of paragraph 4 is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

6. Where the Service is not satisfied with the notice of claim, the Service shall take proceedings for the condemnation of that thing to court, and if the court finds that the thing was at the time of seizure liable to forfeiture, the Court shall condemn it as forfeited.

7. Where anything is in accordance with either of the two last foregoing paragraphs condemned or deemed to have been condemned and forfeited, then without prejudice to any delivery by or sale of the thing by the Service under paragraph 15, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for Condemnation by the Court

8. Proceedings for condemnation shall be instituted by way of ex parte application.

9. Proceedings for the condemnation of anything instituted in a court of summary jurisdiction may be so instituted in any such court having Jurisdiction in the place where —

(a) any offence in connection with that thing was committed or where any proceedings for such an offence are instituted ; or

(b) that thing was found, detained, or seized or to which it is first brought after having been found, detained or seized.

10.—(1) In proceedings for condemnation, the claimant or his legal practitioner shall take oath that the thing seized was, or was to the best of knowledge or belief, the property of the claimant at the time of the seizure.

(2) If the requirements of subparagraph (1) are not complied with, the court shall give judgment for the Service.

(3) The proceeding for condemnation shall be by way of ex parte application.

11. Where an appeal has been made against the decision of the court in any proceedings for the condemnation of anything, that thing shall, pending the final determination of the matter, be left with the Service.

Provisions as to Proof

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

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

Special Provisions as to Certain Claimant

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

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

Power to Deal with Seizures before Condemnation

15. Without prejudice to any other law, where anything has been seized or forfeited, the Service may at any time, at its discretion, and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned as forfeited —

- (a) deliver it up to any claimant upon his or her paying to the Service a sum representing any duty chargeable on it which has been paid ; or
- (b) if the things seized is a living creature or is in the opinion of the Service of a perishable nature, sell or destroy it.

16.—(1) Where anything is delivered up, sold or destroyed, it is held in proceedings taken under this Schedule that the thing not liable to forfeiture at the time of its seizure, the Service shall on demand by the claimant tender to him —

- (a) an amount equal to any sum paid by him ;
- (b) where the Service has sold the thing, an amount equal to the proceeds of sale ; or
- (c) where it has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure :

Provided that where the said amount includes any sum on account of any duty chargeable on the thing which has not been paid before seizure the Service may deduct so much of that as much amount as represents that duty.

(2) If the claimant accepts any amount tendered to him under subparagraph (1), he shall not be entitled to maintain action on account of the seizure, detention, sale or destruction of the thing.

I, certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SANI MAGAJI TAMBAWAL, fca
Clerk to the National Assembly
24th Day of March, 2023.

EXPLANATORY MEMORANDUM

This Act repeals the Customs and Excise Management Act Cap. C45, Laws of the Federation of Nigeria, 2004 and other Customs and Excise legislation and enacts the Nigeria Customs Service Act, 2022 to provide for the reform of the administration and management of customs and excise in Nigeria.

SCHEDULE TO THE NIGERIA CUSTOMS SERVICE BILL 2023

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date Passed by the Senate</i>	(5) <i>Date Passed by the House of Representatives</i>
Nigeria Customs Service Bill, 2023 .	An Act to repeal the Customs and Excise Management Act, Cap. C45, Laws of the Federation of Nigeria, 2004 and other Customs and Excise legislation and enact the Nigeria Customs Service Act, 2023 to provide for the reform of the administration and management of customs and excise in Nigeria; and for related matters.	This Bill repeals the Customs and Excise Management Act, Cap. C45, Laws of the Federation of Nigeria, 2004 and other Customs and Excise legislation and enacts the Nigeria Customs Service Act, 2023 to provide for the reform of the administration and management of customs and excise in Nigeria.	22nd March, 2023.	23rd March, 2023.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT



SANI MAGAJI TAMBAWAL, fcna
Clerk to the National Assembly
 24th Day of March, 2023.

MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
 20th Day of April, 2023.