

EXCISE (SPECIAL PROVISIONS) ACT
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13 of 1989,
40 of 1990,
8 of 1994,
50 of 2006,
46 of 2007,
14 of 2009,
17 of 2011.

AN ACT to provide for the levy and charge of Excise Duty on articles produced or manufactured in, or imported into, Sri Lanka; and for matters connected therewith or incidental thereto.

[Date of Commencement: *12th October, 1989.*]

1. Short title.

This Act may be cited as the Excise (Special Provisions) Act.

PART I
ADMINISTRATION

2. Appointment of Director-General of Excise (Special Provisions).

- (1) There may be appointed by name or by office, for the purpose of this Act—
- (a) a Director-General of Excise (Special Provisions) (hereinafter referred to as the "Director-General") who shall be in charge of the administration at this Act;
 - (b) such number of Directors of Excise, Deputy Directors of Excise, Assistant Directors of Excise, and such other officers, as may be necessary for the implementation of the provisions of this Act; and
 - (c) such number of administrative: accounting, technical, legal, and clerical officers and other staff, as may be necessary to assist the aforesaid officers.
- (2) The Director of Excise, a Deputy Director of Excise, an Assistant Director of Excise, may, subject to the general direction and control of the Director-General, exercise, perform or discharge all or any of the powers, duties or functions conferred or imposed on, or assigned to the Director-General by or under this Act.
- (3) Unless there is express provision to the contrary, every excise officer below the rank of an Assistant Director of Excise may, subject to the general direction and control of the Director-General, exercise, perform or discharge, all or any of the powers, duties or functions conferred or imposed on, or assigned to, the Director-General by or under this Act, other than any power, function or duty referred to in sections 5A, 8A, 10,12,13,14,16,18, and 27.

[S 2 subs by s 2 of Act 8 of 1994.]

2A. Official secrecy.

- (1) Except in the performance or his duties under this Act, every person appointed under this Act, shall preserve and aid in, preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorised representative or to the Minister or the Secretary to the Ministry of the Minister or suffer or permit any person to have access to any records in the possession custody or control of the Director-General.
- (2) Every person appointed under this Act shall before acting under this Act, and the Minister and the Secretary to the Ministry of the Minister may before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.
- (3) No person appointed under this Act shall be required to produce in any court any return, document or notice or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the purpose of giving effect to the provisions of this Act or any other written law administered by the Director-General.
- (4) Notwithstanding anything contained in this section, any person appointed under this Act may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Director-General to any other person appointed under this Act; if the communication of such matter is necessary for the performance of any duty under this Act or under any such other written law and the Director-General may, produce or cause to be produced in any court, in any proceedings under this Act, a copy of any particulars contained in any return or document furnished to him under this Act or other written law or otherwise in his possession certified by him or on his behalf to be a correct copy of such particulars and such copy shall notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be admissible in evidence:

Provided that the Director-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the

signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof:

Provided further that the Director-General shall not in any case be compelled to produce, in any court either the original of such return or document or copy of any particulars contained in such return or document.

(5) Notwithstanding anything contained in this section, the Director-General shall permit the Auditor-General or any officer of the Department of the Auditor-General duly authorised by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorised by him under this subsection shall for the purpose of subsection (2) be deemed to be a person appointed under this Act.

(6) Notwithstanding anything in the preceding provisions of this section, the Director-General or any person authorised in that behalf by the Director-General may, having regard to the need to ensure the equitable administration of this Act, cause to be published in such manner as the Director-General may consider expedient in respect of any area, a list containing—

- (a) the names and addresses of all the manufacturers and importers in that area registered under this Act; and
- (b) a description of the excisable articles, manufactured or imported by such manufacturers or importers during any given period and the wholesale price declared by them for each such article.

[S 2A ins by s 3 of Act 8 of 1994.]

PART II

EXCISE DUTY

3. Determination of rates of Excise Duty.

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

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

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

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

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

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

3A. Exemption of any representative in Sri Lanka of the Government of any foreign country from the payment of Excise Duty.

(1) The Minister may from time to time, by Order published in the *Gazette* exempt the representative in Sri Lanka (by whatsoever name, title or designation called) of the Government of any foreign state or the Trade Commissioner in Sri Lanka of any such Government and the persons on the

staff of any such representative or Commissioner of the United Nations, its affiliated Organisations, Institutions or bodies, or the representatives of International Organisations, Institutions or bodies named in such Order from payment of Excise Duty on excisable articles consigned to, or imported or cleared out of Customs bond by or for the use of such representative, Commissioner or persons, of foreign states.

(2) The Minister may, in his discretion by such Order—

- (a) prescribe the conditions, if any subject to which the exemption is allowed;
- (b) extend such exemption to excisable articles consigned to, or imported by or for the use of, the families and suites of such representatives, Commissioners or persons of foreign States;
- (c) limit the exemption to representatives, Commissioners or persons of any specified country, grade or class or to excisable articles of any specified description.

(3) The Minister may at his discretion, by Order published in the *Gazette*, withdraw or modify any exemption granted under this section, or vary the conditions subject to which the exemption is allowed.

(4) Every Order made by the Minister under subsection (1) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such Order and shall be brought before Parliament within a period of three months from the date of its publication in the *Gazette* or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order be approved.

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

(6) Notwithstanding anything in any Order under the preceding provisions of this section no excisable article to which such Order applies may be sold or otherwise disposed of without the prior permission of the Director-General and unless the Excise Duty payable on such excisable article at the time of such sale or disposal is paid to the Director-General, any excisable article sold or disposed of in contravention of the preceding provisions of this subsection shall be liable to be forfeited.

[S 3A ins by s 3 of Act 40 of 1990.]

3B. Exemption of certain articles from payment of Excise Duty.

The following articles shall be exempted from the payment of Excise Duty—

- (a) articles of every description, imported or cleared from customs bond for the official use of the President; and
- (b) articles of every description purchased or procured from a Custom Duty Free Shop.

[S 3B ins by s 3 of Act 40 of 1990.]

3C. Exemption of certain articles from payment of Excise Duty.

(1) The Minister may, having regard to the economic development of the country by Order published in the *Gazette*, exempt from the payment of the Excise Duty payable under this Act, any such excisable articles or any such class or description of excisable articles as are or is specified in such Order subject to such condition as may be specified in the Order.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall as soon as may be after its publication in the *Gazette* be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within six months of the publication of such Order in the *Gazette* and in the computation of such period of six months no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is so revoked, the Excise Duty payable on the exempted articles shall be paid by the manufacturer, producer importer or consignee of such article, to the Director-General, and such Excise Duty may be recovered under the provisions of this Act.

(3) Where any articles specified in an Order made under subsection (1) are subsequently sold or disposed of contrary to the conditions specified in such Order, such articles shall be liable to the same Excise Duty as was payable under this Act on like articles which are subject to Excise Duty and the manufacturer, producer, importer or consignee or such articles shall prior to such sale or disposal obtain the permission of the Director-General and pay the Excise Duty sale or disposal.

[S 3C ins by s 4 of Act 8 of 1994.]

4. Notification of removal.

(1) Where the manufacturer of any excisable articles removes or causes the removal of any quantity of such excisable articles from the factory or other place at which such excisable articles were produced or manufactured, he shall before the expiry of three months from the date of such removal, give notice thereof to the Director-General or an excise officer designated by the Director-General for that purpose.

(2) Where the importer of any excisable articles removes or causes the removal of any quantity of such excisable articles from the customs warehouse or such other place as is authorised by the Director-General of Customs at which such excisable articles were stored after their import, he shall before the expiry of three months from the date of such removal give notice thereof to the Director-General or an excise officer designated by the Director-General for the purpose.

[S 4 subs by s 4 of Act 40 of 1990.]

5. Payment of Excise Duty.

(1) The Excise Duty levied under section 3 on any excisable article shall:

(a) in any case where such excisable article has been produced or manufactured in Sri Lanka, be paid by the producer or manufacturer of that excisable article, in the prescribed manner, after its removal from the factory or other place in which such excisable article was produced at manufactured and such duty shall be paid within one calendar month from the last date of each quarter in the year in which such removal takes place; or

[S 5(1)(a) subs by s 5(1) of Act 40 of 1990.]

(b) in any case where such excisable articles was imported into Sri Lanka, be paid by the importer of such excisable article in the prescribed manner before its removal from the customs warehouse or other place where such excisable article was stored immediately after its importation into Sri Lanka.

[S 5(1)(b) subs by s 5(1) of Act 8 of 1994.]

(2) —

(a) Notwithstanding anything in this Act, every person who imports any excisable article manufactured outside Sri Lanka (not being an exempted article within the meaning of sections 3A, 3B and 3C) shall pay to the Director-General of Customs, Excise Duty, in respect of such excisable article, prior to its removal from the customs warehouse or such other place at which such excisable article is stored, at the rates of Excise Duty determined under section 3.

(b) Where Excise Duty is levied on any excisable article which is imported; with reference to the value of such article, then notwithstanding anything in section 7 or any other provision of this Act, the value of such article shall be deemed to be the aggregate of—

(i) an amount equal to the value of the cost, insurance and freight of such excisable article;

(ii) an amount equal to fifteen *per centum* of the amount referred to in sub-paragraph (i), to defray banking and other charges;

[S 5(2)(b)(ii) am by s 2 of Act 46 of 2007.]

(iii) an amount equal to the total of customs duty, cesses, port and airport development levy.

[S 5(2)(b)(iii) am by s 2 of Act 14 of 2009; am by s 2 of Act 17 of 2011; S 5(2) subs by s 5(2) of Act 8 of 1994.]

(3) Where the Excise Duty payable on any excisable article is not paid in accordance with the provisions of subsection (1), such Excise Duty shall be deemed to be in default:

Provided that—

(i) an excisable article which has been produced or manufactured in Sri Lanka for the purpose of export, shall not be liable for the payment of Excise Duty, if a bond is executed for the landing of such excisable article at the port of destination; and

(ii) an excisable article imported for the purpose of being used as raw material in the manufacture of articles for export by exporters, shall not be liable for the payment of Excise Duty if sufficient proof is furnished to the satisfaction of the Director-General that such manufactured article was manufactured for export.

[S 5(3) ins by s 5(2) of Act 40 of 1990; proviso subs by
s 5(3) of Act 8 of 1994.]

5A. Power of Director-General to estimate sale price of excisable articles in certain circumstances.

Where any person who carries on the business of a manufacturer, producer or importer of any excisable article sells such excisable article for the purpose of distribution at a price which, in the view of the Director-General, reduces or would reduce the Excise Duty payable by him, than, for the purposes of this Act, such excisable article shall be deemed to have been sold at a price, which in the opinion of the Director-General, it would have fetched in the open market on the date of such sale and the Excise Duty leviable from such person shall be computed accordingly.

[S 5A ins by s 6 of Act 40 of 1990.]

6. .

[S 6 rep by s 7 of Act 40 of 1990.]

7. Mode of ascertaining value of excisable articles.

(1) Where under this Act, Excise Duty is levied on any excisable article, not being an excisable article imported into Sri Lanka, with reference to value, such value shall be deemed to be—

[S 7(1) am by s 6 of Act 8 of 1994.]

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

Provided that—

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

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

[S 7(1)(a) proviso (iii) re-numbered as s 7(1)(a) proviso (ii) by s 8(1)(b) of Act 40 of 1990.]

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

(c) the declared value of such excisable article for the purposes of the turnover tax determined in such manner as may be prescribed where, in relation to any excisable article, turnover tax is to be levied under the Turnover Tax Act, No. 69 of 1981.

[S 7(1)(c) ins by s 8(1)(c) of Act 40 of 1990.]

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

[S 7(2) am by s 8(2) of Act 40 of 1990.]

(3) In this section—

(a) "assess" means the person who is liable to pay Excise Duty under section 5 and includes his agent;

(b) "place of removal" means—

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

(ii) a Customs warehouse or place authorised by the Director-General of Customs wherein excisable articles have been stored or kept, after importation thereof, and includes any other place registered with the Director-General for the storage of such excisable articles prior to sale:

[S 7(3)(b)(ii) am by s 8(3)(a) of Act 40 of 1990.]

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

[S 7(3)(c) am by s 8(3)(aa) of Act 40 of 1990.]

(d) "value" in relation to any excisable articles which are delivered at the time of removal in a packed condition, includes the cost of such packing which is of a durable nature and is returnable by the buyer to the assess but does not include the amount of the Excise Duty, turnover tax and other taxes, if any, payable on such packing material.

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

7A. Power of Director-General to call for samples, books of account, registers, records or other document.

(1) The Director-General or any excise officer not below the rank of an Assistant Director of Excise authorised by the Director General in writing may—

(a) by notice in writing require any person who in the opinion of the Director-General or such excise officer is a person liable to registration under section 14, to register under that section and require such person to furnish within such time as may be specified in such notice, such returns containing such particulars, as are required to be furnished by a person registered under section 14;

(b) by order in writing require any person to give information, or produce for examination, any books of account, register, record or other document relating to any excisable article or samples of any excisable article which are in such person's power to give or produce, at such place and within such period as may be specified in such order and to allow the Director-General or such excise officer to examine, and take copies, or make extracts from, any such books of accounts, register, record or other document, for the purpose of ascertaining the value of any excisable article or verifying any matter relative to the recovery of Excise Duty under this Act.

(c) give notice in writing to any person chargeable with Excise Duty, requiring him to attend in person or by an authorised representative at such place and on such date and at such time as may be specified in the notice, for the purpose of being examined regarding the Excise Duty payable by such person.

(2) A Deputy Director of Excise or an excise officer not below the rank of Assistant Director of Excise authorised by a Deputy Director of Excise in writing may retain his custody as long as such retention is necessary for the purposes of this Act, any books of account, register, record or other document which has been produced for examination in compliance with a requirement imposed under subsection (1).

[S 7A subs by s 7 of Act 8 of 1994.]

8. Remission of Excise Duty.

(1) The Minister may, by regulation made under this Act, provide for the remission of Excise Duty leviable on any excisable articles which are found to be deficient in quality by reason of any natural cause or otherwise or which are unsold for a period of time and are determined as unsaleable, by reason of being outmoded or for any other reasonable cause, by a Board of Assessors consisting of at least two officers not below the rank of Superintendent appointed in that behalf by the Director-General.

[S 8(1) subs by s 10 of Act 40 of 1990.]

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

8A. Appeals against determination of Board of Assessors.

(1) Any person may, if he is dissatisfied with any determination made by a Board of Assessors under section 8, appeal against such determination in writing to the Director-General before the expiry of fourteen days after the date on which such determination is communicated to him:

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

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

(3) Any person aggrieved by the decision of the Director-General upon any appeal made to him under subsection (1), may appeal in writing to the Deputy Secretary to the Treasury before the expiry of ten days after the date on which such decision is communicated to him by the Director-General.

(4) The decision of the Deputy Secretary to the Treasury on, any appeal preferred to him under subsection (3) shall be final.

[S 8A ins by s 11 of Act 40 of 1990.]

PART III RECOVERY

9. Non-payment of Excise Duty.

(1) Where any Excise Duty has not been levied or paid on any excisable article or has been levied or paid only in part on such excisable article or where it has been erroneously refunded, an excise officer may, within a period of five years from the relevant date serve notice on the person chargeable with Excise Duty which has not been levied or paid or which has not been levied or

paid in full or to whom a refund has been erroneously made, requiring him to show cause why he should not pay the amount so specified in the notice:

[S 9(1) am by s 8(1) of Act 8 of 1994.]

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

[S 9(1) proviso am by s 12 of Act 40 of 1990; am by s 8(2) of Act 8 of 1994.]

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

(3) In this section—

(i) "refund" includes rebate of Excise Duty on excisable articles exported from Sri Lanka:

(ii) "relevant date" in relation to excisable articles on which Excise Duty has not been levied or paid or has been levied, or paid only in part or has been erroneously refunded means—

(a) in any case where a return showing particulars of the duty paid on the excisable articles removed during the prescribed period to which the return relates, is required to be furnished under this Act by a manufacturer or producer or importer of excisable articles or an owner of a warehouse, the date on which such return is furnished;

(b) in any case where no return as aforesaid is furnished, the last date on which such return is to be furnished under this Act;

(c) in any case where the Excise Duty on excisable articles has been erroneously refunded, the date of such refund; and

(d) in any other case, the date on which the duty is to be paid under this Act or the regulations made there under.

10. Appeals to the Director-General.

(1) Any person may, if he is dissatisfied with any determination made in respect of him under section 9, appeal against such determination to the Director-General, within thirty days after the service of notice of such determination on him. Such person shall, notwithstanding the appeal, pay the Excise Duty payable on such determination unless the Director-General orders that the payment of Excise Duty or any part thereof be held over pending the determination of such appeal:

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

[S 10(1) am by s 13(1) of Act 40 of 1990.]

(2) Every appeal under subsection (1) shall be preferred by a petition in writing addressed to the Director-General and shall state precisely the grounds of such appeal.

[S 10(2) subs by s 9(1) of Act 8 of 1994.]

(3) Where the determination appealed against has been, made in the absence of a return under section 14 in respect of the period to which the determination relates, the petition of appeal shall be sent together with a return duly made sent together with a return duly made.

[S 10(3) ins by s 9(1) of Act 8 of 1994.]

(4) An appeal preferred under subsection (1) shall be rejected by the Director-General if it does not conform to the provisions of subsections (1), (2) and (3).

[S 10(4) ins by s 9(1) of Act 8 of 1994.]

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

[S 10(3) re-numbered as s 10(5) by s 9(2) of Act 8 of 1994.]

(6) The Director-General may, upon any appeal made to him under subsection (1), affirm, vary or annul the determination against which such appeal was made and shall give notice in writing to the appellant of his decision on appeal.

[S 10(4) re-numbered as s 10(6) by s 9(2) of Act 8 of 1994; S 10(6) am by s 9(3) of Act 8 of 1994.]

(7) Any person, aggrieved by the decision of the Director-General upon any appeal made to him under subsection (1) may appeal therefrom to the Court of Appeal, (6) Subsections (3), (4) and (5) of section 31D of the Industrial Disputes Act shall apply to appeals from a decision of the Director-General to the *mutatis mutandis*, apply to time specified in this Act against the determination of the Court of Appeal.

[S 10(5) re-numbered as s 10(7) by s 9(2) of Act 8 of 1994.]

(8) Subsections (8) and (9) of section 31D of the Industrial Disputes Act shall, *mutatis mutandis*, apply to appeals from a decision of the Director-General to the Court of Appeal.

[S 10(6) re-numbered as s 10(8) by s 9(2) of Act 8 of 1994; subs by s 13(2) of Act 40 of 1990; am by s 9(4) of Act 8 of 1994.]

10A. Service of notice.

(1) Every notice or notification to be given by the Director-General, a Director of Excise, Deputy Director of Excise or any excise or notification shall be the name of the Director-General, of Excise, Deputy Director of Excise or such excise officer is duly printed or thereon.

(2) Every notice or notification given under this Act may be served on person either personally or by being delivered at or sent by post to, his last known place of abode or any place at which he is, or was during the period to which the notice relates.

(3) Every notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or notification or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the officer authorised to give or issue the same shall be judicially noticed.

(6) No notice, notification, certificate or other document purporting to be given, or issued in accordance with the provisions of this Act shall be quashed or deemed to be void or voidable, for want of form or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of the provisions of this Act, and if the person, to whom such notice, notification, certificate or document relates or is affected thereby is designated therein according to common intent and understanding.

[S 10A ins by s 10 of Act 8 of 1994.]

11. Excise duty determined on appeal to be final.

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

11A. Excise duty to be a charge on assets of defaulter.

Any Excise Duty in default shall be a charge upon all the assets of the defaulter:

Provided that—

- (i) such charge shall not extend to or affect any assets sold by the defaulter to a *bonafide* purchaser for value prior to the seizure of the same under section 11B;
- (ii) as regards immovable property, the charge shall not rank in priority to any lease or encumbrance created *bonafide* for value and registered prior to the date of the seizure of such property under section 11B; and
- (iii) as regards movable property, the charge shall rank in priority to any lien or encumbrance created *bonafide* for value prior to the date of default.

[S 11A ins by s 11 of Act 8 of 1994.]

11B. Recovery of Excise Duty by seizure and sale.

(1) There may be appointed persons be appointed persons to be tax collectors for the purposes of this Act.

(2) —

(a) Where any Excise Duty is in de fault, the Director-General may issue a certificate to a Divisional Secretary or tax collector containing particulars of such Excise Duty and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the Excise Duty to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as the said officer shall deem: most expedient in that behalf and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the Excise Duty in default together with the costs and charges within the said five days, the Divisional Secretary or tax collector shall cause the said property to be sold by public auction.

(c) The sum realised by the sale shall be applied-

(i) firstly, in payment of the costs and charges of seizing, keeping and selling the property; and

(ii) secondly, in satisfaction of the Excise Duty in default;

and any balance shall be paid to the owner of the property seized.

(3) Where any Excise Duty is in default, and the Director-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of such Excise Duty and the name or names of the person or persons by whom the Excise Duty is payable, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorising and requiring him to seize and sell or any of the property, movable and immovable of the defaulter or such part thereof as he may deem necessary for the recovery of the Excise Duty and the provisions of sections 226 and 297 of the civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Whenever the Director-General issues a certificate under this section, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter send by post;

but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

[S 11B ins by s 11 of Act 8 of 1994.]

12. Proceedings for recovery before a Magistrate.

(1) Where the payment of any Excise Duty is in default, the Director-General may issue a certificate containing particulars of the amount of the Excise Duty in default and the name and last known place of business or residence of defaulter to a Magistrate having jurisdiction in the division in which such place of business or residence is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the Excise Duty shall not be taken against him, and in default, of sufficient cause being shown, the Excise Duty in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine impose for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that Subsection, he could have made at the time of imposing such sentence:

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

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

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

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

[S 12(4) am by s 14 of Act 40 of 1990.]

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

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

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

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

12A. Penalty for default.

(1) Notwithstanding anything in this Act where any Excise Duty is in default the defaulter shall, in addition to such duty in default, pay as a penalty—

(a) a sum equivalent to ten *per centum* of the amount in default; and

(b) where any amount in default is not paid before the end of the month succeeding the month in which this duty is due, a further sum equivalent to three *per centum* of the amount in default in respect of each period ending on the last day of each succeeding month or part of such period during which it is in default:

Provided however, that the total amount payable as penalty under this subsection shall in no case exceed the amount in default and any such amount may be waived or reduced if the Director-General is satisfied that by reason of any special circumstances in which the default occurred a waiver or reduction of such amount would be just and equitable.

[S 12A(1)(b) am by s 12(1) of Act 8 of 1994; proviso am by s 12(2) of Act 8 of 1994.]

(2) Where upon the final determination of an appeal under section 10 any duty in default to which any sum or sums under subsection (a) has or have been added is reduced then such sum or sums shall be calculated on the duty as so reduced.

[S 12A ins by s 15 of Act 40 of 1990.]

13. Refund of Excise Duty.

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

(a) the amount of Excise Duty paid is in excess of the amount payable under this Act; or

(b) the article in respect of which the Excise Duty was paid was not subject to duty:

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

[S 13(1) am by s 13 of Act 8 of 1994.]

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

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

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

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

(a) to allow the appeal and direct the Director-General to refund the Excise Duty paid by the applicant to him; or

(b) disallow the appeal.

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

13A. Deduction by manufacturers registered under this Act.

Where a manufacturer registered under this Act, has paid to another manufacturer registered under this during any quarter any sum in respect of any transaction which includes Excise Duty, turnover tax or both Excise Duty and turn-over tax on excisable articles used by the first mentioned manufacturer in his business of manufacture of articles liable to Excise Duty, the Excise Duty and turnover tax so included shall be do-ducted from the Excise Duty payable by the first-mentioned manufacturer for that quarter:

Provided that no deduction shall be made for Excise Duty—

- (a) in respect of any plant, machinery, fixtures, buildings, vehicles or other capital assets used in that business;
- (b) where deductions are permitted on the same inputs under the Turnover Tax Act. No. 69 of 1981, or any other law;
- (c) unless the other manufacturer has obtained from the first-mentioned manufacturer from whom such excisable articles were purchased, a voucher setting out—
 - (i) his name, postal address and his registered number;
 - (ii) the name, postal address and the registered number, if any, of the buyer;
 - (iii) the date on which each transaction was entered into;
 - (iv) the nature of the transaction;
 - (v) the quantity of excisable articles supplied and the amount of money received or receivable in respect of each transaction before any charge for Excise Duty and the turnover tax; and
 - (vi) the Excise Duty and the turnover tax attributable to each such transaction.

[S 13A ins by s 16 of Act 40 of 1990.]

PART IV REGISTRATION

14. Registration.

(1) On and after the expiration of a period of two months from the date on which any article becomes an excisable article in pursuance of an order made under section 3 no person shall, unless registered for the purpose of this Act with the Director-General engage in—

[S 14(1) am by s 17(1)(a) of Act 40 of 1990.]

- (a) the production or manufacture of any such excisable article;
- (b) the wholesale purchase or sale whether on his own account or as a broker or commission agent, or the storage of any such excisable article for the purpose of wholesale trade;
- (c) the importation of any such excisable articles;

[S 14(1)(c) subs by s 17(1)(b) of Act 40 of 1990.]

(2) —

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

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

[S 14(2)(b) subs by s 17(2) of Act 40 of 1990.]

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

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

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

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

(iii) the Excise Duty paid on such excisable articles;

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

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

(ii) the Customs warehouse or place at which such excisable articles have been stored or kept and the number of excisable articles removed from such warehouse or place during that period; and

(iii) the Excise Duty paid on such excisable articles:

(c) in the case of a wholesale dealer of excisable articles, returns setting out:

(i) the number of excisable articles purchased or stored by him during a prescribed period, and the names of the persons from whom he has purchased these excisable articles;

(ii) the number of excisable articles sold by him on retail during that period and the names of the persons who have purchased those excisable articles; and

(iii) the number of excisable articles removed from the place at which such excisable articles had been stored or kept and the names of the persons who have removed those excisable articles;

(d) in the case of the owner of a registered warehouse, returns setting out—

(i) the number of excisable articles stored in that warehouse; and

(ii) the number of excisable articles removed from that warehouse during the prescribed period, and the names of the persons who have removed those excisable articles.

15. .

[S 15 rep by s 18 of Act 40 of 1990.]

16. Suspension of registration.

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

(a) defaulted in the payment of any Excise Duty payable by such person under this Act;

(b) been convicted of an offence under this Act;

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

(d) failed to furnish any return to the Director-General, Director of Excise or any Excise Officer in contravention of any requirement imposed on him by or under this Act he may, by order, suspend the registration for such period not exceeding one year as may be specified in the order.

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

(3) Any person aggrieved by an order made in respect of him by the Director-General under subsection (1) may prefer an appeal in writing to the Board of Appeal referred to in subsection (6) before the expiry of ten days after the date on which such Order is communicated to him by the Director-General and the Board of Appeal may on such appeal preferred to the Board affirm, vary or amend the order against which the appeal has been preferred.

[S 16(3) subs by s 19(1) of Act 40 of 1990.]

(4) An order made under subsection (1) shall come into force after one month from the date on which such order is communicated to the person concerned by the Director-General unless an appeal has been preferred to the Board of Appeal against such order within the time specified in subsection (3).

[S 16(4) subs by s 19(1) of Act 40 of 1990.]

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

(6) There shall be a Board of Appeal, for the purpose of this section consisting of the Deputy Secretary to the Treasury and two senior officers of the Ministry of Finance appointed by the Minister.

[S 16(6) ins by s 19(2) of Act 40 of 1990.]

17. Maximum quantity.

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

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

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

18. Surrender of certificates.

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

PART V

POWERS AND DUTIES OF EXCISE OFFICERS

19. Powers of inspection and of search of buildings or places.

(1) Any excise officer specially authorised in that behalf by the Director-General in writing may, accompanied by a peace officer, do all or any of the following acts—

(a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for, or relevant to, any proceedings under this Act may be found, and examine them if found;

(b) seize any such books of account, registers, records or other documents, or place marks of identification thereon or take extracts therefrom or make copies thereof;

(c) make a note or an inventory of any other things found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act.

The provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection, peace officer shall have the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

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

(3) Where any excise officer authorised by the Director-General under subsection (1) seizes any book of account, register, record or other document from any person, such excise officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under subsection (1) by any excise officer may be retained in the possession of such excise officer as long as may be necessary for the scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

[S 19 subs by s 20 of Act 40 of 1990.]

20. Powers of arrest and search.

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

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

(2) In this section—

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

[S 20(2)(ii) re-numbered as s 20(2)(i) by s 14(b) of Act 8 of 1994.]

- (ii) vessel includes an aircraft.

[S 20(2)(iii) re-numbered as s 20(2)(ii) by s 14(b) of Act 8 of 1994; S 20(2) subs by s 21 of Act 40 of 1990.]

21. Arrests searches how to be made.

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

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

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

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

23. Offences to be cognizable and bailable.

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

[S 23 am by s 15 of Act 8 of 1994.]

PART VI OFFENCES

24. Offences.

(1) Any person who contravenes the provisions of section 4 or section 5 or section 14 shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one million rupees or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

[S 24(1) subs by s 22 of Act 40 of 1990.]

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

(3) Any person who—

(a) fails or refuses to stop any boat, vessel or vehicle when called upon to do so by a peace officer;

(b) does not allow the search of any boat, vessel or vehicle by a peace officer; or

(c) refuses to be searched by or obstructs or resists, or escapes or attempts to escape from the custody of a peace officer, acting under the provisions of section 20 shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term, not exceeding one year or to both such fine and imprisonment.

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

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

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

(7) Any person—

(a) who being a person required to take an oath of secrecy under section 2A(2) acts under this Act, without taking such oath; or

(b) who acts in contravention of section 2A(1) or an oath taken under section 2A(2),

shall be guilty of an offence under this Act and shall on after summary trial before a Magistrate, be liable imprisonment for a one year or to a fine not exceeding one hundred thousand rupees, or to both such imprisonment and fine.

[S 24(7) ins by s 16 of Act 8 of 1994.]

(8) Any person who, being the manufacturer,, producer, importer or consignee of an article specified in any Order made under section 3C, sells or disposes of such article, without the prior permission of the Director-General or in contravention of any condition specified in such Order shall be guilty of an offence Act and shall on conviction before a Magistrate, be liable to a fine.

[S 24(8) ins by s 16 of Act 8 of 1994.]

(9) Any person who, being a person on whom on notice or order under section 7A has been served willfully fails to comply with the requirement of such notice or order shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees.

[S 24(9) ins by s 16 of Act 8 of 1994.]

25. Offences by bodies of persons.

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

- (a) if that body is a body corporate, every person who at the time of the commission of the offence was the Director, Secretary or other similar officer of that body; or
- (b) if that body is not a body corporate, every person who, at the time of the commission of the offence was a member or partner of that body shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

26. Power of court to order forfeiture.

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

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

- (a) after the expiration of the period within which an. appeal may be preferred to the Court of Appeal or a High Court established by Article 154P of the Constitution against the conviction: or
- (b) where an appeal has been preferred to the Court of Appeal or a High Court established by Article 154P of the Constitution against the conviction, upon the determination of such appeal, affirming or upholding the conviction

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

27. Compounding of offences.

The Director-General may compound any offence under section 4, 5 and 14, and may, before judgment stay or compound any proceeding thereunder. The Director-General may, as part of the compounding of any offence, order the release of any boat, vessel, vehicle or article seized under section 20 on payment of a sum of money not exceeding the aggregated of the estimated value of the boat, vessel, vehicle or article. All sums received by the Director-General for the composition of an offence shall be applied in the manner set out in section 28.

[S 27 subs by s 23 of Act 40 of 1990.]

**PART VII
GENERAL**

28. Disbursement of forfeitures and penalties recovered under this Act.

The amount—

- (a) of all sums referred to in section 27; and
- (b) of the proceeds of all such articles as may be disposed of by the Director-General under section 26, shall be paid into the hands of the Director-General and shall (after deducting and expenses incurred) be applied as follows—
 - (i) one half to the Deputy Secretary to the Treasury, and which shall be credited to the Consolidated Fund:
 - (ii) fifty *per centum* of the other half into a Rewards Fund under the control of the Director-General for distribution, in accordance with a scheme to be approved by the Minister, among excise officers and informers; and
 - (iii) the balance fifty *per centum* of the other half, for the acquisition and maintenance of vehicles required by the Director-General and excise officers for the discharge of their functions under this Act,

28A. Payment to excise officers for special services and attendance.

Where any person requires—

- (a) any service which is determined by the Minister as a special service; or
 - (b) the attendance of any excise officer at an office or place other than his proper office or place of employment,
- payment shall be made for such service or attendance, as the case may be, to the Director-General by such person at such rates as may be specified by the Director-General.

[S 28A ins by s 24 of Act 40 of 1990.]

29. Regulations.

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

- (a) prescribing the procedure in appeals from the orders of the Director-General to the Deputy Secretary to the Treasury;
- (b) prescribing the manner in which Excise Duty recovered under this Act shall be credited to revenue and the security to be provided for payment thereof;
- (c) prescribing the fees payable in respect of registration under this Act;
- (d) the manner or payment of Excise Duty by manufacturers, producers and importers of excisable articles;
- (e) prescribing the accounts to be kept, relating to the import, export, manufacture, storage or sale of excisable articles, by a person registered under this Act and the returns to be made to the Director-General by such registered persons;
- (f) requiring a person registered under this Act to provide accommodation within a factory or a warehouse to excise officers for the discharge of their functions under this Act;
- (g) providing for the registration, management and supervision of bonded warehouses and the procedure to be followed for the receipt or removal of articles from such warehouses;
- (h) providing for the procedure for the grant of a rebate of the duty paid on excisable articles exported from Sri Lanka: and
- (i) providing for any matter which is required to be prescribed or in respect of which regulations are authorised to be made under this Act.

(2) Every regulation made by the Minister under sub section (3) shall be published in the *Gazette* and shall come into operation on the date of such publication, or on such later date as may be specified in the regulation,

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

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

30. Protection of action.

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

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

31. Sinhala text to prevail in case of inconsistency.

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

32. Interpretation.

In this Act, unless the context otherwise requires—

"Export" means to take out of the limits of Sri Lanka to sea or to a foreign territory;

"Agent" includes any person having the direction, control or management of any business on behalf of any other person;

[Ins by s 25(1) of Act 40 of 1990.]

"Authorised person", means any individual who is authorised in writing by a manufacturer, producer or importer registered under this Act to act on his behalf for the purposes of this Act;

[Ins by s 17(1) of Act 8 of 1994.]

"Excise duty" means any sum payable by any manufacturer, producer or importer of an excisable article under this Act and includes any added by reason of default under section 12A to any duty;

[Ins by s 17(1) of Act 8 of 1994.]

"Excise" officer means an officer appointed and invested with powers under this Act;

[Ins by s 25(1) of Act 40 of 1990.]

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

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

"Manufacturer or producer" means any person who—

(a) makes any article;

(b) adapts for sale any article;

(c) processes or assembles any article;

[Subs by s 17(2) of Act 8 of 1994.]

"Prescribed" mean prescribed by regulations made under this Act:

"Quarter" means the period of three months commencing on the first day of January, the first day of April, the first day of July, and the first day of October of each year.

[Ins by s 25(3) of Act 40 of 1990.]

"Refund" includes rebate of Excise Duty on excisable articles exported from Sri Lanka;

[Ins by s 17(3) of Act 8 of 1994.]

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

"Transport" means to move from one place to another within Sri Lanka;

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