
CHAPTER 199**EXCISE**

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EXCISE

*Ordinances Nos. 6 of 1955, 45 of 1962, 37 of 1966, 45 of 1968,
Acts Nos. 14 of 1975, 32 of 1975.*

**AN ACT TO PROVIDE FOR THE LEVYING AND COLLECTION OF
EXCISE DUTIES ON ARTICLES MANUFACTURED IN FIJI AND FOR
OTHER PURPOSES CONNECTED THEREWITH**

PART I—PRELIMINARY

[1st June, 1955.]

Short title

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

Interpretation

2. In this Act and in any other Act relating to excise, unless the context otherwise requires—

“aircraft” means any apparatus, whether or not mechanically propelled, which is used for the transport by air of human beings or property;

“approved” and “proper” mean approved by the Comptroller;

“carriage” means every description of conveyance for the transport by land of human beings or property;

“Comptroller” means the person for the time being lawfully discharging the functions of the office of Comptroller of Customs and Excise;

“customs laws” means the Customs Act and any legislative enactment relating to the Customs and any notification, regulations, resolution or order made under the authority of any law relating to Customs;

(Cap. 196.)

“Deputy Comptroller” means the person for the time being lawfully discharging the functions of the office of the Deputy Comptroller of Customs and Excise;

“drawback” means a refund of all or part of any excise duty authorised by law in respect of goods exported or used in a manner or for a purpose prescribed as a condition of drawback;

“excisable goods” means goods of a description liable to excise duty if delivered for consumption in Fiji;

“excise laws” means this Act and any legislative enactment relating to excisable goods and any notification, regulation, resolution or order made under the authority of any law relating to excisable goods;

“factory” means any premises or place used for the manufacture of excisable goods;

“manufacturer” means any person who shall by any means make or produce or cause to be made or produced any excisable goods; and “manufacture” shall have a corresponding meaning;

“materials” includes any goods from which excisable goods are capable of being manufactured and any residue from any process of manufacture;

“officer” means any customs officer as defined in the Customs Act and includes all police officers, as well as any person acting in the aid of any such customs officer or police officer and any person acting in the aid of a customs officer or police officer acting in the execution of his office or duty under this Act shall be deemed to be an officer acting in the execution of his office or duty;

(Cap. 196.)

“warehouse” means any place appointed by the Comptroller to be a warehouse for the security of any excisable goods and of the duty due thereon;

“warehouse keeper” means the owner or occupier of a warehouse.

What shall be deemed acts of Comptroller

3. Every act, matter or thing required by the excise laws to be done or performed by, with, to or before the Comptroller, if done or performed by, with, to or before any officer appointed by the Comptroller for such purpose, shall be deemed to be done or performed by, with, to or before the Comptroller and every person employed on any duty or service relating to the excise revenue by the orders

or with the concurrence of the Comptroller (whether previously or subsequently expressed) shall be deemed to be the officer for that duty or service; and every act required by law at any time to be done by, with, to or before any particular officer nominated for such purpose, if done by, with, to or before any person appointed by the Comptroller to act for such particular officer, shall be deemed to be done by, with, to or before such particular officer; and every act required by law to be done at any particular place, if done at any place appointed by the Comptroller for such purpose, shall be deemed to be done at the particular place so required by law.

Authority to be produced by person acting for another

4.—(1) Whenever any person shall make application to any officer to transact any business relating to excise on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application is made and in default of the production of such authority may refuse to transact such business; and any document required by the excise laws to be signed by any particular person, if signed by any person authorised as aforesaid on behalf of the person required to sign the same, shall be deemed for all purposes to be signed by the person required to sign the same:

Provided that the Comptroller may in his discretion refuse to allow any such application as aforesaid.

(2) Where any document or declaration is required by the excise laws to be signed in the presence of the Comptroller or any particular officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Comptroller or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Comptroller or the officer in whose presence it is required to be signed.

Goods to be handled by owner

5.—(1) The removal and shipment of excisable goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or shipped shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any such goods in such manner as the officer shall require to enable him to examine or take account of the same.

Samples for owner

(2) The Comptroller may direct what excisable goods may be bulked, sorted, lotted, packed and repacked in a factory or warehouse and the manner thereof, and direct in what manner and subject to what conditions the owner of any such goods may take samples thereof.

Rewards

6. The Comptroller may, with the approval of the Minister, reward from the Consolidated Fund any person who informs him of any contravention of the excise laws or assists in the recovery of any penalty:

Provided that such approval need not be obtained for a reward not exceeding ten dollars.

All bonds and securities entered into to be valid

7.—(1) All bonds and other securities entered into by any person or persons for the performance of any condition, order or matter relative to excise or incident thereto shall be valid in law and upon breach of any of the conditions thereof may be sued and proceeded upon.

(2) All bonds relating to excise or for the performance of any condition or matter incident thereto shall be taken to or for the use of Her Majesty.

(3) All such bonds may after the expiration of three years from the date thereof or from the time (if any) limited therein for the performance of the condition thereof be cancelled by or by the order of the Comptroller.

(4) All bonds given under the provisions of the excise laws by persons under twenty-one years of age shall be valid.

(5) It shall not be necessary for the validity of any of such bonds or securities that they shall be sealed or that they shall be signed or delivered in the presence of a witness.

Surety to be deemed a principal debtor

8.—(1) Without prejudice to any rights of a surety under any bond required by the excise laws against the person for whom he is surety, a surety shall under the bond executed by him be deemed a principal debtor and not merely a surety and accordingly shall not be discharged nor shall his liability be affected by any giving of time for payment or by any omission to enforce the bond or by any other act or omission or means whereby the liability of the surety would not have been discharged if he had been a principal debtor.

(2) Whenever any person bound under a bond required by the excise laws pays the whole of the sum for which he is bound but the bond is not totally discharged or pays any part of the sum for which he is bound or, being a surety—

(a) dies; or

(b) departs from Fiji without leaving sufficient property therein to satisfy the whole amount for which he is bound; or

(c) for any other reason is in the opinion of the Comptroller unable or likely to be unable to satisfy the bond if called upon,

the Comptroller may if he thinks fit require a new bond to be executed.

PART II—DUTIES AND DRAWBACKS

Imposition and variation of duties

9.—(1) Subject to the provisions of this Act there shall be imposed, levied, collected and paid on the articles manufactured in Fiji which are enumerated in the First Schedule an excise duty at the rates specified therein.

(2) It shall be lawful for Parliament from time to time by resolution to add to, alter or amend the First Schedule and to impose excise duties and to revoke, reduce, increase or alter any such duties. Parliament may also from time to time by resolution provide for exemptions from excise duty. Any such resolution provide for exemptions from excise duty. Any such resolution shall take effect from the date on which the motion therefor be moved. In the event of the motion being not

passed or being passed with amendment, any duty over-collected shall be repaid by the Comptroller and any duty under-collected shall be recoverable by the Comptroller from the person liable for payment thereof.

Effect of obligation to pay duty

10. Where any obligation has been incurred for the payment of any excise duty, such obligation shall be deemed to be an obligation to pay all duties which may become legally payable or which are made payable or recoverable under the excise laws and to pay the same as the same become payable.

Duty to be paid at rate in force on delivery

11. All excisable goods made or deposited in any factory or warehouse without payment of excise duty shall upon being delivered therefrom for consumption in Fiji or upon being used in such factory or warehouse be subject to the rate of excise duty in force at the time when the same are delivered or used as aforesaid save in any case where special provision shall otherwise be made by law.

Disputes as to duty payable

12. If any dispute shall arise as to the proper rate or amount of any excise duty or drawback payable or allowable on any goods, the owner of such goods shall deposit in the hands of the Comptroller the duty demanded of him or received from the Comptroller the drawback allowed by him, as the case may be, and the amount so paid or allowed shall be deemed and taken to be the proper duty or drawback unless the Supreme Court upon application by the owner of such goods within one month after such deposit or receipt shall otherwise decide.

(Amended by 57 of 1966, s.6.)

Where duty is determined according to quantity, strength and value

13.—(1) All duties and drawbacks imposed or allowed by the excise laws according to any specified weight, measure or strength or any specified value or any particular description of package shall be deemed to apply in the same proportion to any greater or less weight, measure, strength or value or any other description of package.

(2) Where an excise duty is imposed by the excise laws according to weight, measure, strength or value it shall be lawful for the Comptroller to prescribe the manner in which such weight, measure, strength or value shall be ascertained for the purpose of calculating the duty payable.

Goods used contrary to purpose for which delivered

14.—(1) If any goods which are ordinarily liable to excise duty at a given rate are allowed by law to be delivered at a lower rate of excise duty or free of excise duty on any special conditions or for their use for some special purposes or because they are the property of or intended for use by some particular person or functionary and if such conditions are not observed or the goods are at any time used for any other than the specified purpose or, being delivered as aforesaid because they are the property of or intended for use by some particular person or functionary, are sold or transferred to any other person, such goods shall be forfeited and the person obtaining delivery of the same and any person who shall be knowingly concerned in the use of such goods contrary to such conditions or for some purpose other than that specified or in any way contrary to this section shall

incur a penalty equal to treble the value of such goods or two hundred dollars whichever shall be the greater, unless full duties on such goods shall have been paid with prior consent of the Comptroller.

(2) The person to whom any such goods shall have been delivered shall on demand produce them to any officer or otherwise account for them to the satisfaction of the Comptroller and if he shall fail to produce such goods or otherwise account for the same as aforesaid he shall incur a penalty equal to treble the value of such goods or two hundred dollars, whichever shall be the greater.

Contract prices of goods may be adjusted to meet change in excise duty

15.—(1) Where any new excise duty is imposed or where any excise duty is increased and any goods in respect of which the duty is payable are delivered on or after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover as an addition to the contract price a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any excise duty is revoked or decreased and any goods affected by the duty are delivered on or after the day on which the duty ceases or the decrease in the duty takes effect in pursuance of a contract made before that day, the purchaser of the goods, in the absence of agreement to the contrary, may, if the seller of the goods has had in respect of those goods the benefit of the revocation or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

Minister may direct granting of drawbacks

16. It shall be lawful for the Minister from time to time to direct on what goods a drawback of the whole or any part of any excise duties paid may be granted and the conditions under which such drawback shall be allowed.

No duty payable on goods exported, shipped as stores and the like

17. On due application to the Comptroller and subject to such conditions as he shall see fit to impose; no excise duty shall be payable on any goods manufactured in Fiji and—

- (a) shipped as stores for consumption outside Fiji on a ship or aircraft proceeding to a place outside Fiji; or
- (b) exported by the manufacturer thereof:

Provided that no goods shall be deemed to have been shipped as stores or exported unless the same shall have been shipped as stores or exported in accordance with the provisions of the customs laws and within seven days or such further period as the proper officer may, by notice in writing, allow of the date of delivery thereof from a factory or warehouse.

Duty on goods lost may be remitted

18. If any goods liable to excise duty shall be lost or destroyed before the same shall have been delivered from a factory or warehouse or in removing the same from such factory or warehouse or in shipping the same for exportation or for use as stores or in the course of delivery from or receiving into any factory or warehouse, the Comptroller, if satisfied that the same have not been and will not be used or consumed in Fiji, may remit any duties due thereon; and if any manufacturer shall

desire to destroy any goods liable to excise duty before the same shall have been delivered from his factory or from a warehouse, the same may be destroyed subject to any directions in that respect which may be given by the Comptroller and upon their destruction in accordance with such directions the duty thereon shall be remitted.

When duty payable

19.—(1) Save and except in the case of goods delivered for shipment as stores for use outside Fiji on board a ship or aircraft proceeding to a place outside Fiji, or for exportation and duly shipped, and of goods permitted to be used free of excise duty and duly so used in accordance with the provisions of the excise laws, the excise duty on any goods shall become due and payable to the Comptroller by the manufacturer of such goods immediately before the same are delivered from the factory of the manufacturer or from a warehouse, if the same are goods permitted by the Comptroller to be warehoused without payment of excise duties thereon, or immediately before any such goods are used by the manufacturer in his factory or in a warehouse for any purpose, or otherwise as specially provided by law:

Provided that the Comptroller may upon the manufacturer giving such security by bond or otherwise as he may require defer the payment of excise duty and in such case all excise duties which shall have become due within any month or other period that may be prescribed shall be paid to the Comptroller within twenty-one days of the last day of such month or other prescribed period.

(2) Save and except in cases where other provision is made by law for periodical returns by manufacturers, every manufacturer shall within ten days of the close of each month or other prescribed period deliver to the Comptroller in the approved form an account of all materials in or received into his factory, of all excisable goods manufactured, delivered, used, removed to or from another factory or to or from a warehouse, lost by evaporation, leakage or other cause or otherwise disposed of, and of any duties which shall have become due or shall have been paid during that month or other prescribed period on any goods manufactured by him, and shall subscribe a declaration at the foot of such account that all the particulars contained therein are true.

Dues payable in current coin or cheque

20. All excise duty and other proper charges shall be paid to the collector or proper officer of customs for any port of entry or to any other officer deputed to receive the same by such collector or proper officer of customs between the hours of nine in the forenoon and three in the afternoon on ordinary working days and between the hours of nine and eleven in the forenoon on Saturdays. Unless there is a security in force as provided under subsection (1) of section 19 or unless a deposit to the satisfaction of the proper officer to an amount not less than the estimated amount of excise duty payable is paid between the hours aforesaid, such excise duty and other proper charges shall be paid at or before the time when duty becomes payable on the goods under the provisions of section 19. All duty and charges as aforesaid shall be paid in current Fiji money or may, at the discretion of the collector or other proper officer of customs, be paid by crossed cheque drawn on some bank doing business in Fiji provided either—

- (a) there is deposited with the collector of customs a subsisting guarantee by such bank; or

- (b) there is on the cheque a note in writing made by an officer of such bank, to the effect that such cheque will be duly honoured on presentation for payment for a sum that must be equal to or greater than the amount in payment of which the said cheque has been tendered to the collector or other proper officer of customs as aforesaid.

Any overpayment of dues and charges as aforesaid shall be refunded on demand being made within twelve months of the date of payment by the person entitled to receive the same. (*Section inserted by 45 of 1962, s. 2.*)

Comptroller may distrain for duties

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

- (a) upon the goods, chattels and effects of the manufacturer of the goods in respect of which the duty remains unpaid; and
(b) upon all machinery, plant, tools, ships, vehicles, animals, goods and effects used within Fiji in the manufacture, sale or distribution of excisable goods found in any premises or on any lands in the use or possession of such manufacturer or of any person on his behalf or in trust for him.

(2) The authority to distrain under this section shall be according to the form contained in the Second Schedule and such authority shall be a warrant and authority to levy by distress the amount of any duties due.

(3) For the purpose of levying any distress under this section any person expressly authorised by writing under the hand of the Comptroller may execute any warrant of distress and if necessary break open any building or place in the day-time for the purpose of levying such distress and may call to his assistance any police officer and it shall be the duty of such police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(Amended by 37 of 1966, s. 56.)

(4) The distress so taken may, at the cost of the owner thereof, be kept for fourteen days and at the end of such time, if the amount due in respect of duty and the cost and charges of and incident to the distress are not paid, the same may be sold.

(5) Out of the proceeds of the sale there shall be paid in the first place the cost or charges of and incident to the sale and keeping of the distress and in the next place the amount due in respect of duties, and the residue, if any, shall be payable to the owner of the things distrained upon on demand being made within one year of the date of sale.

(6) It is hereby declared that it shall be lawful, in exercise of the powers of distress herein conferred, for the person to whom authority as aforesaid is given to distrain upon all goods, chattels and effects belonging to the manufacturer wherever the same may be found and although the same may be elsewhere and not upon any premises in his occupation or use.

Comptroller may revoke licence or permission to manufacture

22. Notwithstanding the provisions of section 21, if any excise duty payable by a manufacturer shall remain unpaid after the time within which it is payable, the Comptroller may, by notice in writing addressed to the manufacturer and delivered at his licensed premises, revoke any licence to manufacture given under this Act to

such manufacturer and thereupon if such manufacturer shall continue to manufacture any excisable goods he, and every person aiding and assisting him in manufacturing the same, shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months:

Provided that the Comptroller shall not cancel any licence under this section except with the prior approval in writing of the Minister.

Deficiency and excess in stock

23.—(1) If any manufacturer or warehouse keeper shall not produce to any officer on his request any excisable goods manufactured or warehoused by him and not delivered or used in accordance with the provisions of the excise laws, he shall immediately pay to the Comptroller the duties due on such goods not so produced, save and except in respect of any deficiency thereof which is shown to the satisfaction of the Comptroller to be due to evaporation, accidental leakage or other unavoidable cause; and in addition to paying the duties on such goods not produced as aforesaid the manufacturer or warehouse keeper, as the case may be, shall incur a penalty of treble the value of such goods or two hundred dollars, whichever shall be the greater.

(2) If at any time the quantity of excisable goods found in any factory or warehouse shall be greater than the quantity which ought, according to the books of the manufacturer or warehouse keeper, to be therein, all such quantity in excess shall be forfeited and the manufacturer or warehouse keeper, as the case may be, shall incur a penalty equal to the value of the goods found in excess, unless he shall explain the same to the satisfaction of the Comptroller.

PART III—WAREHOUSES

Bond may be required of warehouse keeper

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

Duty not payable on goods warehoused

25. Subject to the provisions of the excise laws, it shall be lawful for the Comptroller to permit any manufacturer to remove excisable goods from his factory to a warehouse and no excise duty shall be payable on any such goods while in any such warehouse, save in such cases where a contrary provision shall be made by law.

Further conditions

26. All excisable goods while in any warehouse shall be subject to such regulations, and to the payment by the warehouse keeper to the Comptroller at the prescribed times of such fees and charges for the supervision thereof and taking account of the same, as may be prescribed.

Restrictions on removal

27. If any excisable goods shall be removed to a warehouse, otherwise than in accordance with any such regulations as aforesaid or save by such ways, means and persons or at such times and within such hours as the Comptroller shall direct, the same shall be forfeited.

Government not liable for loss in warehouse

28. No action shall be brought against the Government or any of its officers for any loss or damage sustained by any excisable goods while in any warehouse or in course of being received into or delivered therefrom, or by any warehouse or any of its contents, save when loss or damage occurs as the direct result of the wilful act or negligence of Government or of an officer thereof.

Removal to and from warehouse

29. Any goods warehoused under this Act may be removed to any other warehouse or, with the written permission of the Comptroller, returned to the factory of the manufacturer thereof subject to the same regulations and provisions as govern the removal of excisable goods from a factory to a warehouse, so far as the same are or can be made applicable; and any excisable goods, with the like permission, may be removed in like manner and subject to the same conditions from one factory to another:

Provided always that notwithstanding any such removal to a warehouse or factory, the manufacturer of any excisable goods so removed shall be and continue liable to pay the duty thereon when the same shall become due unless express provision is made by law to the contrary.

Revocation of appointment of warehouse

30.—(1) The Comptroller may revoke the appointment of any warehouse on giving to the warehouse keeper notice in writing of such revocation and any such notice addressed to the warehouse keeper at such warehouse shall be deemed to be notice to all persons interested in any excisable goods therein or any other contents of such warehouse.

(2) If within three months from the date of any such notice any excisable goods in such warehouse shall not have been removed to another warehouse or returned to the factory of the manufacturer thereof or shipped as stores or exported or delivered for use within Fiji in the manner provided by law, the warehouse keeper shall forthwith pay to the Comptroller the duties thereon.

PART IV—REMOVAL*Goods loaded deemed delivered*

31. For the purposes of this Part, any goods which shall have been put on to any animal, ship, aircraft or carriage shall be deemed to have been delivered and taken out from any factory or warehouse unless the manufacturer shall satisfy the Comptroller, or unless in any proceedings instituted under the provisions of this Act the defendant shall prove, that such goods were not put on to such animal or carriage with intent to deliver the same from such factory or warehouse.

Certificates

32.—(1) Except in accordance with any regulations made under the excise laws, or except with the written permission of the Comptroller, no excisable goods shall be delivered from any factory or warehouse for any purpose whatsoever unless accompanied by a certificate in the prescribed form signed by the manufacturer or warehouse keeper and stating the quantity of goods delivered, the time and date of removal, the person to whom and the place where sent, the purpose for which delivered and such other particulars as may be prescribed nor

unless a duplicate of such certificate is made on the counterfoil thereof; and every such duplicate shall be kept on the premises from which the goods shall have been delivered and shall be produced by the manufacturer or warehouse keeper, as the case may be, to any officer on demand made at any time within one year of the date thereof.

(2) Where any excisable goods are by law permitted to be used in any factory or warehouse for any purpose whatsoever, the manufacturer or warehouse keeper, as the case may be, shall upon any such goods being taken at any time from stock to be so used make out a certificate for the same in duplicate in like manner as if such excisable goods had been delivered from the factory or warehouse; and the originals of such certificates shall be filed by the manufacturer or warehouse keeper and produced to any officer on demand made within one year of the date thereof, and the duplicates dealt with as hereinbefore provided.

Penalties payable arising from non-compliance with provisions relating to certificates

33. If any manufacturer or warehouse keeper shall deliver any excisable goods contrary to the provisions of section 31 or accompanied by an inaccurate certificate or without filling in the particulars on the counterfoil, or shall not deliver the certificate along with the goods unto the person and at the place named therein, or shall not keep on his premises and produce the duplicate of any certificate to an officer as aforesaid, or shall contravene any of the provisions of subsection (2) of section 31 he shall incur a penalty equal to treble the value of the goods to which the certificate relates, or in respect of which there is no certificate, or two hundred dollars, whichever shall be the greater; and all goods delivered or used in contravention of the provisions of this or section 31, shall be forfeited.

Illegal removal

34. Any person who shall take out any excisable goods, required to be accompanied by a certificate from any factory or warehouse, unless accompanied by a certificate as aforesaid or shall aid, assist or be concerned therein shall incur a penalty of two hundred dollars; and any person who shall take out any excisable goods from any factory or warehouse without the knowledge and consent of the manufacturer or the warehouse keeper, as the case may be, shall incur a penalty of treble the value of such goods, or four hundred dollars, whichever shall be the greater.

Receiving without certificate

35.—(1) If any person shall receive any excisable goods, required to be accompanied by a certificate, without such certificate, or shall not produce any certificate in respect of any such goods received by him and required to be accompanied by a certificate, upon the demand of any officer at any time within fourteen days of the date of receipt thereof, or shall produce or cause or suffer to be produced to any person any certificate as having been received with any excisable goods other than the goods therein described, or if any person whatsoever shall fraudulently make any entry, obliteration, alteration, cancellation or erasure in any certificate, or shall knowingly use any certificate on which any entry, obliteration, alteration, cancellation or erasure has been so made, he shall incur a penalty of two hundred dollars.

(2) If any person shall knowingly buy or receive or have in his possession or under his control in any manner or in any place any excisable goods which shall

have been unlawfully removed or abstracted from a factory or warehouse without the knowledge and consent of the manufacturer or of the warehouse keeper, as the case may be, he shall incur a penalty of treble the value of the goods or four hundred dollars whichever shall be the greater.

PART V—OBLIGATIONS OF MANUFACTURERS AND WAREHOUSE KEEPERS

Manufacturer to obtain permission of Comptroller to manufacture

36.—(1) No person shall manufacture or commence to manufacture any excisable goods unless he shall first have obtained a licence to do so.

(2) A licence issued under the provisions of this section shall be in the approved form and shall be issued by the Comptroller on payment of the sum of two hundred dollars. (*Amended by 32 of 1975, s. 2.*)

(3) Every such licence shall expire on the thirty-first day of December next following the date of issue.

(4) Subject to a right of appeal to the Minister within twenty-eight days of the date of refusal, the Comptroller may refuse to issue a licence under this section to any person without assigning a cause for such refusal.

Penalty for manufacture without a licence

37. If any person shall manufacture or commence to manufacture any excisable goods in contravention of the provisions of section 36, he shall incur a penalty of two hundred dollars and all goods in respect of which any such act shall be committed and also all vessels, utensils and materials in his possession, which in the opinion of the Comptroller are capable of being used in the manufacture of any excisable goods, shall be forfeited.

Licence to apply to one set of premises only

38. A licence shall only authorise the person to whom it is granted to manufacture excisable goods in one set of premises to be specified in the licence (in this Act referred to as licensed premises) and the whole of the premises must be adjoining and held together for the same purpose:

Provided that no licence shall be deemed to extend to any part of such premises not described in the written description and plans required by the provisions of section 45.

Disqualification for licence

39. No licence shall be granted or transferred—

- (a) save with the approval of the Minister, to any person who has been convicted in Fiji of any offence under the excise laws; or
- (b) to any person apparently under the age of twenty-one years, unless such person proves himself to have attained such age; or
- (c) save with the approval of the Minister, to any person whose licence has been cancelled under the provisions of the excise laws, or, during his life, to his wife or any member of his family resident with him.

Transfer on death of licensee, or on assignment or transfer

40.—(1) On the death of any licensed person, the licence may, save as otherwise provided by the excise laws, be transferred by endorsement by the Comptroller to the licensed person's personal representative or to the person beneficially entitled to the business, or to the Public Trustee or to the appointee of the Public Trustee.

(2) On the bona fide assignment or transfer of any licensed business, the licence may, save as otherwise provided by the excise laws, with the consent of the parties, be transferred by endorsement by the Comptroller.

(3) In respect of every transfer under this section there shall be paid a fee of two dollars.

(4) No penalty under the excise laws shall be incurred by the executors or administrators or the widow or child of any licensed person who dies before the expiration of his licence or whose affairs are liquidated by arrangement before the expiration of his licence, in respect of the manufacture of any excisable goods, if such manufacture is carried on at the premises specified in such licence and takes place for not longer than twenty-eight days after the death of the said licensed person, or the liquidation of his affairs by arrangement:

Provided that the Comptroller may, on reasonable cause being shown, extend the period of twenty-eight days aforesaid, by notification in writing.

Transfer to other premises

41. Any holder of a licence may apply to the Comptroller for a transfer thereof to other premises, and the Comptroller may in his discretion grant such transfer by endorsement on payment of a fee of two dollars, and the licence shall thereupon be deemed to authorise manufacture on the premises substituted, and no longer authorise manufacture on the premises originally licensed.

Books to be kept by manufacturer or warehouse keeper

42.—(1) Every manufacturer and warehouse keeper shall keep at his factory and warehouse respectively in the approved form and manner such books and forms relating to the manufacture, storing and delivery of excisable goods as the Comptroller may direct, in which he shall make the approved entries at the approved times. Every such entry shall be made legibly in ink and no entry shall be altered in any manner; but any entry may be cancelled by drawing a single line in ink through the incorrect entry so as to allow the same to remain legible and a correcting entry may be made immediately above the entry so cancelled or in any other approved place.

(2) Such books shall be open at all times for the inspection of all officers and the manufacturer or warehouse keeper shall allow any officer to take any abstract therefrom at any time.

(3) If any manufacturer or warehouse keeper—

(a) fails to keep such books or to produce the same when required to do so;

or

(b) fails to make in such books legibly in ink at the approved times and in the approved manner any entry required to be made therein; or

(c) fraudulently or in any manner contrary to the requirements of this Act makes any entry, obliteration, alteration or erasure in any such book,

he shall for every such act or default incur a penalty of four hundred dollars.

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

43.—(1) In addition to complying with the requirements of subsections (1) and (2) of section 42, every manufacturer shall, if so required by the Comptroller—

- (a) produce for inspection such invoices and other books or documents in his possession relating to any excisable goods manufactured by him during the preceding twelve months as the Comptroller shall require;
 - (b) answer such questions as may be put to him by the Comptroller regarding the description, manufacture, quantity, weight, volume, selling price, consignee, destination, cost of production and manufacture's profits, and any other matter relating to such goods which the Comptroller may reasonably think necessary for the purpose of carrying out the provisions of this Act or any regulations made thereunder;
 - (c) produce such evidence as the Comptroller may deem necessary in support of any information so furnished,
- and if any manufacturer shall neglect or refuse to comply with any such requirement as aforesaid, or shall untruthfully or evasively answer any question put to him as aforesaid, he shall incur a penalty of two hundred dollars.

(2) Notwithstanding any other provisions of this Act, the powers conferred by subsection (1) on the Comptroller, in so far as they relate to questions regarding the cost of production and manufacturer's profits in respect of any excisable goods, shall not be exercisable by any officer other than—

- (a) the Comptroller;
- (b) the Deputy Comptroller; or
- (c) any customs officer not below the rank of senior collector of customs whom the Comptroller may authorise in that behalf.

(3) Any person who, being in possession of any information given or evidence produced by a manufacturer in pursuance of the provisions of subsection (1) and relating to the cost of production or manufacturer's profits in respect of any excisable goods, at any time communicates or attempts to communicate such information or evidence to any person—

- (a) other than a person to whom he is authorised by the Minister to communicate it; or
- (b) otherwise than for the purpose of this Act, shall be guilty of an offence, and on conviction shall be liable to imprisonment for a term not exceeding six months.

(4) No person shall be prosecuted for an offence against the provisions of subsection (3) without the written consent of the Director of Public Prosecutions.

(5) No person employed in carrying out the provisions of this Act shall be required to produce in any court any document, or to divulge or communicate to any court any information, relating to the cost of production or to the manufacturer's profits in respect of any excisable goods, except as may be necessary for the purpose of carrying into effect the provisions of this Act or in order to institute a prosecution or other legal proceedings, or in the course of a prosecution or other legal proceedings, under this Act.

(6) Notwithstanding any of the foregoing provisions of this section, the Comptroller shall permit the Auditor-General, or any officer duly authorised in that behalf by the Auditor-General, to have such access to any records or documents as may be necessary for the performance of his official duties; and the Auditor-General and any such officer shall for the purposes of this section be deemed to be a person employed in carrying out the provisions of this Act.

Power to require certificate of audit

44.—(1) The Comptroller may require any manufacturer to submit annually, or at any other times specified by the Comptroller, a certificate of audit by an accountant approved by the Comptroller and not being an employee of the manufacturer.

(2) Every such certificate of audit shall certify the correctness of all the books and records required by or under this Act to be kept by the manufacturer, and in addition shall be in respect of any such matter referred to in paragraph (b) of subsection (1) of section 43 as the Comptroller may require.

(3) Any manufacturer who without reasonable excuse fails to submit a certificate of audit in accordance with the requirements of this section shall incur a penalty of two hundred dollars.

Description of premises to be delivered to Comptroller

45. Every manufacturer shall, before commencing to manufacture and also at any later time on request therefore being made by the Comptroller, deliver to the Comptroller in the approved form and manner such written description and plans of his factory and of every machine, apparatus, utensil or vessel contained therein as the Comptroller may require; and no manufacturer shall use any new or substantially alter any existing machine, apparatus, utensil or vessel without delivering to the Comptroller at least two weeks' previous notice thereof in writing; and if any manufacturer shall not deliver such written description and plan to the Comptroller before commencing the manufacture or within one month of the date of any request made therefore by the Comptroller in writing and addressed to him at his factory or shall not give any such notice as aforesaid, he shall for every such neglect incur a penalty of forty dollars together with a further penalty of two dollars for every day during which such neglect continues after incurring the original penalty.

Limitations on methods of manufacture and instruments to be kept by manufacturer

46.—(1) It shall be lawful to prescribe standards and methods of manufacture of excisable goods and of marking and storing excisable goods and implements and materials used in the manufacture of excisable goods.

(2) Every manufacturer or warehouse keeper shall keep in his factory or warehouse such reasonable and necessary apparatus and instruments for measuring, weighing and testing any excisable goods and materials therefor and any packages, vats or utensils therein as the Comptroller shall require and shall permit any officer to use the same for the purpose of measuring, weighing or taking an account of any excisable goods and materials therefore or of any package, vat or utensil in such factory or warehouse; and any manufacturer or warehouse keeper who shall contravene the provisions of this section or shall use or cause or procure or suffer to be used any false, unjust or insufficient apparatus or instrument or shall practice or suffer to be practised any art, device or contrivance by which any officer may be hindered or prevented from taking a just and true measure or account, shall incur a penalty of four hundred dollars and all such false and unjust apparatus and instruments shall be forfeited. (Amended by 37 of 1966, s. 56.)

Comptroller may station officer on licensed premises

47. It shall be lawful for the Comptroller to station any officer in or upon any factory for the purpose of watching the process of manufacture therein and of

enforcing compliance with the provisions of the excise laws; and every manufacturer shall provide accommodation at or adjacent to his factory for such officer to the satisfaction of the Comptroller and in default of so doing he shall incur a penalty of forty dollars for every week or part of a week during which the default continues.

Assistance to be afforded to officers

48. If, on demand of an officer, safe and convenient ladders of length sufficient to enable such officer to ascend to and examine any vessel or utensil in any factory or warehouse or to gauge or ascertain the contents or capacity of any vessel or utensil therein, shall not be provided and conveniently and firmly placed, or if any such ladder shall not be fixed at or in any part of such vessel or utensil where such officer shall require, or if sufficient lights and other sufficient aid and assistance shall not be supplied on demand of any officer for the purpose of his gauging or ascertaining the contents or capacity of any vessel or utensil or of searching for or gauging and taking an account of all excisable goods and materials therefor in any such factory or warehouse, as well by night as by day, the manufacturer or warehouse keeper in whose factory or warehouse any contravention of the provisions of this section has occurred shall for each and every such contravention incur a penalty of one hundred dollars.

PART VI—POWERS OF OFFICERS

Officer may patrol freely

49.—(1) Any officer when on duty may for the purposes of such duty patrol upon and pass freely along and over any part of Fiji and any such officer so patrolling shall not be liable to any prosecution, action or suit for so doing.

(2) The officer in charge of any ship employed for the protection of the excise revenue may take such ship to such place as shall be deemed most convenient for that purpose and keep it there for such time as he shall deem necessary and proper; and such officer shall not be liable to any prosecution, action or suit for so doing.

Officer may enter factory

50. Any officer may at all times, by night or by day, enter into any part of any factory or warehouse and gauge, measure and take an account of every still or other vessel or utensil of any kind and of any excisable goods or materials therefore in such factory or warehouse and take such samples of such goods or materials as he shall require; and if any officer after having demanded admittance into any such factory or warehouse shall not be immediately admitted the manufacturer or warehouse keeper, as the case may be, shall for every such default incur a penalty of four hundred dollars, and if such officer shall not be immediately and without delay admitted as aforesaid, it shall be lawful for him or any person acting in his aid or assistance at all times, as well by night as by day, to break open by force any of the doors or windows or break through any of the walls or any part of such factory or warehouse as shall in his opinion be necessary to enter such factory or warehouse.

Officer may examine stock of vendor

51. Any officer may during the daytime enter into any premises made use of by any person selling or offering for sale any excisable goods upon such premises,

and take an account of any excisable goods which shall be in the custody or possession of such person, and take at any time samples of any such excisable goods, paying for the same the usual price thereof, if demanded; and if any person selling or offering for sale any excisable goods on any premises shall not with a sufficient number of his servants aid and assist to the utmost of his power such officer in measuring and taking an account of all excisable goods in or upon such premises, he shall for every such default incur a penalty of forty dollars.

Officer may search house and other places and seize goods

52. If any officer shall have reasonable cause to suspect that any goods on which the excise duties have not been paid or secured by certificate or otherwise as required by law are harboured, kept or concealed in any house, building, yard or other place in Fiji, and it shall be made so to appear by information on oath before any magistrate, it shall be lawful for such magistrate by warrant under his hand to authorise such officer to enter and search such house, building, yard or other place, by day or by night and to seize and carry away any such goods on which the excise duties have not been paid or secured by certificates or otherwise as required by law as may be found therein; and such officer may arrest and detain any person in whose possession or under whose control any such goods shall be found and convey him before a magistrate; and it shall be lawful for such officer, in case of resistance, to break open any door and to force and remove any other impediment or obstruction to such entry search or seizure as aforesaid.

Officer may stop ship, aircraft or carriage

53. Any officer may upon reasonable suspicion, stop and examine any ship, aircraft, animal or carriage to ascertain whether any goods on which the excise duties have not been paid or secured by certificate or otherwise as required by law are contained therein or thereon; and, if none shall be found, the officer shall not on account of such stoppage and examination be liable to any prosecution or action at law on account thereof; and the person in charge of any ship or aircraft, and any person driving or conducting such animal or carriage, refusing to stop or allow such examination when required by any officer shall incur a penalty of two hundred dollars, and if such officer shall find any such goods or any goods which he shall reasonably suppose ought to be accompanied by a certificate and the person in charge of such ship, aircraft, animal or carriage shall not produce the same on demand, such officer may seize such ship, aircraft, animal or carriage and its contents and may arrest and detain any person found in or upon or accompanying such ship, aircraft, animal or carriage at the time of such stoppage and convey him before a magistrate; and if such person shall fail to satisfy the magistrate that such goods were legally in his custody or possession for removal he shall incur a penalty of treble the value of such goods or two hundred dollars, whichever shall be the greater, and such goods shall be forfeited.

Power to search person

54.—(1) If any officer shall have reason to suppose that any person is carrying or has about his person any excisable goods the excise duties on which have not been paid, such officer may search such person; and if such officer shall thereupon find any goods upon which he shall have reason to suppose the duties have not been paid such officer may seize such goods and may arrest and detain such person and take him before a magistrate; and if such person shall fail to satisfy the magistrate

that the full duties have been paid on such goods or secured as required by law he shall incur a penalty of treble the value of such goods or two hundred dollars, whichever shall be the greater, and such goods shall be forfeited.

(2) Before any person shall be searched he may require to be taken with all reasonable despatch before a magistrate, or the Comptroller, or other superior officer, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise, direct that he be searched.

(3) A female shall not be searched except by a female.

Power of arrest

55.—(1) Any officer, if he shall consider the exigencies of the case so to require, may arrest and detain any person whom he reasonably suspects to be committing, or to have committed, or to be or to have been concerned in the commission of, any evasion of or offence against the provisions of the excise laws.

(2) If any person liable to arrest under the excise laws shall escape from any officer attempting to arrest him or if any officer is for any reason whatsoever unable or fails to arrest any such person, such person may afterwards be arrested and detained by any officer at any place in Fiji within seven years from the time such offence was committed and dealt with as if he had been arrested at the time of committing such offence.

PART VII.—GENERAL PENAL PROVISIONS

Penalty where goods forfeited

56. Where any goods become liable to forfeiture under the excise laws, any person who shall be knowingly concerned in the act or omission which renders such goods liable to forfeiture shall incur a penalty provided by law in respect of such act or omission or, where no such penalty is provided, shall incur a penalty equal to treble the value of such goods or two hundred dollars, whichever shall be the greater.

Penalty for false declaration, etc.

57. If any person shall—

- (a) in any matter relating to excise, make and subscribe or cause to be made and subscribed any false declaration, or make or sign or cause to be made or signed any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular; or
- (b) make or sign any declaration made for the consideration of the Comptroller on any application presented to him, the same being untrue in any particular; or
- (c) answer untruly any questions put to him by any officer acting in the execution of his duty; or
- (d) counterfeit, falsify or wilfully use when counterfeited or falsified any document required by the excise laws or by or under the directions of the Comptroller or any instrument used in the transaction of any business or matter relating to excise; or
- (e) alter any document or instrument relating to excise after the same has been officially issued, or counterfeit the seal, signature, initials or

other mark of or used by any officer for the verification of any such document or instrument or for the security of goods or any other purpose in the conduct of business relating to excise; or

(f) on any document or instrument required for the purpose of the excise laws, counterfeit or imitate the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of such person,

he shall incur a penalty of one thousand dollars.

Penalty for evading excise laws generally

58. If any person with intent to defraud Her Majesty of any duties due on any excisable goods shall knowingly harbour, keep or conceal or knowingly permit or suffer or cause or procure to be harboured, kept or concealed, any such goods or with like intent shall knowingly acquire possession of or be in any way knowingly concerned in carrying, removing, depositing or concealing any such goods or in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any excise duties or of the provisions of the excise laws, he shall incur a penalty equal to treble the value of the goods or two hundred dollars, whichever shall be the greater; and all goods in respect of which any such offence shall be committed shall be forfeited.

Obstructing officer

59. If any person shall stave, break or destroy any goods to prevent seizure thereof by an officer or other person authorised to seize the same or shall rescue or stave, break or destroy to prevent the securing thereof any goods seized by an officer or other person authorised to seize the same or rescue any person apprehended for any offence punishable under the excise laws or prevent the apprehension of any such person or obstruct any officer seizing any goods liable to forfeiture or otherwise acting in the execution of his duty or attempt or endeavour to commit or aid, abet or assist in the commission of any such offence, he shall incur a penalty of two hundred dollars.

Personation of officer

60. If any person, not being an officer, shall take or assume the name, designation, appearance or character of an officer for the purpose of thereby obtaining admission into any house or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority or for any other unlawful purpose, he shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding one year.

Penalty for signalling to offender

61.—(1) No person, with intent to frustrate the execution of his duty by any officer, shall by any means warn or attempt to warn any person engaged in a contravention, or attempted contravention of the excise laws whether any person be or not within distance to take advantage of any such warning; and if any person shall give or cause to be given or aid or assist in giving any such warning as aforesaid, he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding one year.

(2) If any person be charged with having warned or attempted to warn such person as aforesaid, the burden of proof that anything done by him was not done

with intent as aforesaid shall be upon the defendant against whom such charge is made.

(3) Any officer may prevent any warning being given as aforesaid and may go upon any land for that purpose without being liable to any prosecution, suit or action for the same.

Offering goods for sale under pretence that the duties are not paid

62. If any person shall offer for sale any excisable goods under pretence that the duties due thereon have not been paid or that the same have not been legally made, all such goods (although not liable to any duties or although legally made) shall be forfeited.

Collusion

63. If any officer shall make any collusive seizure or deliver up or make any agreement to deliver up or not to seize anything liable to forfeiture or shall demand or take any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty or conspire or connive with any person for the purpose of seizing anything and obtaining any reward for such seizure or otherwise, every such officer or other person and every person who shall give or offer or promise to give or procure to be given any bribe, recompense or reward to, or shall make any collusive agreement with, any such officer to induce him in any way to neglect his duty or to conceal or connive at any act whereby any provision of the excise laws may be evaded shall incur a penalty of one thousand dollars.

Penalty on smuggling, aircraft, and ships of 250 tons or more

64.—(1) With regard to aircraft, or any ship of or exceeding two hundred and fifty tons burden, made use of in the removal or conveyance of any goods liable to forfeiture under the excise laws, such aircraft or ship shall not be forfeited, but the following provisions shall apply:—

- (a) the Comptroller shall have power, subject to appeal to the Minister, to exact a penalty in respect of such aircraft or ship in a sum of one thousand dollars, in any case where in his opinion a responsible officer of such aircraft or ship is implicated either actually or by neglect;
- (b) for the purpose of recovering such penalty, the Comptroller shall have power to require the deposit in his hands, at the port or place where such aircraft or ship shall be, of such sum as he may think fit, not exceeding one thousand dollars, pending the ultimate decision; and in default of payment of such deposit the Comptroller shall have power to withhold clearance and to detain the said aircraft or ship;
- (c) no claim shall be made against the Comptroller for damages in respect of the payment of any deposit or the detention of any aircraft or ship under this section.

(2) For the purposes of this section—

“responsible officer” shall include the mates and engineers of any ship, and in the case of a ship carrying a passenger certificate the purser or chief steward, and in the case of an aircraft the pilot, navigator, radio operator, chief steward and chief engineer;

“neglect” shall include cases where goods unowned by any of the crew are discovered in a place or places in which they could not reasonably have

been put or remained if the responsible officer or officers having supervision of such place or places had exercised proper care at the time of the loading of the aircraft or ship, or subsequently.

Special case in which persons contravening laws are liable to imprisonment

65. Any person against whom judgment has been given three times for the sum of two hundred dollars or upwards, exclusive of costs, in civil proceedings under the excise laws in respect of a penalty or forfeiture thereunder shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year.

Abetment

66. Every person who abets a contravention of any provision of the excise laws which is enforceable by civil proceedings shall be deemed civilly liable in respect of such contravention in the same manner and degree as the principal is civilly liable in respect of such contravention.

PART VIII.—SEIZURES AND FORFEITURES

General provisions as to forfeiture

67. All ships of less than two hundred and fifty tons burden and carriages together with all animals and things made use of in the removal or conveyance of any goods liable to forfeiture under the excise laws shall be forfeited; and all such ships, carriages and goods together with all animals and things liable to forfeiture and all persons liable to be detained for any contravention of the excise laws shall be seized or detained in any place either upon land or water, by any officer; and all such ships, carriages and goods together with all animals and things so seized shall forthwith be delivered into the care of the Comptroller; and the forfeiture of any such ship, carriage, animal or things shall be deemed to include the tackle, apparel and furniture thereof and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof.

Procedure on seizure

68.—(1) Whenever anything is seized under the excise laws, unless in the presence of the owner or the apparent owner or of any agent of the owner or apparent owner, the seizing officer shall give notice in writing of such seizure and of the grounds thereof to the owner of the things seized, if known, either by delivering the same to him personally, or by letter addressed to him, and transmitted by post to or delivered at his usual place of abode or business, if known; and all seizures made under the excise laws shall be deemed and taken to be condemned and may be sold or otherwise disposed of in such manner as the Comptroller may direct, unless the person from whom such seizure shall have been made or the owner thereof or some person authorised by him shall within one calendar month from the day of seizure give notice in writing to the Comptroller that he claims the same, whereupon proceedings shall be taken for the forfeiture and condemnation thereof; but if any things so seized shall be of a perishable nature or consist of animals the same may by direction of the Comptroller be sold by public auction and the proceeds thereof retained to abide the result of any claim that may legally be made in respect thereof.

(2) Where proceedings for forfeiture and condemnation are taken as aforesaid, the court may order delivery of the things seized on security being given for the payment to the Comptroller of the value thereof in case of condemnation.

(3) When any writ of summons has been issued for the forfeiture of any things seized under the excise laws a court may proceed to the examination of the matter, and on proof that the articles are liable to forfeiture under the excise laws shall condemn the same.

Disposal of seizures

69. All seizures whatsoever that shall have been made and condemned under the excise laws shall be disposed of in such manner as the Comptroller may direct.

Minister may restore seizures

70. When any seizure shall have been made or penalty incurred or any person committed to prison for any contravention of the excise laws, the Minister may direct restoration of such seizure (whether condemnation shall have taken place or not) or waive proceedings or mitigate or remit such penalty or release such person from confinement either before or after any proceedings on such terms and conditions as he shall see fit.

Claim to seized goods to be in the name of owner

71.—(1) No claim or appearance shall be heard or permitted for the restoration of any animal, carriage, ship, aircraft or goods seized for any cause of forfeiture in any court unless such claim or appearance be made by or in the real name of the owner or proprietor thereof, describing his place of residence and occupation; and if such claimant shall reside in Fiji, oath shall be made by him before the court that the said animal, carriage, ship, aircraft or goods were his property at the time of seizure; but if such claimant shall reside outside Fiji then oath shall be made by his agent, by whom such claim or appearance shall be entered, that he has full authority from such claimant to make or enter the same and that to the best of his knowledge and belief the same were at the time of seizure the bona fide property of the claimant; and on failure of making such proof of ownership such animal, carriage, ship, aircraft or goods shall be condemned as if no claim or appearance had been made; and if such animal, carriage, ship, aircraft or goods shall, at the time of seizure thereof, be the bona fide property of any number of proprietors exceeding five, it shall not be necessary for more than two of them to enter such claim or appearance on the part of themselves and their co-proprietors or to make such oath as aforesaid; and if any such animal, carriage, ship, aircraft or goods shall at the time of seizure be the property of a company, such claim and appearance may be entered and oath made by the secretary or a director of such company.

(2) For the purposes of this section the word "company" means a company incorporated under Part II of the Companies Act.

(Cap. 247.)

PART IX.—LEGAL PROCEEDINGS

Recovery of penalties

72.—(1) All pecuniary penalties and all forfeitures incurred under the excise laws, and the liability for forfeiture of any article seized under the authority

thereof, and all rents, fees, charges, expenses and duties, and all other sums of money whatsoever payable under the excise laws, may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings before a resident magistrate who is hereby invested with the necessary jurisdiction for the purpose, in the name of the Comptroller as nominal plaintiff; and all such proceedings shall be deemed to be civil proceedings, and, except as otherwise herein provided, the ordinary civil procedure shall apply thereto.

(2) Whenever any person is adjudged to pay a civil pecuniary penalty or costs in respect of any contravention of the excise laws, the court may order him in default of payment to be committed to prison for any term not exceeding one year (or where the judgment debt, together with costs, does not exceed two hundred dollars, then for any term not exceeding six months) until the judgment debt is paid; and in such case the amount of costs, if any, awarded to be paid by such person as well as the penalty so adjudged, shall be stated in the judgment and also in the warrant of commitment.

(3) The fact that any duties have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any proceedings under the excise laws.

(4) In civil proceedings by the Comptroller under the excise laws the same rules as to costs shall apply as in proceedings between private persons.

(5) Proceedings for the recovery of any pecuniary penalties incurred under the provisions of the excise laws shall not relieve any person from liability to criminal proceedings where a contravention of such laws is also a criminal offence under any law.

Power of Comptroller to sue for lesser forfeiture or mitigate penalty

73. Notwithstanding any provision contained in the excise laws for the recovery of specified pecuniary penalties, or of specified goods or collections of goods the Comptroller, if in the exercise of his discretion he shall in any case see fit so to do, may—

- (a) sue for some lesser forfeiture, whether of pecuniary penalties or of goods or of both; or
- (b) consent to judgment for some lesser forfeiture than that actually sued for, whether of pecuniary penalties or of goods or of both; or
- (c) mitigate or remit any penalty or restore anything seized under the excise laws at any time prior to the commencement of proceedings in any court against any person for a contravention of the excise laws or for the condemnation of any seizure.

Certificate of probable cause of seizure or act of officer

74.—(1) When, in any proceedings relating to the seizure of any animal, carriage, ship or goods pursuant to any act done by any officer in the execution or intended execution of his duty under the excise laws, it shall appear to the court before whom the same is heard that there was probably cause for such seizure or act, the court shall certify on the record that there was such probable cause and in such case the person who made such seizure or performed such act shall not be liable to any action, or other suit or prosecution on account of such seizure or act.

(2) A copy of such certificate verified by the signature of the registrar of the court shall at the request of the officer concerned be given to him and the same shall for all purposes be sufficient evidence of such certificate.

(3) In case any cause, action, prosecution or other proceeding shall be commenced and brought to trial against any officer on account of any seizure or act as aforesaid (whether no proceedings shall have been taken in respect of the same or, if proceedings have been taken, the court shall not have certified that there was a probable cause for such seizure or act), wherein a verdict shall be given against the defendant, if the court shall be satisfied that there was probable cause for such seizure or act, then the plaintiff shall recover any things seized or the value thereof without costs to suit but, in the case of prosecution, no conviction shall be recorded against the defendant.

Where proceedings taken defendant may be arrested

75. Whenever the Comptroller shall in any case proceed by civil proceeding in any court against any person for any contravention of the excise laws, and it shall appear to such court that such person is likely to abscond before the case can be heard, such court shall, in lieu of issuing a writ of summons for the appearance of such person, grant a warrant to apprehend and bring such person before the court; and, on his being so brought, shall require him to give by recognizance, or by a deposit of money or other valuable property, security to the satisfaction of such court to appear before the court at any time when called upon while the case is pending and until execution or satisfaction of the order that may be passed against him therein. And the surety or sureties shall undertake in default of such appearance to pay any sum that may be adjudged against such defendant in the case, and in default of such security the court shall commit such offender to prison or to the custody of the police:

Provided that every person so committed shall be entitled to be discharged forthwith upon his entering into the required security at any time during the proceedings against him.

Moneys to be paid to Consolidated Fund

76. All moneys received by the Comptroller under the provisions of the excise laws shall be paid into the Consolidated Fund.

Saving as to public officer

77. The penal provisions of the excise laws, whether the penalties provided are civil or criminal, shall not apply to acts or omissions done or made by any public officer of the Government acting in good faith in the performance or intended performance of his official functions.

PART X.—PROOF IN PROCEEDINGS

Onus of proof on defendant in certain cases

78.—(1) In any proceedings under the excise laws the proof that the proper duties have been paid in respect of any excisable goods or that any such goods have been lawfully made, imported, removed, delivered or exported or concerning the place whence any goods shall have been brought, or that any goods have been illegally seized, shall lie on the defendant or the person claiming anything seized, as the case may be.

(2) The averment that any goods staved or destroyed were staved or destroyed to prevent seizure shall be deemed sufficient unless the defendant in any such case shall prove the contrary.

Where penalty determined on value of goods

79.—(1) In all cases where any penalty, the amount of which is to be determined by the value of any goods, is incurred under the excise laws, such value shall, as regards proceedings in any court, be estimated and taken according to the rate and price for which goods of the like kind, but of the best quality, upon which the duties of excise shall have been paid, were sold at or about the time of the offence, or according to the rate and price for which the like kind of goods were sold in bond at or about the time of the offence with the duties due thereon added to such rate or price in bond; and no goods shall be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with the same by any person contravening or endeavouring to contravene the excise laws.

(2) A certificate purporting to be signed by the Comptroller or an officer authorised by him as to the value of such goods shall be accepted by the court as *prima facie* evidence of the value stated therein.

Government chemist's certificate sufficient evidence

80. In any proceedings under the excise laws the production of a certificate purporting to be signed by the Government analyst or a Government chemist shall be *prima facie* evidence of all the matters therein stated.

Admissibility of copies of documents

81. In case any book or document required by the excise laws is required to be used as evidence in any court as to the transactions to which it refers, copies thereof certified by an officer shall be admissible for that purpose, without production of the originals.

Proof of order of Minister and other persons

82. If in any proceedings under the excise laws it is necessary to give proof of any order or letter of authority issued by the Minister, Comptroller or any person in the employment of the Government, the order or letter of authority or any letter or instructions referring thereto shall be admitted and taken as *prima facie* evidence of such order or letter of authority if any such document purports to be signed by any such person or shall appear to have been officially printed or issued.

Certificate of condemnation

83. Condemnation by any court under the excise laws may be proved in any court or before any competent tribunal by the production of a certificate of such condemnation purporting to be signed by the magistrate.

PART XI.—SUPPLEMENTARY

Power to make regulations

84. The Minister may make regulations for the better carrying out of the provisions of the excise laws and for prescribing anything which may be prescribed under the provisions of this Act and may in such regulations prescribe fees, rents or

charges to be paid in respect of any matter therein referred to; and any such regulations may provide that for a breach thereof in addition to any penalty prescribed any articles by means of or in relation to which such breach has been committed shall be forfeited.

Forms

85. The Comptroller may from time to time approve forms required to be used for the purposes of the excise laws.

Removal and delivery in special circumstances

86. The Comptroller may in any special circumstances permit the removal and delivery of goods in such form and manner as he may direct to meet the exigencies of any case to which the excise laws may not be conveniently applicable.

Exemption of manufacturers from provisions of Act

87. The Minister may, subject to such conditions as he may think fit, exempt any manufacturer from any of the provisions of this Act, and any such exemption may be given retrospective effect. (*Inserted by 43 of 1966, s. 2.*)

FIRST SCHEDULE

[Section 9(1)]

(*Amended by Resolution 9th December, 1976.*)

<i>Articles</i>	<i>Duty</i>
(1) (a) Cigarettes manufactured in Fiji and containing tobacco grown outside Fiji but not containing tobacco grown in Fiji	A duty on every ten cigarettes of 14.15 cents.
(b) Cigarettes manufactured in Fiji and containing tobacco grown in Fiji but not containing tobacco grown outside Fiji	A duty on every ten cigarettes of 8.025 cents.
(c) Cigarettes manufactured in Fiji and containing tobacco grown outside Fiji and tobacco grown in Fiji	A duty on every ten cigarettes of such proportion of 14.15 cents as the amount of tobacco grown outside Fiji contained in such ten cigarettes bears to the entire tobacco content thereof together with an amount of such proportion of 8.025 cents as the amount of tobacco grown in Fiji contained in such ten cigarettes bears to the entire tobacco content thereof:

Provided that where the weight of one thousand cigarettes exceeds 1135 grams then in every such case duty under subparagraphs (a), (b) or (c) above shall be charged as if each lot of 1135 grams by weight of such cigarettes contained one thousand cigarettes.

(2) (a) In this paragraph, the expression "manufactured" shall not include the growing or curing of tobacco and the rolling of tobacco into twist, but shall include any other processing or preparation of tobacco except for the manufacture of cigarettes, cheroots or cigars.

(b) Tobacco manufactured in Fiji containing tobacco grown outside Fiji but not containing tobacco grown in Fiji ...

A duty at the rate of \$12.02 on every kilogram of tobacco.

(c) Tobacco manufactured in Fiji containing tobacco grown in Fiji but not containing tobacco grown outside Fiji

A duty at the rate of \$7.17 on every kilogram of tobacco.

(d) Tobacco manufactured in Fiji containing tobacco grown outside Fiji and tobacco grown in Fiji

A duty on every kilogram of tobacco of such proportion of \$12.02 as the amount of tobacco grown outside Fiji contained in such kilogram of tobacco bears to the entire tobacco content thereof together with an amount of such proportion of \$7.17 as the amount of tobacco grown in Fiji contained in such kilogram of tobacco bears to the entire tobacco content thereof.

(3) Notwithstanding the above provisions, a person manufacturing cigarettes or any varieties of tobacco for his own use or for that of his family, which are not sold or exchanged for money or money's worth, shall not be liable to pay any duty in relation to such cigarettes or varieties of tobacco.

(4) Ale, beer, stout, porter and all other fermented liquors made from malt, and cider and perry, except such as are made by an individual in his home for his own and his family's consumption and not for sale

A duty of 25c per litre.

- (5) Matches, wooden, in boxes containing not more than a prescribed number of such matches A duty of 15 cents per gross boxes.
- (6) Sugar A duty of \$40.40 per tonne.
- (7) (a) Beer, matches and tobacco goods purchased from an excise factory licensed under the Excise Act by and on behalf of the Governor-General for his personal use or for the use of his family and servants Free
- (b) Beer, matches and tobacco goods purchased from an excise factory licensed under the Excise Act by or on behalf of—
- (i) Diplomatic missions of the States to which the Minister may from time to time, by order, accord all such immunities from jurisdiction and inviolability as are conferred upon sending missions by the Vienna Convention on Diplomatic Relations signed in 1961 Free
- (ii) The Diplomatic agents of the Missions falling within (i) and upon whom the Minister may from time to time, by order, confer the privileges and immunities specified in the Third Schedule to the Diplomatic Privileges and Immunities Act. Free
- (iii) Representatives, members of the committee, high officers and persons or missions of approved International Organisations and upon whom the Minister may from time to time, by order, confer the privileges and immunities specified in the Third Schedule to the Diplomatic Privileges and Immunities Act. Free
- (c) Beer, matches and tobacco goods purchased from an excise factory licensed under the Excise Act, by the Concessionnaire approved by the Minister solely for immediate exportation from Fiji by the purchaser after retail sale from the Customs Area at Nadi International Airport to bona fide transit and other passengers departing

by air from Fiji, and declared to be purchased solely for that purpose, under such conditions as may from time to time be imposed by the Comptroller of Customs and Excise Free.

SECOND SCHEDULE

(Section 21)

EXCISE ACT

(Chapter 199)

FORM OF WARRANT OF DISTRESS

To:

I, Comptroller of Customs and Excise, by virtue of the powers vested in me by section 21 of the Excise Act do hereby authorise you to collect and recover the sum of due for excise duty from manufacturer, having his factory at and for the recovery thereof I further authorise that you, with the aid (if necessary) of your assistant and calling to your assistance any police officer, which assistance they are hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incident to the taking and keeping of such distress, on the goods, chattels and other distrainable things of the said manufacturer wherever the same may be found and on all machinery, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Fiji in the manufacture, sale or distribution of excisable goods which you may find in any premises or on any lands in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

GIVEN under my hand at this day of , 19 .

Comptroller of Customs and Excise.

Controlled by Ministry of Finance

CHAPTER 199

EXCISE

SECTION 16—DIRECTIONS AS TO DRAWBACK

Notice 24th Dec., 1966 [in force 6th Jan., 1967]

Made by the Governor in Council

When sugar upon which excise duty has been paid is shipped in accordance with the provisions of paragraph (b) of section 17 of the Act, a drawback of the full amount of excise duty paid on such sugar may be repaid to the exporter thereof.

SECTIONS 16 AND 84—EXCISE (CIGARETTES AND TOBACCO)
(DRAWBACK) REGULATIONS

Regulations 5th June, 1959 [in force 12th June, 1959], 20th May, 1960

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Excise (Cigarettes and Tobacco) (Drawback) Regulations.

Interpretation

2. "tobacco" means cigarette or pipe tobacco which at the time of its delivery from a licensed excise factory is contained in a hermetically sealed tin.

(Inserted by Regulations 20th May, 1960.)

Payment of drawback

3.—(1) Subject to the conditions prescribed in this regulation the Comptroller may grant drawback of excise duty paid on—

(a) cigarettes delivered for home consumption from a licensed factory which are returned to such factory for re-processing or destruction on account of having become unsaleable solely and inadvertently as a result of natural causes such as mouldiness, excessive dryness or moisture, or as a result of infestation;

(b) tobacco delivered for home consumption from a licensed factory which is returned to such factory for reprocessing on account of the same reasons.

(2) The conditions subject to which drawback of excise duty may be granted are as follows:—

(a) the cigarettes or tobacco shall be returned to the factory within one year of the date on which they were delivered from the factory;

(b) the cigarettes or tobacco shall be produced to the proper officer immediately they are received into the factory;

- (c) the cigarettes or tobacco shall be intact and in their original packages, which may be open or unopened;
 - (d) the cigarettes or tobacco shall be accounted for to the satisfaction of the proper officer and no drawback shall be paid unless they are so accounted for;
 - (e) no drawback shall be allowed in the case of any transaction unless the amount of drawback payable on the cigarettes or tobacco returned to the factory in that transaction is at least ten dollars;
 - (f) at least twenty-four hours' notice shall be given to the proper officer before any cigarettes or tobacco are received into the factory and before any such cigarettes or tobacco are either re-processed or destroyed; the latter notice shall include notice of the time at which reprocessing or destruction will commence.
- (Regulation substituted by Regulations 20th May, 1960.)

Proper officer

4. For the purpose of these Regulations the proper officer shall be the officer of Customs for the time being stationed at the factory, and if there is no such officer stationed at the factory shall be a Collector of Customs.

SECTION 84—EXCISE (CIGARETTES) REGULATIONS

Regulations 13th Sept., 1955 [in force 30th Sept., 1955],
17th December 1958, 23rd June, 1964, 13th May 1968,
10th March 1975, 19th Nov., 1976

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Excise (Cigarettes) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—
 - “normal working hours” means in relation to a factory the hours during which the factory is normally open for the purpose of manufacture;
 - “other manufactured tobacco” means tobacco leaf prepared in an excise factory for smoking or use in any way other than as cigarettes manufactured in an excise factory, and includes snuff.
 (Substituted by Regulations 17th December, 1958.)

Application for licence to manufacture

3. An application for a licence to manufacture cigarettes or other manufactured tobacco shall be made to the Comptroller in the form as approved by the Comptroller and shall be accompanied by the following drawings and particulars:—

- (a) a plan and sectional elevation of the factory building;
- (b) the name and situation of the factory;
- (c) the material of which the factory is constructed;
- (d) the number of flats or storeys in the building or buildings;

- (e) the number of rooms in each storey and for what purpose each room or storey is intended to be used;
- (f) the number and position, with relation to the principal building of the factory, of any detached buildings used, or proposed to be used, as part of the factory, together with the number of rooms in each detached building; and
- (g) such other particulars as the Comptroller may require.
(Amended by Regulations 19th November, 1976.)

Marking of factory

4. Every factory shall be marked conspicuously on the outside to the satisfaction of the Comptroller with the words "Excise Factory", followed by the official number of the factory allotted by the Comptroller.

Description and numbering of rooms

5. Every room shall be described and bear such number as the Comptroller may allocate.

Securing of factory

6. Every factory and part thereof shall be secured in such manner and by such fastenings as shall be approved by the Comptroller.

Hours of manufacture

7.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice to the Comptroller of the proposed normal working hours of the factory.

(2) Except with the prior permission of the Comptroller the factory shall not be open for the purposes of manufacture at any time other than the normal working hours approved by the Comptroller.

(3) Where a factory is permitted to be open for the purposes of manufacture at a time other than the normal working hours, the manufacturer shall pay to the Comptroller the overtime charges specified in regulation 41 in respect of the service of any officer employed in the factory during such time.

Materials store

8. Every manufacturer shall provide a secure storeroom to be known as the materials store in his factory in which all tobacco and other materials used for the manufacture of cigarettes and other manufactured tobacco shall be stored immediately after they have been received, and every door of such store shall be provided by the manufacturer with an approved lock, the key of which shall be kept by him, and with a lock supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf, so that both keys will be required to open the door. If the store is fitted with windows these must be secured to the satisfaction of the Comptroller. (Amended by Regulations 17th December, 1958.)

Notice of process of manufacture

9.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice of his intended process of manufacture to the Comptroller and shall not alter such process without prior notification to the Comptroller.

(2) Any manufacturer who employs any process of manufacture other than a process notified to the Comptroller in accordance with the provisions of this regulation shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding fifty dollars.

Notice of intent to manufacture

10.—(1) Every manufacturer shall give notice of his intent to manufacture by recording the prescribed details in the notice to manufacture book by 4 p.m. on the day previous to manufacture or by noon on Saturday for manufacture on Monday.

(2) The notice to manufacture book shall be in the form as approved by the Comptroller. (*Amended by Regulations 19th November, 1976.*)

Product store

11. The manufacturer shall provide a secure storeroom in his factory to be known as the product store in which all cigarettes and other manufactured tobacco shall be stored immediately after manufacture and every door of such store shall be provided by the manufacturer with an approved lock, the key of which shall be kept by him, and with a lock supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf, so that both keys will be required to open the door. If the storeroom is fitted with windows these shall be secured to the satisfaction of the Comptroller.

Removal from product store to materials store

12.—(1) No goods may be removed from any product store or materials store of a factory without the permission of the Comptroller or of an officer authorised by the Comptroller in that behalf.

(2) No tobacco leaf or other materials shall be removed for processing or destruction or for any other reason without first being weighed in the presence of an officer authorised by the Comptroller in that behalf.

(3) Any manufacturer who removes, or causes or permits to be removed, any goods or materials otherwise than in accordance with the provisions of this regulation shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred dollars and all goods in respect of which any such offence shall be committed shall be forfeited.

Tobacco leaf stock book

13.—(1) Every manufacturer shall keep a tobacco leaf stock book in the form as approved by the Comptroller.

(*Amended by Regulations 19th November, 1976.*)

- (2) Every manufacturer shall enter daily in the tobacco leaf stock book—
- (a) the weight of all tobacco leaf received into the factory or removed from the materials store, distinguishing locally-grown leaf from imported leaf;
 - (b) the number, weight and brand of cigarettes manufactured and weight and description of other manufactured tobacco;
 - (c) the weight of refuse, waste and clippings arising from the operations in the factory;

- (d) the names and addresses of persons from whom local leaf is received;
and
 - (e) any other particulars which may be required by the Comptroller.
- (3) Separate entries shall be made in respect of differing brands of cigarettes and other manufactured tobacco.

Delivery book

14.—(1) Every manufacturer shall keep a delivery book in the form as approved by the Comptroller in which he shall enter the number, weight and brand of cigarettes and the weight and description of other manufactured tobacco delivered on any day from the factory for home consumption, to be warehoused or for export. (*Amended by Regulations 19th November, 1976.*)

(2) Separate entries shall be made in respect of different brands of cigarettes and other manufactured tobacco.

Nil entries to be made

15. Except on Saturdays, Sundays and public holidays and on days when the factory remains closed in accordance with permission granted in advance by the Comptroller, NIL entries shall be made in the tobacco leaf stock book and delivery book wherever such an entry is applicable by reason of no leaf tobacco or other materials having been received or used or no cigarettes or other manufactured tobacco having been made or transferred to the products stores or delivered from the factory for any purpose.

(*Amended by Regulations 13th May, 1968.*)

Only one book of one type to be kept

16. Where any book is required to be kept under the provisions of these Regulations in respect of occurrences at a factory only one such book of the type required shall be kept in current use in any one factory.

Balancing of books

17. The tobacco leaf stock book and the delivery book shall be balanced in a manner approved by the Comptroller to the close of the last day of each month during which the factory is at any time open.

Return by manufacturer

18.—(1) The manufacturer shall furnish to the Comptroller a return made up to the close of the last day of each month during which the factory is at any time open and verified by a declaration in the form as approved by the Comptroller, showing—

- (a) the weight of all leaf tobacco received into his factory, distinguishing locally grown leaf from imported leaf;
- (b) the weight of all leaf tobacco, distinguishing locally grown leaf from imported leaf, used in manufacturing cigarettes and other manufactured tobacco;
- (c) the number and weight of all cigarettes and weight of other manufactured tobacco manufactured in the factory;
- (d) the number and weight of all cigarettes and weight of other manufactured tobacco manufactured in the factory showing

separately quantities delivered for home consumption, warehoused, exported or destroyed;

- (e) the weight of leaf tobacco and other materials in course of manufacture at the close of the day on which the return is made up to;
- (f) the weight of wastage arising from manufacturing operations in the factory; and
- (g) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

(2) The return specified in paragraph (1) shall be sent to the Comptroller as soon as possible and in any case not later than the seventh day of the month next following or such further time as the Comptroller may allow together with all due but unpaid duties of excise.

Storage of stalks, waste, etc.

19.—(1) Stalks, refuse, clippings or waste arising from the manufacture of cigarettes and other manufactured tobacco shall be stored to the satisfaction of the Comptroller until destroyed.

(Amended by Regulations 17th December, 1958.)

(2) Any manufacturer who stores or causes or permits to be stored any such stalks, refuse, clippings or waste in a manner contrary to any directions given by the Comptroller or an officer authorised by him in that behalf shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding fifty dollars.

Destruction of stalks, waste, etc.

20.—(1) A manufacturer who intends to destroy any stalks, refuse, clippings or waste arising from the manufacture of cigarettes and other manufactured tobacco shall give notice in writing to the Comptroller of his intention and shall not begin the destruction of the stalks, refuse, clippings or waste until the expiration of 48 hours after the giving of that notice.

(Amended by Regulations 17th December, 1958.)

(2) Stalks, refuse, clippings or waste arising from the manufacture of cigarettes and other manufactured tobacco in a factory may be destroyed—

- (a) by burning in the presence of an officer; or
- (b) if the product is to be used for agricultural or horticultural purposes or for any other purpose approved by the Comptroller—
 - (i) by its reduction to a fine powder; or
 - (ii) by such chemical treatment as the Comptroller may prescribe to make it unfit for human consumption.

(Amended by Regulations 17th December, 1958.)

(3) All stalks, refuse, clippings or waste intended to be destroyed in accordance with these Regulations shall be weighed in the presence of an officer.

Charge for attendance of officer

21. Where, in the opinion of the Comptroller, it is necessary for an officer to attend specially for the purpose of supervising the destruction of stalks, refuse, clippings or waste, the manufacturer shall pay for the officer's services at the rate of two dollars per hour or part thereof. *(Amended by Regulations 10th March, 1975.)*

Packing

22. Cigarettes and other manufactured tobacco may be put up in packages containing such numbers or net weight as the Comptroller may approve and may be delivered from the factory in parcels of not less than 4.54 kg net weight.

(Substituted by Regulations 17th December, 1958.)

Marking of tins, etc.

23. The manufacturer shall mark or label small tins, packets or boxes containing cigarettes or other manufactured tobacco with—

- (a) the factory number and the words "Made in Fiji" or words approved by the Comptroller indicating that the goods have been made in Fiji;
- (b) the brand or make of cigarette or other manufactured tobacco; and
- (c) any additional markings or labels approved by the Comptroller.

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of cigarettes or other manufactured tobacco packed for export.

(Substituted by Regulations 17th December, 1958, and amended by Regulations 23rd June, 1964.)

Number of cigarettes to be marked on container

24. Any container of tins, packets or boxes of cigarettes or other manufactured tobacco shall be marked or labelled as prescribed in regulation 23 and in addition shall be marked or labelled with the total number of cigarettes or net weight of other manufactured tobacco contained in the container.

(Substituted by Regulations 17th December, 1958.)

Marking of outside packing

25. The manufacturer shall mark or label the outside packing of any package which contains cigarettes or other manufactured tobacco—

- (a) the factory number and the words "Made in Fiji" or words approved by the Comptroller indicating that the goods have been made in Fiji;
- (b) the gross weight of the package;
- (c) any additional markings approved by the Comptroller.

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of cigarettes or other manufactured tobacco packed for export.

(Substituted by Regulations 17th December, 1958 and amended by Regulations 23rd June, 1964.)

Failure to comply with Regulations 23, 24 or 25

26. Any manufacturer who fails to comply with the provisions of regulations 23, 24 or 25 shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding fifty dollars.

Fresh labels

27. No mark shall be made on any tin, packet, box or package containing cigarettes, or other manufactured tobacco, nor any label affixed thereto, until such mark or label has been approved by the Comptroller.

(Substituted by Regulations 17th December, 1958.)

Warehousing

28. Excisable goods shall not be deposited in any warehouse other than a warehouse approved by the Comptroller.

Application for appointment of warehouse

29.—(1) An application for the appointment of a warehouse shall be made in the form as approved by the Comptroller and shall be accompanied by the following drawings and particulars:—

- (a) a plan and sectional elevation of the warehouse;
- (b) the name and situation of the warehouse;
- (c) the material of which the warehouse is constructed;
- (d) the number of flats or storeys in the warehouse;
- (e) the number of rooms in each storey;
- (f) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

(2) The Comptroller may withhold the issue of an appointment on the grounds of insecurity of the warehouse.

Warehouse keeper's charge

30.—(1) There shall be paid by the warehouse keeper to the Comptroller for the supervision and taking account of excisable goods stored in a warehouse a charge as provided in this regulation.

(2) The charge shall be paid in respect of each quarter ending on 31st March, 30th June, 30th September, and 31st December and shall be payable not less than seven days after the expiry of the quarter. The amount of the charge shall be one dollar for each 100,000 cigarettes or 113.5 kg of other manufactured tobacco deposited in the warehouse during the quarter to which the charge relates.

(Amended by Regulations 17th December, 1958 and 19th November, 1976.)

Security of warehouse

31.—(1) Every warehouse and part thereof shall be secured in such manner and by such fastenings as may be approved by the Comptroller and shall be opened only at such times in the presence of such officers as the Comptroller shall direct.

(2) Such doors of any warehouse as the Comptroller may require shall be provided by the warehouse keeper with an approved lock, the key of which shall be kept by him, and with a lock supplied by the Comptroller at the expense of the warehouse keeper, the key of which shall be kept by an officer authorised by the Comptroller in that behalf, so that both the keys will be required to open the door.

Marking of warehouse

32. Every warehouse shall be marked conspicuously on the outside to the satisfaction of the Comptroller with the words "Excise Warehouse", followed by the official number of the warehouse allocated by the Comptroller.

Warehouse stock book

33.—(1) Every warehouse keeper shall keep a warehouse stock book in the form as approved by the Comptroller in which he shall enter daily—

- (a) the number, weight and brand of cigarettes received or delivered for home consumption or exported;

- (b) the weight and description of other manufactured tobacco received or delivered for home consumption, or exported;
 - (c) the number and date of the certificate accompanying cigarettes or other manufactured tobacco whether being received or delivered out of the warehouse;
 - (d) the particulars of export warrants relating to cigarettes or other manufactured tobacco exported; and
 - (e) any other particulars required by the Comptroller.
- (2) Separate records shall be kept of differing brands of cigarettes and descriptions of other manufactured tobacco.
- (3) The warehouse stock book shall be balanced in a manner approved by the Comptroller to the close of the last day of each month.

Only one book of one type to be kept

34. Where any book is required to be kept under the provisions of these Regulations in respect of the occurrences at a warehouse, only one such book of the type required shall be kept in current use in any one warehouse.

Return by warehouse keeper

35.—(1) The warehouse keeper shall furnish to the Comptroller a return made up to last day of each month in which any excisable goods are received at or delivered from the warehouse and verified by a declaration in the form as approved by the Comptroller showing—

- (a) the number and brand of cigarettes and weight and description of other manufactured tobacco received in the warehouse;
- (b) the number and brand of cigarettes and weight and description of other manufactured tobacco exported, shipped as ships' stores or delivered for home consumption;
- (c) the number of cigarettes and weight of other manufactured tobacco remaining in the warehouse;
- (d) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

(2) The return shall be sent to the Comptroller as soon as possible and in any case not later than the seventh day of the month next following or such further time as the Comptroller shall allow, together with all due but unpaid duties of excise.

Facilities of inspection

36. Every warehouse keeper shall—

- (a) stack and arrange goods in the warehouse so that reasonable access to, and examination of, every package may be had at all times;
- (b) provide sufficient lights and just scales and weights for the use of an officer;
- (c) find all labour and materials requisite for the storing, examination, packing, marketing, weighing and stocktaking of the warehouse goods whenever the Comptroller may desire.

No package to be opened

37. Goods deposited in a warehouse shall not be removed from their packages without the permission of the Comptroller.

Removal certificate

38. Except with the written permission of the Comptroller, no goods shall be removed from the product store of a factory or from a warehouse unless accompanied by a duly completed removal certificate in the form as approved by the Comptroller.

(Amended by Regulations 19th November, 1976.)

Bond

39. Before any cigarettes or other manufactured tobacco may be removed from a factory to a warehouse the manufacturer shall enter into such bond in respect of excise duty as the Comptroller may require.

Power of Comptroller in special cases

40. Notwithstanding anything contained in these Regulations the Comptroller may, by writing under his hand, allow any person to manufacture cigarettes and other manufactured tobacco and to pay the duties of excise due thereon in such form and in such manner as he may direct to meet the exigencies of any case to which these Regulations may not be conveniently applicable, and any contravention of directions given under these Regulations shall be deemed to be a breach of these Regulations and any offender shall incur a penalty of one hundred dollars for each and every contravention and in addition any articles by means of which, or in relation to which, the contravention has been committed, shall be forfeited.

Overtime charges

41. Whenever, for the purpose of carrying out any provision of the excise laws, it is necessary for any officer to attend at any time outside working hours, the manufacturer concerned shall pay in respect of each such officer a charge calculated at the following rates in respect of that attendance:—

(a) for any time worked on Sundays or Public Holidays, \$2.50 cents for each hour or portion of an hour; and

(b) for any time worked outside the usual working hours on any other days, \$1.90 cents for each hour or portion of an hour:

Provided that in respect of the attendance of any officer at any time on Saturdays, Sundays or Public Holidays and between the hours of 2000 and 0600 hours on any weekday, a minimum charge equivalent to the charge for three hours attendance shall be made.

(Regulation substituted by Regulations 10th March, 1975.)

SECTION 84—EXCISE (BEER) REGULATIONS

Regulations 6th May, 1958 [in force 16th May, 1958], 6th April, 1960,
23rd June, 1964, 13th May, 1968, 10th Dec., 1969, 10th Mar., 1975,
19th Nov., 1976.

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Excise (Beer) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—
- “beer” includes ale, stout, porter, all other fermented liquors made from malt, and cider and perry, except such as are made by an individual in his home for his own and his family’s consumption and not for sale;
- “vessel” means vessels of the following description and holding capacities:—
- hogshead of a capacity of not more than 245 litres nor less than 227 litres;
 - barrel of a capacity of not more than 164 litres nor less than 150 litres;
 - half-hogshead of a capacity of not more than 123 litres nor less than 114 litres;
 - kilderkin of a capacity of not more than 82 litres nor less than 77 litres;
 - firkin of a capacity of not more than 45 litres nor less than 41 litres;
 - pin of a capacity of 22.50 litres;
 - bottles and cans of a capacity of not more than 767 millilitres nor less than 710 millilitres;
 - half-bottles and cans of a capacity of not more than 383 millilitres nor less than 341 millilitres;
- “normal manufacturing hours” means in relation to a factory the hours during which a factory is normally open for the purpose of manufacture;
- “normal working hours” means in relation to a factory the hours during which a factory is normally open for the purpose of filling or delivering vessels.
- (Regulations substituted by Regulations 19th November, 1976.)

Application for licence to manufacture

3. An application for a licence to manufacture beer shall be made to the Comptroller in the form as approved by the Comptroller and shall be accompanied by the following drawings and particulars:—
- (a) a plan and sectional elevation of the factory building;
 - (b) the name and situation of the factory;
 - (c) the material of which the factory is constructed;
 - (d) the number of flats or storeys in the building or buildings;
 - (e) the number of rooms in each storey and for what purpose each room or storey is intended to be used; and
 - (f) the number and position in relation to the principal building of the factory, of any detached buildings used, or proposed to be used, as part of the factory together with the number of rooms in each detached building.

Marking of factory

4. Every factory shall be marked conspicuously on the outside to the satisfaction of the Comptroller with the words “Excise Factory”, followed by the official number of the factory allotted by the Comptroller.

Description and numbering of rooms

5. Every room shall be described and bear such number as the Comptroller may allocate.

Securing of factory

6. Every factory and part thereof shall be secured in such manner and by such fastenings as may be approved by the Comptroller.

*Manufacturer to give notice of proposed normal working hours
and normal manufacturing hours*

7.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice to the Comptroller of the proposed normal working hours and normal manufacturing hours.

(2) Except with the prior permission of the Comptroller the factory shall not be open for the purposes of filling or delivering vessels at any time other than the normal working hours notified to the Comptroller.

(3) Where a factory is permitted to be open for the purposes of filling or delivering vessels at a time other than the normal working hours, the manufacturer shall pay to the Comptroller the overtime charges specified in regulation 41 in respect of the service of any officer employed in the factory during such time.

Materials stores

8. Every manufacturer shall provide a secure storeroom or storerooms to be known as the materials stores in his factory in which all materials used for the manufacturer of the beer shall be stored immediately after they have been received, and every door of such stores shall be provided by the manufacturer with a secure lock, the key of which shall be kept by him, and with a different lock supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf. If the materials stores are fitted with windows these must be secured to the satisfaction of the Comptroller.

Notice of process of manufacture

9.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice of his intended process of manufacture to the Comptroller or an officer deputed by him and shall not alter such process without prior notification to the Comptroller or such officer.

(2) Any manufacturer who employs any process of manufacture other than a process notified to the Comptroller in accordance with the provisions of this regulation shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding two hundred dollars.

Storage cellars. Filling room

10. All beer manufactured shall be stored in rooms to be called storage cellars until required for filling into vessels, and the pipelines from such storage cellars to the filling room shall be secured to the satisfaction of the Comptroller.

Product stores

11.—(1) The manufacturer shall provide a secure room or rooms in his factory to be known as the product stores in which all beer in vessels shall be stored before delivery for home consumption or for warehousing or for export:

Provided that the Comptroller may allow beer to be delivered for home consumption, for warehousing or for export direct from the filling room.

(2) Every door of such stores shall be provided by the manufacturer with a secure lock, the key of which shall be kept by him, and with a different lock

supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf. If the product stores are fitted with windows these shall be secured to the satisfaction of the Comptroller.

Removals from materials stores or filling room or product store

12.—(1) No goods may be removed from any product store or filling room or materials stores of a factory without the permission of the Comptroller or of an officer authorised by the Comptroller in that behalf.

(2) Any manufacturer who removes, or causes or permits to be removed, any goods or materials otherwise than in accordance with the provisions of this regulation shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred dollars and all goods in respect of which any such offence shall be committed shall be forfeited.

Storage of vessels

13. All empty vessels which it is intended to use for filling, together with corks, capsules and other materials for filling shall be kept at a place approved in writing by the Comptroller and shall not be removed thence without the permission of an officer.

Vessels not to be removed until closed, sealed and marked

14.—(1) Except with the approval of an officer no filled vessel shall be removed until it has been closed, sealed and marked or labelled to the satisfaction of an officer.

(2) All filled bottles and cans shall be placed in containers to the satisfaction of an officer.

Vessel to be of prescribed description

15. Every vessel used in a filling room shall be of one of the sizes set out in regulation 2 or shall be a vessel the use of which the Comptroller has permitted.

Marking of vessels

16. The manufacturer shall mark or label vessels containing beer with—

(a) the factory number and the words "Brewed in Fiji" or words approved by the Comptroller indicating that the goods have been made in Fiji; and

(b) the name of the brewer or brewery:

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of beer packed for export.

(Proviso inserted by Regulations 23rd June, 1964.)

Description of vessels

17. In this case of the following vessels the description of the vessel and a distinctive number shall be marked on each vessel:—

Hogshead
Barrel
Half-Hogshead
Kilderkin
Firkin
Pin.

Marking of outside packing

18. The manufacturer shall mark the outside of any package which contains beer with—

- (a) the factory number and the words "Brewed in Fiji" or other words approved by the Comptroller indicating that the goods have been made in Fiji; and
- (b) the number and type of vessels contained therein:

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of beer packed for export.

(Proviso inserted by Regulations 23rd June, 1964.)

Dutiable contents of vessels

19.—(1) The dutiable contents of the following vessels shall be taken to be as follows:—

hogshead	236 litres
barrel	159 litres
half-hogshead	118 litres
kilderkin	77 litres
firkin	43 litres
pin	22.50 litres
bottle or can	750 millilitres
half-bottle or can	375 millilitres.

(Amended by Regulations 19th November, 1976.)

(2) In the case of other vessels the dutiable contents shall be taken to be the full holding capacity of the vessels or such other capacity as the Comptroller may in his discretion allow.

Packing of beer

20. Beer may not be delivered from a factory in packages containing less than nine litres. *(Amended by Regulations 19th November, 1976.)*

Conditions of destruction

21.—(1) Beer which is unfit for human use and which has not been delivered from a factory may on application being made to the Comptroller, be destroyed in the factory by running into a sewer or by denaturation to the satisfaction of the Comptroller.

(2) Where, in the opinion of the Comptroller, it is necessary for an officer to attend specially for the purpose of supervising the destruction of beer, the manufacturer shall pay for the officer's services at the rate of two dollars per hour or part thereof. *(Amended by Regulations 10th March, 1975.)*

Strength of beer

22.—(1) Beer manufactured in a factory shall contain not less than 1.15 per cent by volume of alcohol nor more than 11.49 per cent by volume of alcohol.

(Amended by Regulation 19th November, 1976.)

Samples

(2) An officer may require the manufacturer to test samples of the beer.

(3) Residues remaining after the manufacture of beer may be delivered for use as animal food or manure and such residues shall be produced to the officer before being so delivered.

Materials stock book

23. Every manufacturer shall keep a materials stock book in the form as approved by the Comptroller in which shall be entered the quantities of materials received and the quantities of materials delivered out of the materials stores on any day. (Amended by Regulations 19th November, 1976.)

Factory account book

24. Every manufacturer shall keep a factory account book in the form as approved by the Comptroller in which shall be entered daily—

- (a) the quantity of beer manufactured;
- (b) the quantity of beer wasted arising from the operations of the factory;
- (c) any other particulars which may be required by the Comptroller.

(Amended by Regulations 19th November, 1976.)

Delivery book

25.—(1) Every manufacturer shall keep a delivery book in the form as approved by the Comptroller in which shall be entered the quantity of beer delivered on any day from the factory for home consumption, to be warehoused, shipped as ship's stores or for export.

Nil entries to be made

(2) Except on Saturdays, Sundays and public holidays and on days when the factory remains closed, NIL entries shall be made in the delivery book wherever such an entry is applicable by reason of no beer having been delivered from the factory for any purpose.

(Regulation amended by Regulations 13th May, 1968 and 19th November, 1976.)

Only one book of one type to be kept

26.—(1) Where any book is required to be kept under the provisions of these Regulations in respect of occurrences at a factory only one such book of the type required in respect of each product shall be kept in current use in any one factory.

Balancing of books

(2) The materials stock book and the factory account book and the delivery book shall be balanced in such manner and for such periods as may be approved by the Comptroller.

Returns

27.—(1) The manufacturer shall furnish to the Comptroller a return made up to the close of the last day of each month during which the factory is at any time open or to such other period as the Comptroller may determine and, verified by a declaration in the form as approved by the Comptroller showing—

- (a) the quantity of sugar, malt, hops and other materials received into his factory;

- (b) the quantity of sugar, malt, hops and other materials used in the manufacture of beer;
- (c) the quantity of beer manufactured in the factory and the quantity of beer delivered for home consumption, warehoused, exported, shipped as ships' stores or destroyed;
- (d) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

(2) The return specified in paragraph (1) shall be sent to the Comptroller as soon as possible and in any case not later than the seventh day of the month next following or such other time as the Comptroller may allow together with all due but unpaid excise duty.

Warehousing

28. Beer on which excise has not been paid shall not be deposited in any warehouse outside the factory premises other than a warehouse approved by the Comptroller.

Application for appointment of warehouse

29.—(1) An application for the appointment of a warehouse shall be made in the form as approved by the Comptroller and shall be accompanied by the following drawings and particulars:—

- (a) a plan and sectional elevation of the warehouse;
- (b) the name and situation of the warehouse;
- (c) the material of which the warehouse is constructed;
- (d) the number of flats or storeys in the warehouse; and
- (e) the number of rooms in each storey.

(Amended by Regulations 19th November, 1976.)

(2) The Comptroller may withhold the issue of an appointment on the grounds of insecurity of the warehouse.

Warehouse keeper's charge

30.—(1) There shall be paid by the warehouse keeper to the Comptroller for the supervision and taking account of beer stored in a warehouse a charge as provided in this regulation.

(2) The charge shall be paid in respect of each quarter ending on 31st March, 30th June, 30th September and 31st December and shall be payable not less than seven days after the expiry of the quarter. The amount of the charge shall be one dollar for each 450 litres deposited in the warehouse during the quarter to which the charge relates. *(Amended by Regulations 19th November, 1976.)*

Security of warehouse

31.—(1) Every warehouse and part thereof shall be secured in such manner and by such fastenings as may be approved by the Comptroller and shall be opened only at such times in the presence of such officers as the Comptroller shall direct.

(2) Such doors of any warehouse as the Comptroller may require shall be provided by the warehouse keeper with a secure lock, the key of which shall be kept by him, and with a different lock supplied by the Comptroller at the expense of the warehouse keeper, the key of which shall be kept by an officer authorised by the Comptroller in that behalf.

Marking of warehouse

32. Every warehouse shall be marked conspicuously on the outside to the satisfaction of the Comptroller with the words "Excise Warehouse", followed by the official number of the warehouse allocated by the Comptroller.

Warehouse stock book

33.—(1) Every warehouse keeper shall keep a warehouse stock book in the form as approved by the Comptroller in which shall be entered daily—

- (a) the quantity of beer received or delivered for home consumption or exported;
- (b) the number and date of the certificate accompanying beer whether being received or delivered out of the warehouse;
- (c) the particulars of export warrants relating to beer exported; and
- (d) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

Balancing of book

(2) The warehouse stock book shall be balanced in such manner and for such periods as may be approved by the Comptroller.

Only one book of one type to be kept

34. Where any book is required to be kept under the provisions of these Regulations in respect of the occurrences at a warehouse, only one such book of the type required in respect of each product shall be kept in current use in any one warehouse.

Returns

35.—(1) The warehouse keeper shall furnish to the Comptroller a return made up to the close of the last day of each month or to such other period as the Comptroller may determine in which any excisable goods are received at or delivered from the warehouse and verified by a declaration in the form as approved by the Comptroller showing—

- (a) the number and type of vessels and the quantity of beer contained therein received into the warehouse;
- (b) the number and type of vessels and the quantity of beer contained therein exported, shipped as ships' stores or delivered for home consumption;
- (c) the number and type of vessels and the quantity of beer contained therein remaining in the warehouse;
- (d) such other particulars as the Comptroller may require.

(Amended by Regulations 19th November, 1976.)

(2) The return specified in paragraph (1) shall be sent to the Comptroller as soon as possible and in any case not later than the seventh day of the month next following or such further time as the Comptroller may allow, together with all due but unpaid excise duty.

Facilities of inspection

36. Every warehouse keeper shall—

- (a) stack and arrange goods in the warehouse so that reasonable access to, and examination of, every package may be had at all times;

- (b) provide sufficient lights and just scales and weights for the use of an officer;
- (c) find all labour and materials requisite for the storing, examination, packing, marking, weighing and stocktaking of the warehoused goods whenever the Comptroller may desire.

No package to be opened

37. Goods deposited in a warehouse shall not be removed from their packages without the permission of the Comptroller.

Removal certificate

38. A removal certificate for removal of beer from a factory or a warehouse shall be in the form as approved by the Comptroller.

(Amended by Regulations 19th November, 1976.)

Bond

39.—(1) Before any beer may be removed from a factory to a warehouse or from a factory or a warehouse for the purpose of exportation the manufacturer shall enter into such bond in respect of excise duty as the Comptroller may require.

(2) Where any beer is removed from a factory to a warehouse or from a factory or a warehouse for the purpose of exportation it shall be conveyed only in carriages licensed in accordance with the provisions of the Customs Act.

(Cap. 196.)

Power of Comptroller in special cases

40. Notwithstanding anything contained in these Regulations the Comptroller may, by writing under his hand, allow such deviation from the provisions of these Regulations as he may consider necessary, and subject to such conditions as he may direct, to meet the exigencies of any case to which these Regulations may not be conveniently applicable, and any contravention of any such conditions shall be deemed to be a breach of these Regulations and any offender shall incur a penalty of one hundred dollars for each and every contravention and in addition any articles by means of which, or in relation to which the contravention has been committed, shall be forfeited.

Overtime charges

41. Whenever, for the purpose of carrying out any provision of the excise laws, it is necessary for any officer to attend at any time outside working hours, the manufacturer concerned shall pay in respect of each such officer a charge calculated at the following rates in respect of that attendance:—

(a) for any time worked on Sundays or Public Holidays, \$2.50 cents for each hour or portion of an hour; and

(b) for any time worked outside the usual working hours on any other days, \$1.90 cents for each hour or portion of an hour:

Provided that in respect of the attendance of any officer at any time on Saturdays, Sundays or Public Holidays and between the hours of 2000 and 0600 hours on any weekday, a minimum charge equivalent to the charge for three hours attendance shall be made. *(Substituted by Regulations 10th March, 1975.)*

Penalty for breach of regulations 4, 13, 14 or 32

42. Any manufacturer or warehouse keeper as the case may be who fails to comply with regulations 4, 13, 14 or 32 shall be guilty of an offence and shall be liable on conviction thereof to a fine not exceeding twenty dollars.

Penalty for breach of regulations 16, 17, 18, 20, 27 and 35

43. Any manufacturer or warehouse keeper as the case may be who contravenes or fails to comply with regulations 16, 17, 18, 20, 27 or 35 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

Penalty for breach of regulations 6, 7 (2), 8, 10, 11, 28 or 31

44. Any manufacturer or warehouse keeper as the case may be who contravenes or fails to comply with regulations 6, 7 (2), 8, 10, 11, 28 or 31 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

Goods removed contrary to regulations 37 and 39 to be forfeited

45. If any goods shall be removed from their package contrary to the provisions of regulation 37 or if any beer shall be removed from a factory or warehouse contrary to the provisions of regulation 39, the person so removing the goods or beer as the case may be shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment and any goods or beer in relation to which such offence has been committed shall be forfeited.

SECTION 84—EXCISE (SAFETY MATCHES) REGULATIONS

*Regulations 12th May, 1962 [in force 25th May, 1962]
7th May, 1963, 23rd June, 1964, 13th May, 1968,
10th March, 1975, 19th November, 1976*

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Excise (Safety Matches) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—
“safety matches” means matches which will ignite only on being rubbed on a specially prepared friction surface;
“normal working hours” means in relation to a factory the hours during which a factory is normally open for the purpose of manufacture or delivery of safety matches.

Application for licence to manufacture

3. An application for a licence to manufacture safety matches shall be made to the Comptroller in the form as approved by the Comptroller and shall be accompanied by the following drawings and particulars:—

- (a) a plan and sectional elevation of the factory building;
- (b) the name and situation of the factory;
- (c) the material of which the factory is constructed;
- (d) the number of flats or storeys in the building or buildings;
- (e) the number of rooms in each storey and for what purpose each room or storey is intended to be used; and
- (f) the number and position in relation to the principal building of the factory, of any detached buildings used, or proposed to be used, as part of the factory together with the number of rooms in each detached building.

(Amended by Regulations 19th November, 1976.)

Marking of factory

4. Every factory shall be marked conspicuously on the outside to the satisfaction of the Comptroller with the words "Excise Factory", followed by the official number of the factory allotted by the Comptroller.

Description and numbering of rooms

5. Every room shall be described and bear such number as the Comptroller may allocate.

Securing of factory

6. Every factory and part thereof shall be secured in such manner and by such fastenings as may be approved by the Comptroller.

Manufacturer to give notice of proposed normal working hours

7.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice to the Comptroller of the proposed normal working hours.

(2) Except with the prior permission of the Comptroller the factory shall not be open for manufacturing or delivering safety matches at any time other than the normal working hours notified to the Comptroller.

(3) Where a factory is permitted to be open for manufacturing or delivering safety matches at a time other than the normal working hours the manufacturer shall pay to the Comptroller the overtime charges specified in regulation 25 in respect of the services of any officer employed in the factory during such time.

Notice of process of manufacture

8.—(1) Before first beginning to manufacture in any factory the manufacturer shall give notice of the names of the chemicals to be used in the intended process of manufacture to the Comptroller or an officer deputed by him and shall not alter the chemicals used in the process without prior notification to the Comptroller or such officer.

(2) Any manufacturer who uses chemicals in any process of manufacture other than those notified to the Comptroller in accordance with the provisions of this regulation shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred dollars.

Materials store

9. Every manufacturer shall provide a secure store-room or store-rooms to be known as materials stores in his factory, or such other place as the Comptroller may approve and under such conditions as he may direct, in which all materials used for the manufacture and packing of safety matches shall be stored immediately after they have been received, and every door of such stores shall be provided by the manufacturer with a secure lock, the key of which shall be kept by him, and with a different lock supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf. If the materials stores are fitted with windows these must be secured to the satisfaction of the Comptroller. (*Amended by Regulations 7th May, 1963.*)

Product stores

10.—(1) The manufacturer shall provide a secure room or rooms in his factory to be known as the product stores in which all safety matches manufactured in the factory shall be placed or stored before delivery therefrom.

(2) Every door of such stores shall be provided by the manufacturer with a secure lock, the key of which shall be kept by him, and with a different lock supplied by the Comptroller at the expense of the manufacturer, the key of which shall be kept by an officer authorised by the Comptroller in that behalf. If the product stores are fitted with windows these shall be secured to the satisfaction of the Comptroller.

Removal from materials store or product store

11.—(1) No manufacturer shall remove or cause to be removed any goods from any materials store or product store of a factory without the permission of the Comptroller or of an officer authorised by the Comptroller in that behalf.

(2) Any manufacturer who removes, or causes or permits to be removed, any materials or goods otherwise than in accordance with the provisions of this regulation shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding two months or to both such fine and imprisonment and all materials or goods in respect of which any such offence shall be committed shall be forfeited.

Marking or labelling of boxes

12. The manufacturer shall mark or label all boxes containing safety matches with—

- (a) the words "Made in Fiji" or words approved by the Comptroller indicating that the goods have been made in Fiji; and
- (b) any other particulars which may be approved or required by the Comptroller;

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of safety matches packed for export.

(*Proviso inserted by Regulations 23rd June, 1964.*)

Packing and contents of boxes

13. All safety matches manufactured in a factory shall be packed in the manner in which they are ordinarily sold retail and shall be packed in boxes containing not more than sixty safety matches.

Marking of outside packages

14. The manufacturer shall mark the outside of any package which contains boxes of matches with—

- (a) the factory number and the words "Made in Fiji" or other words approved by the Comptroller indicating that the goods have been made in Fiji; and
- (b) the number of boxes of safety matches contained therein:

Provided that the Comptroller may vary or waive the requirements of this regulation in respect of safety matches packed for export.

(Proviso inserted by Regulations 23rd June, 1964.)

Storage and disposal of waste materials

15.—(1) Waste materials arising from the manufacture of safety matches shall be stored in a place made secure to the satisfaction of the Comptroller and may be destroyed or disposed of in such manner as the Comptroller may from time to time direct.

(2) Any manufacturer who stores or causes or permits to be stored or destroys or disposes of or causes or permits to be destroyed or disposed of any waste materials otherwise than in accordance with the provisions of this regulation shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment and all waste materials in respect of which any such offence shall be committed shall be forfeited.

Destruction of waste materials

16.—(1) Any manufacturer who intends to destroy any waste materials shall give notice in writing to the Comptroller of his intention and shall not commence the destruction of such waste materials until the expiration of forty-eight hours after the giving of such notice.

(2) Waste materials shall be destroyed—

- (a) by burning in the presence of an officer; or
- (b) by any other method approved by the Comptroller.

Materials stock book

17. Every manufacturer shall keep a materials stock book in the form approved by the Comptroller and shall enter daily therein—

- (a) the quantity and description of materials to be used for the manufacture of safety matches received into the factory;
- (b) the quantity and description of materials removed from the materials store;
- (c) any other particulars which may be required by the Comptroller.

Delivery book

18.—(1) Every manufacturer shall keep a delivery book in the form approved by the Comptroller and shall enter therein—

- (a) the number and description of boxes of safety matches delivered from the product stores;
- (b) the number and description of boxes of safety matches manufactured;

- (c) the number and description of boxes of safety matches packed into outside packages;
- (d) any other particulars which may be required by the Comptroller.

NIL entries to be made

(2) Except on Saturdays, Sundays and Public Holidays and on days which the factory remains closed NIL entries shall be made in the delivery book wherever such an entry is applicable by reason of no safety matches having been delivered from the factory for any purpose. (Amended by Regulations 13th May, 1968.)

Only one book of one type to be kept

19.—(1) Where any book is required to be kept under the provisions of these Regulations in respect of occurrences at a factory, only one such book of the type required in respect of each product shall be kept in current use in any one factory.

Balancing of books

(2) The materials stock book and the delivery book shall be balanced in such manner and for such periods as may be approved by the Comptroller.

Returns

20.—(1) The manufacturer shall furnish to the Comptroller a return made up to the close of the last day of each month during which the factory is at any time open or to such other period as the Comptroller may determine and verified by a declaration in the form set out below—

“I/We hereby declare that the foregoing entries relating to the period from _____ to _____ are true and correct in every particular and that no matter or thing required to be stated has been omitted therefrom.

Declared at _____ this _____ day of _____, 19____.
before: _____
(Manufacturer)

_____ *(Officer)”*.

(2) The return specified in paragraph (1) shall show—

- (a) the quantity and description of chemicals and other materials to be used for the manufacture and packing of safety matches received into the factory;
 - (b) the quantity and description of chemicals and other materials used in the manufacture and packing of safety matches;
 - (c) the number of boxes and description of safety matches manufactured in the factory;
 - (d) the number of boxes and description of safety matches delivered for home consumption;
 - (e) the number of boxes and description of safety matches delivered for export; and
 - (f) such other particulars as the Comptroller may require.
- (3) The return specified in paragraph (2) shall be sent to the Comptroller as soon as possible and in any case not later than the seventh day of the month next

following or such other time as the Comptroller may allow, together with all due but unpaid excise duty.

Removal certificate

21. Before any safety matches may be removed from the product store the manufacturer shall complete a removal certificate in the form as approved by the Comptroller. (*Amended by Regulations 19th November, 1976.*)

Safety matches product stores

22.—(1) Not less than one gross boxes of safety matches shall be removed from the product stores at any one time.

(2) No safety matches shall be returned to the factory after having been removed from the product stores.

Bond for export

23. Before any safety matches are removed from the product stores for export the manufacturer shall enter into such bond in respect of excise duty as the Comptroller may require.

Power of Comptroller in special cases

24. Notwithstanding anything contained in these Regulations the Comptroller may, by writing under his hand, allow such deviations from the provisions of these Regulations as he may consider necessary, and subject to such conditions as he may direct, to meet the exigencies of any case to which these Regulations may not be conveniently applicable, and any contravention of any such conditions shall be deemed to be a breach of these Regulations and any offender shall incur a penalty of one hundred dollars for each and every contravention and in addition any goods by means of which, or in relation to which, the contravention has been committed, shall be forfeited.

Overtime and pay for supervision of destruction of waste materials

25.—(1) Whenever, for the purpose of carrying out any provision of the excise laws, it is necessary for any officer to attend at any time outside working hours, the manufacturer concerned shall pay in respect of each such officer a charge calculated at the following rates in respect of that attendance:—

(a) for any time worked on Sundays or Public Holidays, \$2.50 cents for each hour or portion of an hour; and

(b) for any time worked outside the usual working hours on any other days, \$1.90 cents for each hour or portion of an hour:

Provided that in respect of the attendance of any officer at any time on Saturdays, Sundays or Public Holidays and between the hours of 2000 and 0600 hours on any weekday, a minimum charge equivalent to the charge for three hours attendance shall be made.

(2) Notwithstanding the provisions of paragraph (1), where in the opinion of the Comptroller it is necessary for an officer to attend solely for the purpose of supervising the destruction of waste materials the manufacturer shall pay for such supervision at the rate of two dollars per hour or part thereof.

(*Regulation amended by Regulations 10th March, 1975.*)

Penalty for breach of regulation 4

26. Any manufacturer who fails to comply with the provisions of regulation 4 shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding twenty dollars.

Penalty for breach of regulations 12, 13, 14, 16, 17, 18, 19, 20, 21 and 22

27. Any manufacturer who contravenes or fails to comply with the provisions of regulations 12, 13, 14, 16, 17, 18, 19, 20, 21 and 22 shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

Penalty for breach of regulations 6, 7 (2), 8, 9 and 10

28. Any manufacturer who contravenes or fails to comply with the provisions of regulations 6, 7 (2), 8, 9 and 10 shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

SECTION 84—EXCISE (OVERTIME) REGULATIONS

Made by the Minister

Short Title

1. These Regulations may be cited as the Excise (Overtime) Regulations.

Normal hours of duty of excise officers

2. The normal hours of duty of excise officers shall be—

(a) Monday to Thursday 8.00 a.m. to 1.00 p.m.
2.00 p.m. to 4.30 p.m.

Friday 8.00 a.m. to 1.00 p.m.
2.00 p.m. to 4.00 p.m.; or

(b) at the discretion of the Comptroller in the case of any excise officer thirty-seven hours at other times between Monday and Friday in any one week.

SECTION 87—EXEMPTION

Notice 19th Dec., 1966 [in force 18th Nov., 1966].

Made by the Governor

Fiji Sugar Corporation Limited has been exempted from—

1. (a) the provisions of section 9 and 17 of the Act, to the extent that those provisions require payment of excise duty on any sugar delivered by the manufacturer to an exporter for export from Fiji; and

(b) the provisions of subsection (2) of section 19 and sections 36 and 45 of the Act.

2. The exemption conferred by sub-paragraph (a) of paragraph 1 is subject to the conditions that—

(a) it shall apply only in respect of sugar delivered by the manufacturer to an exporter approved for the purposes of such exemption by the Comptroller; and

(b) the manufacturer shall, within 21 days of the close of each month, deliver to the Comptroller, in such form as may be approved by him, an account of all such sugar delivered during the month, and shall subscribe a declaration at the foot of such account that all of the particulars contained therein are correct.

3. The exemption conferred by sub-paragraph (b) of paragraph 1 is subject to the conditions that—

(i) no sugar may be delivered from any factory or warehouse of the manufacturer for consumption within Fiji except with the written permission of the Comptroller which permission shall not be granted unless each such delivery is accompanied by a delivery certificate in such form as may be approved by the Comptroller in accordance with all the requirements applicable to certificates issued under the provisions of section 32 of the Act; and

(ii) the manufacturer shall, within 21 days of the close of each month, deliver to the Comptroller, in such form as may be approved by him, an account of all sugar delivered for consumption within Fiji during the month and shall at the same time pay all excise duty which has become due on such sugar, and shall subscribe a declaration at the foot of such account that all the particulars contained therein are correct.

Controlled by Ministry of Finance