

Statutory Instrument No. 12 of 1987

**REVISION OF THE LAWS ACT,
(Act 15 of 1984)
RECTIFICATION OF THE LAWS ORDER, 1987
(Published on 30th January, 1987)**

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Rectification of Act No. 23 of 1987

IN EXERCISE of the powers conferred on the Laws Revision Commissioner by section 10 of the Revision of the Laws Act, 1984, the following Order is hereby made —

1. This Order may be cited as the Rectification of the Laws Order, 1987.
2. The errors in the Customs and Excise Duty (Amendment) (No. 2) Act as printed in the Extraordinary Gazette of the 31st December, 1986, are hereby rectified by the substitution of pages A78, A79 and A80 by the following new pages A78, A79 and A80 —

- ” shall be jointly and severally liable for sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on all the sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 concerned, any one paying, the other or others to be absolved *pro tanto*;
- (ii) include in a special customs and excise warehouse licence issued under this Act in respect of the premises of any manufacture of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 any warehouse, depot, agency, branch or other storage place approved by the Director and in which any such goods owned by such manufacturer are stored, and thereupon such goods so stored shall, for the purposes of this act, be deemed to be in the licensed special customs and excise warehouse of such manufacturer, and the licensee concerned shall be liable as such in all respect for compliance with the requirements of this Act and for the sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods so stored.
 - (iii) in such circumstances as he may deem expedient, license the premises of any dealer in sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 as a special customs and excise warehouse under the provisions of this Act, and thereupon such dealer shall comply with the requirements of this Act relating to the collecting of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods.
 - (iv) make such temporary or permanent adjustment to the sales duty value of any sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 as he may deem reasonable in circumstances which are in his opinion exceptional.

(3) Sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in Botswana by any natural person for his own use and not for sale or disposal and in circumstances which in the opinion of the Director do not constitute a business venture, may, subject to such conditions as he may impose in each case, be exempt by the Director from the payment of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 thereon.

(4) Sales duty goods or excisable goods specified in Section B of Part 2 Schedule No. 1 manufactured in Botswana by any person or any class or kind of such goods, may, subject to such conditions as the Minister may impose, be exempt by the Director from payment of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 thereon if —

- (a) the average value for sales duty purposes or for excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods has during such period or periods as the Minister may determine, not exceeded such amount as the Minister may determine; or
- (b) the value for sales duty purposes or for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods is in the opinion of the Director not likely to exceed the amount referred to in paragraph (a) during one calendar year; or
- (c) such circumstances as may be prescribed by regulation apply.”

6. Section 45 of the principal Act is hereby amended —

(a) by the substitution for subsection (10) of the following new subsection:-

“(10) The manufacturer, owner, seller or purchaser of any excisable goods or sales duty goods shall, subject to the provisions of Part VII, be liable for the duty on such goods, and his liability shall continue until such goods have been duly entered and the duty due thereupon paid.”;

(b) by the renumbering of paragraphs (11), (12) and (13) as paragraphs (12), (13), and (14) respectively; and

(c) by the insertion after subsection (10) of the following new subsection:-

“(11) Notwithstanding anything to the contrary in this Act contained, any person who owns, purchases, removes, receives, takes, delivers or deals with or in any imported or excisable goods which should have been duly entered, in terms of any agreement, for home consumption in any territory with the government of which such an agreement has been concluded under section 53, shall be liable for the duty on such goods brought into Botswana from such territory, and if the question arises whether such goods have been duly entered for home consumption it shall be presumed, unless the contrary is proved, that such goods have not been so entered, and such goods shall be subject to the provisions of this Act as if they were goods which have, contrary to the provisions of subsection 49A(1), not been duly entered for home consumption in Botswana.”

Amendment
of section
45 of the
principal
Act

Amendment
of section
49 of the
principal
Act

7. Section 49 of the principal Act is hereby amended by the addition of the following new subsection —

“(11) Notwithstanding the provisions of subsection (10), any determination made under subsection (9) (a) following an inspection of the books or documents of any importer or manufacturer, shall be deemed to have come into operation, in respect of the goods in question entered for customs and excise purposes, two years prior to the date on which the inspection commenced.”

Amend-
ment of
section 57 of
the principal
Act

8. Section 57 of the principal Act is hereby amended —

(a) by the substitution for subsection (2) of the following new subsection:

“(2) The Minister may, in respect of any class or kind of imported goods on which a provisional charge has been imposed under section 59, so amend Schedule No. 2 —

(a) with effect from the date from which that provisional charge has been imposed; or

(b) with effect from a date not more than three months prior to the date with effect from which that provisional charge has been imposed if he is satisfied that —

(i) such goods have been dumped, as contemplated in subsection (3), repeatedly, and have caused material injury to an established industry in Botswana; or

(ii) the importer should have been aware that the exporter is so dumping and such dumping would cause such injury and the Minister is of the opinion that the dumping operates to such an extent in such quantities and for such short period that in order to prevent such dumping, he deems it necessary so to amend Schedule No. 2”;
and

(b) by the addition to paragraph (b) of subsection (3) of the following new subparagraph:-

(iii) the highest comparable price for identical or comparable goods when exported from any other territory to Botswana in the ordinary course of trade; or”

Amendment
of section
70 of the
principal
Act

9. Section 70 of the principal Act is hereby amended —

(a) by renumbering paragraph (8), (9), (10) and (11) as paragraph (9), (10), (11) and (12) respectively;

(b) by the insertion of the following new subsection after subsection (7):-

“(8) Notwithstanding the provisions of subsection (7), any determination made under subsection (5) following an inspection of the books or documents of any importer shall be deemed to have come into operation in respect of the

MADE this 21st day of January, 1987.

E.W.M.J. LEGWAILA,
Acting Law Revision Commissioner.

L2/7/161 III