

**CUSTOMS AND EXCISE DUTY (AMENDMENT) (NO. 2)  
ACT, 1994**

No. 9



of 1994

**ARRANGEMENT OF SECTIONS**

**SECTION**

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**An Act to amend the Customs and Excise Duty Act**

*Date of Assent: 01.07.94*

*Date of commencement: 08.07.94*

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Customs and Excise Duty (Amendment) (No. 2) Act, 1994.

Short title

2. Section 5 of the Customs and Excise Duty Act (hereinafter referred to as "the Act") is amended by inserting, immediately after subsection (3) thereof, the following new subsection —

Amendment  
of section 5  
of Cap. 50:01

"(3A) (1) Notwithstanding the provisions of subsection (3), the Director may from time to time by notice in the Gazette, publish a list of the names of persons in respect of whom a penalty of P10 000.00 or more has been imposed under section 97 for offences referred to in section 86, 88, 89, 90 or 92.

(2) Any list published in terms of subsection (1) shall specify —

- (i) the name and address of any person whose name has been included in such list,
- (ii) such particulars of the offence referred to in subsection (1) as the Director may think fit, and
- (iii) the amount of the penalty imposed."

Amendment of section 37 of the Act

3. Section 37 of the Act is amended by substituting, for subsection (1) thereof, the following new subsection —

“(1) Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1 and every owner of excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured by him partly or wholly from materials owned by such owner, shall license his premises as a special customs and excise warehouse for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 in terms of the provisions of this Act, and no such manufacturer or owner shall manufacture or deal in or with excisable goods specified in Section B of Part 2 of Schedule No. 1 unless he has so licensed his premises :

Provided that the Director may, in his discretion, and to the extent he deems fit, exempt, on the conditions imposed by him in each case, any such manufacturer or owner from the requirements of this Act.”

Amendment of section 46 of the Act

4. Section 46 of the Act is amended in subsection (1) by deleting the words “for home consumption” wherever they appear therein.

Amendment of section 51 of the Act

5. Section 51 of the Act is amended by substituting, therefor, the following new section —

“Prohibition of certain acts in respect of certain goods not duly entered 51. (1) Subject to the provisions of this Act, no person shall remove, receive, take, deliver or deal with or in any imported or excisable goods unless such goods have been duly entered.

(2) If an officer discovers any imported or excisable goods which are alleged to have been duly entered, in terms of any agreement, in any territory with the government of which Botswana has concluded such an agreement in terms of section 55, and he has reasonable cause to believe that such goods have not been so entered, he may detain such goods, and such goods shall thereupon be presumed, unless the contrary is proved, not to have been so entered and shall be subject to the provisions of this Act as if they were goods which have, contrary to the provisions of subsection (1), not been duly entered in Botswana.”

Amendment of section 74 of the Act

6. Section 74 of the Act is amended —

(a) in subsection (1) (a) thereof, by substituting, for the words “on rail” which appear therein, the words “any vehicle”;

(b) in subsection (1) (c) (iii) thereof, by substituting, for the words “on rail” which appear therein, the words “any vehicle”; and

(c) in subsection (3) thereof, by deleting, therefrom, the words “(1)(b)” which appear therein.

Amendment of section 81 of the Act

7. Section 81 of the Act is amended, in subsection (9) thereof, by deleting the words “as the Director may in his discretion determine, during such period of two years as the Director may determine” which appear therein.

8. Section 86 of the Act is amended in subsection (1) thereof, by substituting, for subparagraphs (i) and (n) thereof, the following new subparagraphs —

Amendment of section 86 of the Act

“(i) claims or receives any rebate, drawback, refund or payment or sets off any amount in terms of the provisions of section 83(1) to which he knows he is not entitled under this Act;

(n) contravenes the provisions of section 17(13), 17A(9), 19(7), 35(4), 64(1), 81(9), 81(22), 94(1), 120 or 121(6); or”.

9. The Act is amended by inserting, immediately after section 87 thereof, the following new section —

Insertion of new section 87A in the Act

“Prohibition with regard to stamps

87A. (1) Any person who without lawful excuse (the onus of proof of which shall be upon him) uses, or has under his control or in his possession, any stamp or makes available to another person any stamp —

(a) which is used in the Office under the authority of the Director;

(b) the imprint of which is identical to or resembles the imprint of a stamp referred to in paragraph (a) or of any stamp used by a governmental authority in a foreign country under any law of such country relating to customs or excise or to the import or export of goods,

shall be guilty of an offence and liable on conviction to a fine not exceeding P20 000.00 or to imprisonment for a term not exceeding five years or to both such fine and such imprisonment.

(2) Any person who without lawful excuse (the onus of proof of which shall be upon him) manufactures or has in his possession or under his control any stamp the imprint of which depicts the name of a company, firm or other business entity in a foreign country, or any signs or letters which could be reasonably understood to be a reference to such company, firm or business entity, shall be guilty of an offence and liable on conviction to a fine not exceeding P20 000.00 or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.”

10. Section 94 of the Act is amended in subsection (1) by inserting, immediately after paragraph (b) thereof, the following new paragraph —

Amendment of section 94 of the Act

“(bA) No person shall remove any ship, vehicle, material or goods from any place where it was detained or from a place of security determined by an officer, magistrate or member of the police force.”

11. Section 120 of the Act is amended —

Amendment of section 120 of the Act

(a) in subsection (1) by deleting paragraph (f) thereof;

(b) by substituting, for subsection (10) thereof, the following new subsection —

“(10) (a) An officer may, for the purposes of any law other than this Act or at the request of a member of the police force or the authority administering such law, detain any goods while such goods are under customs control.

(b) Such goods may be so detained where they are found or shall be removed to and stored at a place of security determined by such officer.

(c) No person shall remove any goods from any place where they were so detained or from a place of security determined by an officer.

(d) Any goods so detained may be released by the Director to the Botswana Police, the authority administering such law or the importer.” ; and

(c) by deleting subsection 12 thereof.

PASSED by the National Assembly this 24th day of June, 1994.

T.G.G.G. SEELETSO,  
*Clerk of the National Assembly.*