

MALAWI GOVERNMENT

(Published 24th August, 2018)

Act

No. 26 of 2018

I assent

PROF. ARTHUR PETER MUTHARIKA
PRESIDENT
20th August, 2018

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of s. 2 of Cap. 42:01
3. Amendment of s. 63 of the principal Act
4. Amendment of s. 64 of the principal Act
5. Amendment of s. 65 of the principal Act
6. Amendment of s. 65A of the principal Act
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8. Amendment of s. 77 of the principal Act
9. Insertion of s. 94A into the principal Act

An Act to amend the Customs and Excise Act

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Customs and Excise (Amendment) Act, 2018, and shall come into operation on 1st July, 2018.

Short title
and
commence-
ment

2. The Customs and Excise Act (hereinafter referred to as the "principal Act") is amended, in section 2, by inserting therein, in the correct alphabetical order, a new definition of the word "excisable services" as follows—

Amendment
of section 2
of Cap. 42:01

““excisable services” means any services in respect of which the full excise duties have not been paid.”.

Amendment of
s. 63 of the
principal Act

3. Section 63 of the principal Act is repealed and replaced with the following new section 63—

“Minister may
make
regulations

63. The Minister may make regulations providing for—

(a) the manufacture and disposal of excisable goods;

(b) the materials which may, or may not, be used in such manufacture;

(c) the type, fitting, pattern, installation and placement of all premises, machinery, utensils, pipes and receptacles used in such manufacture;

(d) the provision or supply of excisable services;

(e) notices which the holder of an excise licence must give to the proper officer in respect of his intended operations; and

(f) the method of taking account of excisable goods or services,

and different regulations may be made in respect of different excisable goods or services or in respect of different premises.”.

Amendment
of s. 64 of the
principal

4. Section 64 of the principal Act is repealed and replaced with the following new section 64—

“Excise licence

64. Except as otherwise provided in the customs laws, no person shall manufacture any excisable goods or provide or supply any excisable services either in whole or in part unless authorized by, and in accordance with the conditions of, a valid excise licence issued by the Commissioner General:

Provided that no such licence shall be required by—

(a) a private individual in respect of excisable goods, other than spirits, manufactured by him for his own use or for the use of his family and not for sale or disposal for profit; or

(b) a person authorized by the Commissioner General to manufacture excisable goods for experiment purposes and not for sale or disposal for profit subject to such conditions as the Commissioner General may direct.”.

5. Section 65 of the principal Act is amended by—

Amendment
of s. 65 of the
principal Act

(a) repealing subsection (3) and replacing therefor the following new subsection (3)—

“(3) An excise licence shall specify the class or classes of excisable goods or services to which it refers.”;

(b) repealing subsection (5) and replacing therefor the following new subsection (5)—

“(5) Every excise licence shall expire on the 31st of December, next following the date of issue and the licence fee for each excise licence shall be such sum as prescribed in the regulations either generally or in respect of any excisable goods or services separately.”; and

(c) repealing subsection (9) and replacing therefor the following new subsection (9)—

“(9) The Commissioner General shall cause the serial number of every excise licence, the name and address of the licensee and the class of excisable goods such licensee is licensed to manufacture or the class of excisable services such licensee is licensed to provide or supply, to be published in the *Gazette*, at such intervals each year as may be expedient.”.

6. Section 65A of the principal Act is repealed and replaced therefor with the following new section 65A—

Amendment
of s. 65A of
the principal
Act“Renewal of
Licences

65A — (1) A licensee shall, not later than 30 days before the expiry of his or her licence, apply to the Commissioner General for the renewal of the licence in accordance with this Act.

(2) The Commissioner General shall either approve or reject such application, within 30 days from the date of receiving the application.

(3) Where the Commissioner General does not comply with subsection (2), the applicant may elect to treat the Commissioner General as having renewed the licence.

(4) A licensee shall, upon expiry of his or her licence, immediately cease to manufacture any excisable goods or to provide or supply excisable services, unless his or her licence has been renewed.

(5) Any person who contravenes subsection (4) shall be liable to a penalty of K200,000.”.

Amendment of
s. 76 of the
principal Act

7. Section 76 of the principal Act is amended by repealing subsection (1) and replacing therefor the following new subsection (1)—

“(1) Subject to the provisions of this Act, excise duty shall be due and payable—

(a) in the case of excisable goods, immediately upon the removal of excisable goods from the excise warehouse; or

(b) in the case of excisable services, immediately upon the provision or supply of the excisable services.”

Amendment of
s. 77 of the
principal Act

8. Section 77 of the principal Act is repealed and replaced therefor with the following new section 77—

“Excise return
and payment
of excise duty

77.—(1) Unless otherwise directed, in writing, by the Commissioner General, a licensee shall account for excise duty each calendar month on a correct and legible excise return or declaration.

(2) The return or declaration shall be in the prescribed form and shall—

(a) state the amount of excise duty payable for the tax period;

(b) have such additional copies thereof as may be required; and

(c) have the copies of the sheets or pages of the stock book and other records specified in section 75 (5),

in respect of the month to which the payment of duty refers.

(3) In addition to any return or declaration required under subsection (2), the Commissioner General may require any person, whether a licensee or not, to submit, whether on that person's own behalf or as agent or trustee of another person, to the Commissioner General such further or other return or declaration in the prescribed form, as and when such further or other return or declaration in the prescribed form as and when required by the Commissioner General for the purposes of this Act.

(4) A return or declaration shall be submitted to the Commissioner General not later than the twentieth day of the month, immediately following the month to which the return or declaration relates.

(5) Upon application, in writing, by a licensee, the Commissioner General may, where good cause is shown by the licensee, extend the period in which a return or declaration is to be submitted.

(6) The payment of excise duty due in the tax period shall be made to the Commissioner General not later than the twentieth day of the month, immediately following the tax period to which the return or declaration relates.

(7) A licensee directed to make his return or declaration other than in accordance with subsection (4), shall be informed of the date by which the return or declaration and payment shall be made to the Commissioner General.”.

9. The principal Act is amended, by inserting a new section 94A, immediately after section 94, as follows—

Insertion of
s. 94A into
the principal
Act

“Manner of
paying duty
and other
payments

94A.—(1) A person chargeable with duty or any payment under this Act shall pay the duty chargeable or the payment—

(a) at any bank approved for this purpose by the Commissioner General;

(b) at any tax office; or

(c) in any other manner as the Commissioner General may prescribe.

(2) Where the person pays duty or any payment at a bank in accordance with subsection (1), he shall notify the tax office, where the person is registered, of that payment.

(3) The person referred to in subsection (1) shall pay duty or any payment in one of the following forms—

(a) if the duty or payment is made at a tax office, in cash or bank certified cheque made payable to the Commissioner General; or

(b) if the duty or payment is made through a bank, in cash, by bank certified cheque payable to the Commissioner General or by direct account transfer into an approved bank account for the Authority.

(4) Where the person purports to have made a payment towards duty or any payment that is ineffective, the Commissioner General may use all available powers to recover the duty or payment.”

Passed in Parliament this twenty-ninth day of May, two thousand and eighteen.

FJONA KALEMBA
Clerk of Parliament