

CUSTOMS AND EXCISE DUTY ACT  
(Cap. 50:01)

AMENDMENT OF SCHEDULE (NO. 8) NOTICE, 2003  
(Published on 6th June, 2003)

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by sections 52 and 53 of the Customs and Excise Duty Act, the Schedules to the Act are proposed to be amended to the extent set out in the Schedule below.

Schedule No. 6 to the Act

REBATE ITEM	TARIFF ITEM	CODE	C D	DESCRIPTION	EXTENT OF REBATE	EXTENT OF REFUND
609.25				By the insertion after rebate item 609.24 of the following:		
609.25	105.10	01.05	52	Petroleum and other goods liable to excise duty as specified in item 105.10 of Section A of Part 2 of Schedule No.1 which, after entry or deemed entry for home consumption and payment of duty as contemplated in section 18 and its rules and removal from any customs and excise manufacturing warehouse by the licensee of such warehouse, are found to be off specification or have become contaminated and are returned to such a warehouse for reprocessing or destruction, subject to compliance with the Notes hereto.		As provided in the Notes hereto

NOTES:

1. **Definitions and application of provisions**

- (a) The refund provided for in this item is subject to the provisions of section 81(11A).
- (b) For the purposes of this item, these Notes and section 81(11A), unless the context otherwise indicates —

'BLNS country' or 'any other country in the common customs area' means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;  
'refund' as provided in this item means the amount of excise duty

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that may be set off against the amount of excise duty payable on the monthly petroleum excise account of a licensee of a customs and excise manufacturing warehouse on complying with these Notes and the rules for section 18;

'set-off' means a set-off of duty contemplated in section 83 that is refundable in terms of this item.

## 2. Limitation

For the purposes of any refund in terms of this item, goods which are off specification or have become contaminated may only be returned to a customs and excise manufacturing warehouse for reprocessing or destruction where the excise duty together with the fuel levy amounts to not less than UA25 000 on any quantity found to be off specification or which became contaminated on a single occasion within a period of six months after removal from such warehouse and such goods are returned within one month after expiry of such period.

## 3. Procedures and set-off against monthly accounts

- (a) The licensee of the customs and excise manufacturing warehouse in which such goods will be reprocessed or destroyed must apply to the Director for such reprocessing or destruction stating the circumstances in which the goods became, and the extent to which the goods are, off specification or contaminated.

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				<p>(b) If the Director approves the application, any goods returned shall be:</p> <p>(i) kept intact and entirely separate from any other goods or materials until they have been examined and identified by an officer; and</p> <p>(ii) (aa) transferred to and mixed with stocks of materials for reprocessing under supervision of an officer; or</p> <p>(bb) destroyed under supervision of an officer.</p> <p>(c) The licensee of the customs and excise manufacturing warehouse to which such goods are returned for reprocessing or destruction must keep a record which includes at least the following:</p> <p>(i) a detailed description of the goods received including the applicable tariff item;</p> <p>(ii) the quantity received;</p> <p>(iv) the name or registered business name (if any) and the physical address of the person who returned the goods concerned.</p> <p>(d) (i) Whenever any goods which are off specification or contaminated are returned to a customs and excise manufacturing warehouse, an officer shall, before reprocessing</p>		

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				<p>or destruction commences, take representative samples and submit them to the Director for-</p> <p>(aa) a technical analysis to establish the composition; and</p> <p>(bb) tariff determination in accordance with the characteristics of the goods established by such analysis.</p> <p>(ii) The costs of taking the samples and the analysis shall be paid by the licensee.</p> <p>(iii) Where any goods returned for reprocessing or destruction are found on analysis to contain any proportion of other goods, the quantity returned must be reduced by the proportion of such other goods before calculating the excise duty refundable in terms of this item.</p> <p>4. (a) For the purposes of section 81(11A), the licensee of the customs and excise manufacturing warehouse must produce proof of the excise duty paid or payable on the goods returned for reprocessing or destruction in accordance with the provisions of this item and, if the licensee is unable to produce such proof, the</p>		

REBATE ITEM	TARIFF ITEM	CODE	C D	DESCRIPTION	EXTENT OF REBATE	EXTENT OF REFUND
				<p>duty on any quantity so returned, shall be calculated at the lowest rate of excise duty levied in terms of this Act on such goods during the month prior to the date of the examination contemplated in Note 3(b)(i).</p>		
				<p>(b) The licensee of the customs and excise manufacturing warehouse may, after reprocessing and on accounting for the goods reprocessed in the monthly petroleum excise account or after destruction, set off the amount of duty duly refundable in terms of this item against the amount of payable in respect of any such goods as declared on any such account during a period of two years after receipt of the goods for reprocessing or destruction.</p>		
				<p>(c) Where the rate of duty payable on any goods accounted for on the petroleum excise account differs from the rate as contemplated in paragraph(a) on the goods so returned an appropriate adjustment must be made to the total amount payable on such petroleum excise account in respect of the set-off contemplated in paragraph (b).</p>		
				<p>(d) Where any such goods are so returned to such warehouse from any BLNS country the excise duty leviable thereon is refundable in terms of the provisions of this item.</p>		

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5. Where any goods from which any deduction from the dutiable quantity has been allowed as contemplated in section 81(18) are returned to a customs and excise manufacturing warehouse for reprocessing or destruction as provided in this item, the licensee must add the quantity so allowed in respect of the goods returned to the dutiable quantity for the accounting month in which the goods were processed or destroyed.

609.26	105.10	01.05	54	Petroleum and other goods liable to excise duty as specified in item 105.10 of Section A of Part 2 hereto of Schedule No.1, which after entry or deemed entry for home consumption and payment of duty by the licensee of a customs and excise manufacturing warehouse as contemplated in section 18 and its rules are removed by the licensee of such warehouse and delivered to another such manufacturing warehouse, subject to compliance with the Notes hereto.		As provided in the Notes
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**NOTES:**

**1. Definition and application of provisions**

(a) The refund provided for in this item is subject to the provisions of section 81(11A).

(b) For the purposes of this item, these Notes and section 81(11A), unless the context otherwise indicates –

'refund' as provided in this item means the amount of excise duty that may be set off against the amount

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of excise duty payable on the monthly petroleum excise account of a licensee of a customs and excise manufacturing warehouse on complying with these Notes, the rules for section 18 and any regulation regulating the movement of goods to which this item relates;

'set-off' means a set-off of duty contemplated in section 83 that is refundable in terms of this item;

'storage warehouse' means a customs and excise storage warehouse contemplated in regulation 18 .

**2. Set-off against monthly account in respect of the goods removed as contemplated in the item**

- (a) The removal of such goods shall be subject to such conditions and procedures as the Director may prescribe by regulation.
- (b) Where such goods are removed to a customs and excise manufacturing or storage warehouse by the licensee of a customs and excise manufacturing warehouse, such licensee may, where proof of delivery to such manufacturing or storage warehouse has been obtained as prescribed in the regulations, set off the excise duty paid or payable on the goods so delivered against the excise duty payable in respect of

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				any such goods as declared in the petroleum excise account for any accounting month during a period of two years after the date any prescribed document was processed in respect of such removal.		
				(c) (i) For the purposes of section 81(11A), the licensee of such manufacturing warehouse must produce proof of the excise duty paid or payable on such goods so delivered to such a manufacturing or storage warehouse and if the licensee is unable to produce such proof the excise duty on any quantity of goods so delivered must be calculated at the lowest rate of excise duty levied in terms of this Act on such goods during the month prior to the date on which any prescribed document was processed in respect of the removal of the goods concerned to such manufacturing or storage warehouse.		
				(ii) Where the rate of duty payable on any goods accounted for on the petroleum excise account differs from the rate as contemplated in subparagraph (i) on the goods so delivered an appropriate adjustment must be made to the total amount payable on such		

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petroleum excise  
account in respect  
of the set-off  
contemplated in  
paragraph (b).

609.27	105.10	01.05	56	Petroleum and other goods liable to excise duty as specified in item 105.10 of Section A of Part 2 of Schedule No.1 which, after entry or deemed entry for home consumption and payment of duty by a licensee of a customs and excise manufacturing warehouse, as contemplated in section 18 and its regulations are exported (including supply as stores for foreign-going ships), subject to compliance with the Notes hereto.		
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**NOTES:**

**1. Definition and application of provisions**

- (a) The refund provided for in this item is subject to the provisions of section 81(11A).
- (b) For the purposes of this item, these Notes and section 81(11A), unless the context otherwise indicates —

'refund' as provided in this item means the amount of excise duty that may be set off against the amount of excise duty payable on the monthly petroleum excise account of a licensee of a customs and excise manufacturing warehouse on complying with these Notes, the regulations regulating the movement of goods to which this item relates;

'set-off' means a set-off of duty contemplated in section 83 that is refundable in terms of this item.

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**2. Set-off against monthly account in respect of the goods exported as contemplated in the item**

- (a) The export of such goods shall be subject to such conditions and procedures as the Director may prescribe by regulation.
- (b) Where such goods are exported by the licensee of a customs and excise manufacturing warehouse, such licensee may, where proof of such export has been obtained as prescribed in the regulations, set off the excise duty paid or payable on the goods so exported against the excise duty payable in respect of any such goods as declared in the petroleum excise account for any accounting month during a period of two years after the date any prescribed document was processed at the Customs Office in respect of such export.
- (c) (i) For the purposes of section 81(11A), the licensee of such manufacturing warehouse must produce proof of the excise duty paid or payable on the goods so exported and if the licensee is unable to produce such proof the excise duty on any quantity of goods so exported must be calculated at the lowest rate of excise

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				<p>duty levied in terms of this Act on such goods during the month prior to the date on which any prescribed document was processed at the Customs Office in respect of such export.</p> <p>(ii) Where the rate of duty payable on any goods accounted for on the petroleum excise account differs from the rate as contemplated in subparagraph (i) on the goods so exported, an appropriate adjustment must be made to the total amount payable on such petroleum excise account in respect of the set-off contemplated in paragraph (b).</p> <p>(d) The provisions of this item and these Notes shall apply <i>mutatis mutandis</i> where any licensee of any customs and excise manufacturing warehouse obtains such goods from a licensee of another such warehouse for export.</p>		
609.28	105.10	01.05	58	<p>Fuel eligible to excise duty which, As provided after entry or deemed entry for home consumption and payment of duty by a licensee of a customs and excise manufacturing warehouse as contemplated in section 18 and its rules is obtained from stocks of such licensee and exported (including supply as stores for foreign-going ships) by a licensed distributor contemplated in section 68, subject to compliance with the Notes hereto.</p>		in the Notes hereto"

REBATE ITEM	TARIFF ITEM	CODE	C D	DESCRIPTION	EXTENT OF REBATE	EXTENT OF REFUND
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**NOTES**

**1. Definitions**

For the purposes of this item, these Notes and section 81(11A), unless the context otherwise indicates –

‘any other country in the common customs area’ as referred to in section 68, means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;

‘fuel’ means, as defined in part in section 68, any goods classifiable in any item of Section A of Part 2 of Schedule No.1 liable to excise duty, used as fuel;

‘refund’ means a refund of excise duty in respect of fuel.

**2. Requirements in respect of refunds**

(a) The refund provided for in this item is subject to the provisions of section 81(11A).

(b) Any application for a refund of excise duty in terms of this item shall be subject to compliance with –

(i) section 68 and its regulations;

(ii) rule 18 4.04 *mutatis mutandis* and any other regulation regulating the export of goods to which the item relates.

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				<p>(c) (i) Any load of fuel obtained from the licensee of a customs and excise manufacturing warehouse must be wholly and directly exported by the licensed distributor in order to be considered for a refund of duty.</p>		
				<p>(ii) A refund shall only be payable on quantities actually exported.</p>		
				<p>(d) For the purposes of section 81(11A), the licensed distributor must produce in support of every refund claim proof from the licensee of the customs and excise manufacturing warehouse of the rate of duty paid or payable in respect of the fuel obtained from such licensee for the purposes specified in this item.</p>		
				<p>(c) If the licensed distributor is unable to produce such proof, the duty on any quantity of goods so exported must be calculated at the rate of excise duty levied in terms of this Act on such goods during the month prior to the date on which any prescribed document was processed at the</p>		

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Customs Office  
in respect of the  
removal of such goods  
from stocks of the  
licensee of the customs  
and excise manufac-  
turing warehouse  
for export by the  
licensed distributor  
claiming a refund of  
duty under the  
provisions of this item.

(a) By the substitution for Note 7 under Part 1 of the following:

"7. Except where the Director authorises on good cause shown payment of a refund of duty granted in terms of any item of this Part to any other person on complying with such conditions as the Director may reasonably impose in each case, such refund shall be paid only to –

- (a) the manufacturer of the goods or the person who paid the duty thereon on entry for home consumption; or
- (b) the licensed distributor in accordance with the provisions of section 68, item 609.28 and the regulations for section 68."

(b) By the substitution for Note 5 under Part 3 of the following:

"5. Except where the Director authorises on good cause shown payment of a refund of duty granted in terms of any item of this Part to any other person on complying with such conditions as the Director may reasonably impose in each case, such refund shall be paid only to –

- (a) the person who purchased and used the goods concerned for the purpose specified in such item; or
- (b) the licensed distributor in accordance with the provisions of section 68, items 650.03 or 650.04 and the regulations for section 68."

**Schedule No. 8 to the Act**

I Item	II Licence	III Licence Fee	IV Period of Validity
845.00	By the insertion after item 840.02 of the following:		
"845.00	Licensed Distributor of Fuel	UA 200	From the effective date until 31 December of the year in which it was Issued"

MADE this on the 19th day of May, 2003.

**B. GAOLATHE,**  
*Minister of Finance and  
Development Planning.*