

I assent.

**D. J. G. ROSE**

Governor-General.

22nd July, 1969.

ACT NO. 13 OF 1969.

CONSUMPTION TAX ACT, 1969.

Arrangement of Sections.

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**SCHEDULE**

AN ACT to provide for the imposition of a Consumption Tax on goods imported into Guyana or manufactured therein, for the collection and enforcement of such tax, and for matters incidental thereto or connected therewith.

[26th July, 1969]

A.D. 1969

Enacted by the Parliament of Guyana:—

Short title  
and com-  
mencement.

1. This Act may be cited as the Consumption Tax Act, 1969 and shall be deemed to have come into operation on the 1st May, 1969.

Interpreta-  
tion.

2. (1) In this Act unless the context otherwise requires —

“chargeable goods” means such goods as may be specified in an order of the Minister made under section 4 of this Act;

“goods” has the same meaning as in the Sale of Goods Ordinance;

“manufacturer” means a person who carries on in Guyana a business of manufacturing goods and includes a person who in Guyana manufactures goods for use in or in connection with a business carried on by him but for the purposes of this definition the making up of drugs to a formula prescribed by reference to the needs of a parti-

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cular patient shall not be regarded as the manufacture of goods;

“manufacturing goods” means making goods or applying any process in the course of making goods;

“materials” means, in relation to a manufacturer, goods to which some process is applied by him by way of business in the course of the making of goods, or which are used by him as aforesaid as parts of or accessories for the goods made;

“prescribed” means prescribed by regulations made under this Act;

“the Minister” means the Minister for the time being charged with responsibility for finance;

“registered” means registered under this Act,

“registration” shall be construed accordingly, and

“holder of a certificate of registration” means the holder of a certificate of registration which is in effect for the time being;

“tax” means consumption tax chargeable by virtue of this Act.

- (2) Without prejudice to the generality of any definition in this Act, any treatment of goods which affects the goods or their get-up and which results in the goods becoming chargeable goods or becoming goods in respect of which tax is chargeable at a higher rate shall be deemed for all the purposes of this Act to be the application of a process in the course of making such goods.

In this subsection the reference to get-up includes a reference to marking, labelling, packing or any other treatment adopted for identifying goods or presenting goods to the user or consumer.

- (3) For the purposes of this Act, a person shall be deemed to make goods, or to apply a process, if the goods are made or the process is applied, by another person to his order under any form of contract.
- (4) If it appears to the Comptroller of Customs and Excise (hereinafter referred to as the Comptroller) necessary for the protection of the revenue that for any class of goods the difference should be defined for the purposes of tax between cases where the carrying out of an operation amounts to a process of manufacture and cases where it constitutes no more than the repair, maintenance or alteration of the goods to which it is applied, he may, in writing, specify as respects any class of goods the cases in which specified kinds of operations are to be treated

for those purposes as processes applied in the course of making goods.

- (5) Any reference in this Act or in any other law (whether enacted or made before or after the enactment of this Act) to a rate of tax expressed as a percentage shall, unless the context otherwise requires, be construed as a reference to a rate amounting to that percentage of the value of the goods in question.
- (6) Any reference in this Act to any other enactment shall, unless the context otherwise requires be construed as a reference to that enactment as amended by any subsequent enactment, including this Act.

### PRELIMINARY

3. (1) Subject to and in accordance with the provisions of this Act and any regulations made thereunder there shall be raised, levied and collected at such rate as the Minister may determine, by order made under section 4 of this Act, a consumption tax in respect of any chargeable goods imported into Guyana or manufactured therein, except chargeable goods imported or acquired as materials for, and used as such by, a registered manufacturer.

(2) The tax, subject as aforesaid, shall be due and collected in relation to—

- (a) imported chargeable goods as if the tax were an import duty imposed upon such goods under the Customs Ordinance, and
- (b) chargeable goods manufactured in Guyana at the time of the delivery of the goods from the premises of the registered manufacturer or the appropriation of such goods for consumption in Guyana, whichever is the earlier.

(3) Where tax is chargeable on any goods by reference to their value that value shall—

- (a) if the goods are imported into Guyana be the aggregate of
- (i) the value of the goods as determined under the Customs Ordinance;
  - (ii) the amount of any customs duty payable pursuant to that Ordinance in respect of those goods.
- (b) if the goods are manufactured in Guyana, be the price which in the opinion of the Comptroller the goods would fetch on a sale made at the time when the tax in respect of such goods becomes due by a manufacturer selling on the open market in Guyana, if the sale were made in the circumstances specified in the schedule to this Act.

Charge and  
management  
of tax.

Cap. 309.

Cap. 309.  
Schedule.

(4) The tax shall be under the care and management of the Comptroller, who may do all such acts as may be deemed necessary and expedient for raising, collecting, receiving and accounting for the tax in the like and as full and ample a manner as he is authorised to do in relation to any duties under his care and management.

4. (1) The Minister may, by order, with reference to any goods or particular class of goods, whether in relation to any particular circumstances or otherwise, impose, revoke, increase or reduce any tax: Power of Minister to impose tax.

Provided that the person who would have been liable to pay tax but for the revocation thereof by any such order shall deposit with the proper officer the tax payable immediately prior to the coming into operation of that order:

Provided further that where any tax is reduced by any such Order, the person liable to pay the reduced tax shall pay such reduced tax and in addition shall deposit with the proper officer the difference between the tax payable immediately prior to the coming into operation of that order and the tax payable thereunder, until the order expires or is confirmed, amended or revoked as is hereinafter provided.

(2) Any order made under this section may take effect from a date earlier than the date on which the order is published in the Gazette, not being a date prior to the commencement of this Act.

5. (1) Every order made under section 4 shall, within twenty-one days from the date of its publication, be laid before the National Assembly, and the National Assembly may by resolution confirm, amend or revoke such order and upon publication of the resolution of the National Assembly in the Gazette, the resolution shall have effect and the order shall then expire. If the order be not laid within the said period or twenty-one days before the National Assembly it shall *ipso facto* expire. Order to be confirmed, amended or revoked.

(2) In reckoning for the purposes of subsection (1) of this section any period of days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the National Assembly is adjourned for more than seven days.

## REGISTRATION

6. (1) Subject to the provisions of this section and of section 9 of this Act, the following persons shall be registered under this Act, that is to say:— Registration of manufacturers.

- (a) every manufacturer whose business includes the disposal of chargeable goods manufactured by him;
- (b) every manufacturer who appropriates or applies to use in or in connection with a business carried on by him chargeable goods manufactured by him:

Provided that the Minister may, by order, exempt very small business from registration by reference to minimum sales of chargeable goods or to such other criteria as he may decide, and may adopt different criteria for different classes of chargeable goods.

(2) A manufacturer who is not required by subsection (1) of this section to be registered shall be registered if he satisfies the Comptroller in the prescribed manner that he uses chargeable goods in substantial quantities as materials.

Applications  
for Registration.

7. (1) Every person carrying on business in such circumstances that he is required under subsection (1) of section 6 of this Act to be registered shall forthwith make an application for registration in the prescribed form to the Comptroller.

(2) Where a manufacturer who is by virtue of an order made under the proviso to subsection (1) of section 6 of this Act not for the time being registered becomes aware, or has reasonable cause for believing, that such a change in the circumstances of his business has occurred as to render that order no longer applicable to him, he shall forthwith give information to the Comptroller of the change.

Duties of  
Comptroller  
with regard  
to registration.

8. (1) The Comptroller shall, subject to the provisions of section 9 of this Act, register every person who is required by this Act to be registered, and on registering any such person shall, subject to the provisions of this section, issue to him a certificate of registration.

(2) Where a person who is registered ceases to be required by this Act to be registered, the Comptroller shall cancel his registration.

(3) Not less than fourteen days before registering a person (otherwise than in accordance with an application for registration made by him) or cancelling the registration of a registered person (otherwise than with his assent under subsection (1) of the said section 9), the Comptroller shall serve notice on him of his intention to register him or to cancel the registration, as the case may be.

(4) The Comptroller may, where it appears to him to be requisite for the security of the revenue to do so, impose as a condition of issuing a certificate of registration to a registered person or of the continuance in effect of such a certificate issued to such a person—

- (a) a requirement that he shall give security up to an amount and in a manner approved by the Comptroller for the payment of the tax for which he may be or become accountable; or
- (b) a requirement that he shall make representations as being the holder of a certificate of registration only in such circumstances or as respects such classes of goods as the Comptroller may from time to time direct,

or both of those requirements.

(5) The fact that a person who is required to be registered is by virtue of any provision of this section not for the time being entitled to a certificate of registration shall not be treated as derogating in any respect from the effect of that requirement.

9. (1) If in the case of any manufacturer who, apart from any exercise of the power conferred on the Comptroller by this subsection, is required by subsection (1) of section 6 of this Act to be registered, the Comptroller is satisfied, on a comparative estimate of — Cases in which registration may be withheld.

- (a) the amount of the tax which, apart from any exercise of the said power, will become chargeable by virtue of deliveries by him as being a person required by this Act to be registered, and of appropriations such as are mentioned in subsection (2) of section 3 of this Act made by him as being a person so required; and
- (b) the amount of the tax which, if he is not registered will become chargeable by reason of the fact that the provisions of this Act relating to the tax as to acquisitions or importations for a registered person as materials will not in that event apply to him.

that the latter amount will on the average be not less than the former, the Comptroller may, if he is not already registered, refrain from registering him so long as the Comptroller is so satisfied, or if he is already registered, cancel his registration, and thereafter refrain from registering him so long as the Comptroller is so satisfied.

(2) Any estimate of the amount of tax chargeable in any circumstances to be made by the Comptroller for the purposes of subsection (1) of this section shall, as regards goods the valuation of which is to be assessed *ad valorem*, be made in the manner hereinbefore provided by subsection (3) of section 3 of this Act.

(3) As respects any period during which the Comptroller refrains under this section from registering a person who would otherwise be required by subsection (1) of section 6 of this Act to be registered, that person shall be treated for the purposes of this Act (other than subsection (2) of the said section 6) as being a person not required to be registered.

### GENERAL PROVISIONS AS TO CHARGE OF TAX

10. (1) Subject to the provisions of this section, when a person ceases to be required by this Act to be registered, he shall remain liable in respect of any chargeable goods then in his ownership, being goods in respect of which tax has not already been paid. Tax on goods of persons ceasing to be registered.

(2) Payment of tax due by such a person shall, subject to any conditions the Comptroller may impose for the purpose of protecting the revenue, be deferred for such period as the Comptroller may allow having regard to the said purpose and to the time when tax in respect of the goods might have been expected to become payable if the person accountable for the tax had continued to be required to be registered; and if that person satisfies the Comptroller that any of the goods have been delivered to a registered person as materials or exported or shipped as stores by him within the period so allowed, or within any further period which the Comptroller may allow, the tax chargeable under this section in respect of the goods delivered or exported or shipped as stores shall be remitted or, if it has been paid, shall be repaid.

(3) While any tax for which a person is accountable by virtue of this section remains unpaid, any regulations for the time being in force under section 22 of this Act shall apply to him as if he were a registered person.

Representations as to the purpose of an acquisition or importation.

11. (1) An acquisition shall be deemed, for the purposes of this Act, to be an acquisition of goods by a registered manufacturer as materials if a representation is made to the supplier in the prescribed manner and at the prescribed time by the manufacturer that he is the holder of a certificate of registration issued under this Act, and that he intends to use the goods as materials and not otherwise.

(2) Imported goods shall be deemed for the purposes of this Act to be imported for a registered manufacturer as materials if the Comptroller is satisfied, on a representation to that effect made to him in the prescribed manner and at the prescribed time by a person claiming to be the holder of a certificate of registration, that he is the holder of such a certificate and that he intends to use the goods as materials.

(3) Notwithstanding the foregoing provisions of this section, the Comptroller may, subject to such conditions as he may impose, allow a manufacturer to make representations for goods not being materials and any goods so obtained shall be deemed to be an acquisition or importation, as the case may be, for the purposes of this Act.

(4) Where by virtue of any of the foregoing provisions of this section chargeable goods are, in consequence of such a representation as is mentioned in those provisions, deemed to be acquired or imported as therein mentioned, the Comptroller may from time to time require the person by whom the representation was made to account for the goods, and in any such case, unless that person proves that he has used the goods in accordance with the purposes for which the representation was made or the goods are otherwise accounted for to the satisfaction of the Comptroller, the tax which, if the goods had not been deemed to be acquired or imported as aforesaid, would have



been payable under subsection (2) of section 3 of this Act by virtue of their acquisition or importation shall be deemed to have become payable on the making of the requirement and shall be recoverable from the person by whom the representation was made.

(5) If any person for the purposes of subsection (1) or subsection (2) or subsection (3) of this section falsely represents that he is a holder of a certificate of registration, the amount of any tax which would have been chargeable in respect of the acquisition or importation in question if the representation had not been made to the supplier, or had not been acted upon by the Comptroller, as the case may be, shall be recoverable from that person in like manner as if it had been chargeable and he had been accountable for it, without prejudice to any punishment to which he is liable under section 25 of this Act.

12. Any question whether goods lacking in certain parts, accessories or processes are to be regarded as complete chargeable goods for the purposes of this Act and as such liable to tax shall be determined by the Comptroller. Incomplete goods.

### RELIEFS FROM TAX

13. No tax shall be payable on any chargeable goods manufactured in Guyana and shipped as stores or exported by the registered manufacturer thereof in circumstances that had such goods been, or if so, subject to duties of customs, the provisions of the Customs Ordinance or the regulations made thereunder, applicable to goods exported exbonded warehouse, would apply. Relief for exported goods.  
Cap. 309.

14. Tax proved to have been paid under this Act in relation to chargeable goods shall be subject to drawback in like manner as are duties of customs so subject under the provisions of the Customs Ordinance or the regulations made thereunder. Drawback.  
Cap. 309

15. (1) If a manufacturer proves to the satisfaction of the Comptroller that he has used as materials for goods in respect of which tax is payable or has been paid by him, goods on which tax was paid on a previous occasion at a time when he was not the holder of a certificate of registration the Comptroller may remit payment of the first-mentioned tax, or if it has been paid may repay it, up to an amount not exceeding the amount of the last-mentioned tax. Relief against double charge of tax.

(2) In subsection (1) of this section reference to cases where a person was not the holder of a certificate of registration include references to cases where, in pursuance of a requirement imposed on him under subsection (4) of section 8 of this Act a person refrained from making a representation to obtain goods without payment of tax.

Tax on  
goods lost  
may be  
remitted.

16. (1) If any chargeable goods are lost or destroyed by unavoidable accident before delivery from the premises of a registered manufacturer or in shipping them for exportation or for use as stores, or in the course of delivery to any such premises, the Comptroller may remit the tax if satisfied that such goods have not been and will not be used or consumed in Guyana.

(2) If any registered manufacturer desires to destroy chargeable goods before they have been delivered from his premises, the goods may be destroyed subject to any directions which may be given by the Comptroller and upon their destruction as aforesaid the tax thereon shall be remitted.

### COLLECTION AND ENFORCEMENT

Records,  
accounts,  
information  
etc.

17. (1) Every person who is required by this Act to be registered shall keep such records and accounts in such form, and shall preserve them for such period, as the Comptroller may require, and shall produce them for inspection by any officer or other person authorised in that behalf by the Comptroller at such time and at such place as that officer or person may require.

(2) Every person concerned with the purchase, receipt, disposal or importation of goods, or with the application to goods of any process of manufacture, or with dealings with imported goods, shall furnish to the Comptroller, in such form and manner and within such time as he may direct, such information relating to the goods, or to the purchase, receipt, disposal or importation of them, or to the application of any process of manufacture to them, as he may specify, and shall upon demand made by any officer or other person authorised in that behalf by the Comptroller, produce any books or accounts or other documents of whatever nature relating thereto for inspection or for the making of copies of or extracts therefrom by that officer or person at such time and place as that officer or person may require.

Application  
of Customs  
enactments  
to charge-  
able goods.

18. For the purposes of the administration, collection, enforcement, remission and refund of the tax the provisions of the Customs Ordinance (other than section 23 thereof) and, except where the contrary intention appears, any other law relating to customs generally, whether enacted or made before or after the commencement of this Act, shall, in so far as they are not inconsistent with the provisions of this Act or regulations made thereunder, have effect, with such exceptions and adaptations as may be prescribed, in relation to chargeable goods, whether liable to duties of customs or not, as if all such goods were liable to duties of customs, and as if those duties included tax chargeable under this Act.

Payment  
of tax  
chargeable.

19. Tax becoming due otherwise than by virtue of paragraph (a) of subsection (2) of section 3 of this Act shall be accounted for and paid in accordance with regulations made under this Act.

20. (1) Where an amount is due from any person on account of tax, but by reason of his failure to keep or to produce or furnish to the proper officer the accounts, records or other documents required by or under this Act, or to take or permit to be taken any other step which he is so required to take or permit to be taken, or by reason of the accounts, records or other documents kept, produced or furnished being materially incomplete or inaccurate, the Comptroller is unable to ascertain the amount of tax properly due from him, the Comptroller may estimate the amount of tax due.

Recovery  
of tax on  
Comptroller's  
estimate.

(2) Where an estimate of the amount of tax due from any person has been made under subsection (1) of this section, then (without prejudice to the recovery of the full amount due or to the making of a further estimate in that behalf) the amount estimated shall be recoverable as tax properly due unless in any action relating thereto the person liable proves the amount properly due, and that amount is less than the amount estimated.

21. Where any person who is accountable for any tax, or on whom any duties are imposed by or under this Act is not resident in Guyana, the Comptroller may by notice in writing served on any agent, manager or factor, who is resident in Guyana and has acted on behalf of that person in the matters by reference to which that person is accountable or those duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax, or that he shall be under an obligation to discharge those duties or any of them.

Substitution  
of agent  
etc., for  
person not  
resident in  
Guyana.

22. (1) The Minister may make regulations providing for any matter for which provision appears to him necessary for the purpose of giving effect to the provisions of this Act and of enabling the Comptroller to discharge his functions thereunder and in particular, but without prejudice to the generality of the foregoing —

Regulations.

- (a) for the payment and collection of tax;
- (b) for requiring security for the payment of tax;
- (c) for requiring importers, exporters, manufacturers, or any person concerned in the importation, exportation or manufacture of goods to furnish to the Comptroller within such time and in such form as he may require such information relating to such goods or any dealings therewith as he may specify, and to produce for inspection any books or accounts, or other documents of whatever nature relating thereto;
- (d) for regulating the manner and conditions under which chargeable goods may be dealt with by importers and manufacturers in the course of their business;
- (e) for prescribing anything which by this Act is required or authorised to be prescribed.

(2) Any regulation may in addition to any other penalty prescribed by this Act for a breach thereof provide for the levying of

distress upon, or the seizure or forfeiture of, any chargeable goods or the machinery or means used in the manufacture of or conveyance of such goods.

(3) Regulations made under this section shall be laid before the National Assembly within twenty-one days after they are made, and if the National Assembly, within the period of thirty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, they shall be thereby annulled and the regulations so annulled shall thenceforth become void and of no effect but without prejudice to the validity of anything previously done under the regulations or to the making of new regulations.

(4) In reckoning for the purposes of subsection (3) of this section any period of days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the National Assembly is adjourned for more than seven days.

Deficiency  
and excess  
in stock.

23. (1) If any registered manufacturer fails to produce to any officer, on his request, any chargeable goods manufactured by him and not delivered or used and in respect of which tax has not been paid in accordance with the provisions of this Act, he shall immediately pay to the Comptroller the tax due on such goods not produced save and except in respect of any deficiency thereof which is shown to the satisfaction of the Comptroller to be due to leakage, evaporation or absorption.

(2) In addition to paying the tax on such goods not produced, the manufacturer shall incur a fine of treble the value of such goods, or five hundred dollars, whichever is the greater.

(3) If at any time the quantity of chargeable goods found on the premises of a manufacturer is in excess of the quantity which, according to the books of the manufacturer should be therein, all such quantity in excess shall be forfeited, and the manufacturer shall incur a fine equal to the value of the goods so found in excess, unless he furnishes an explanation to the satisfaction of the Comptroller.

Power to  
take  
samples.

24. (1) An officer may at any time take, from the goods in the possession of any person in the course of a business which includes the manufacture, receipt or disposal of chargeable goods, such samples as the officer may require with a view to determining how the goods or the materials of which they are made ought to be or ought to have been treated for purposes of tax.

(2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Comptroller may direct.

Offences

25. (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion by him or any other person, of tax in respect of any goods, he shall be liable to a fine of two thousand five hundred dollars or treble the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(2) If any person —

- (a) with intent to deceive, for the purposes of this Act or of regulations made thereunder, produces, furnishes, sends or otherwise makes use of, any book, account, estimate, return or other document, which is false in a material particular; or
- (b) in furnishing any information for the purposes of this Act or of regulations made thereunder, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular; or
- (c) with intent to deceive, counterfeits, or uses, or lends to, or allows to be used by, any other person, a certificate of registration issued under this Act, or makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive; or
- (d) for the purposes of section 11 of this Act makes a false representation as to his intention to use goods otherwise than as represented,

he shall be liable to a fine of two thousand five hundred dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) If any person acquires possession of or deals with any goods having reason to believe that tax chargeable in respect of them has been or will be evaded, he shall be liable to a fine of two thousand five hundred dollars or three times the amount of the tax, whichever is the greater.

(4) If any person fails to comply with —

- (a) any of the requirements of section 7 of this Act; or
- (b) any requirement imposed by or under section 17 or 24 or 27 of this Act; or
- (c) any requirement imposed by or under regulations made under section 22 of this Act,

he shall be liable to a fine of one thousand dollars, and a further fine of fifty dollars for each day during which he fails to fulfil the requirement after notice thereof in writing by the Comptroller has been served upon him.

26. (1) Subject to the provisions of section 252 of the Customs Ordinance any enactment which has effect in relation to penalties imposed or incurred, or any sums of money recoverable, under —

- (a) the Customs Ordinance; or
- (b) any enactment relating to the revenue of excise under the care and management of the Comptroller,

shall have effect in relation to a penalty imposed by or sum of money recoverable under this Act as if it had been imposed by, or recoverable under the said Ordinance or such an enactment as is mentioned in (b) above.

(2) An officer may at any time (but by night only in the company of a member of the police force attired in uniform) enter upon any premises which there is reasonable cause to believe to be used in connection with the carrying on of the business of a manufacturer of chargeable goods and examine and take account of the goods and examine and take copies of books, records and documents relating to such business as are found therein.

(3) If any officer, having demanded admittance into such premises is not immediately admitted, the manufacturer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one thousand dollars, and in any such case it shall be lawful for the officer or any person acting in his aid or assistance at any time by night or by day, to break open by force such of the doors or windows, or break through such of the walls, of any part of such premises as may be reasonably necessary for the purpose of entering such premises.

(4) Where any sum is owing by a manufacturer in respect of any tax or of any penalty incurred by him under this Act, all goods liable to tax, whether, or not that tax has been paid, and all materials for manufacturing or producing any such goods and all apparatus, equipment, machinery, tools, vessels and utensils for, or for preparing any such materials for, such manufacture or production, or by which the trade in respect of which the tax is imposed is carried on, which are in the possession or custody of that manufacturer or of any agent of his or of any other person on his behalf or which, whether or not still in such custody or possession, were in such custody or possession —

- (a) at the time when the tax was charged or became chargeable or at any time while it was owing; or
- (b) at the time of the commission of the offence for which the penalty was incurred,

shall be liable to be taken in execution in default of the payment of that sum.

(5) Nothing in the foregoing subsection shall authorise the seizure of anything sold for full and valuable consideration to a bona fide purchaser and delivered into his possession before the seizure or the issue of any warrant or process for distress:

Provided that where a seizure has been made pursuant to that subsection, the burden of proof that the thing so seized is by virtue of this subsection not liable to be seized shall lie upon the person claiming that it is not so liable.

(6) Where any tax payable by a manufacturer remains unpaid after the time within which it is payable, the proper officer may by warrant signed by him empower any person to distrain anything liable to be taken in execution under this section and to sell anything so distrained by public auction, after giving six days notice of the sale.

(7) The proceeds of sale of any such distress as aforesaid shall be applied in or towards payment of the costs and expenses of the distress and sale and in or towards payment of the tax due from the manufacturer and the surplus, if any, shall be paid to the manufacturer.

(8) The provisions of the Auctioneers Ordinance shall not apply to any sale by auction authorised by the provisions of this Act. Cap. 349.

27. A registered person shall —

- (a) provide and maintain such appliances and afford such other facilities reasonable necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that person;
- (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose;
- (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties.

Power to  
require  
provision  
of facilities  
etc.

## SCHEDULE

Section 3 (3) (b)

### DETERMINATION OF VALUE

1. For the purpose of computing the price which goods to be valued would fetch on such a sale as is mentioned in paragraph (b) of subsection (3) of section 3 of this Act, the following circumstances shall be assumed.

2. It shall be assumed —

- (a) that any commission or other costs, charges or expenses incidental to the making of the contract of sale are to be paid by the seller;
- (b) that the price is the sole consideration for the sale;
- (c) that neither the seller nor any person associated in business with him has any interest direct or indirect, in the subsequent re-sale or disposal of the goods; and
- (d) that there has not been and will not be any commercial relationship between the seller and the buyer whether created by contract or otherwise, other than that created by the sale.

3. (1) Where the goods to be valued are goods made in accordance with a patented invention or are goods to which a registered design has been applied, it shall also be assumed for the purpose of computing the price aforesaid that the buyer under the sale mentioned in paragraph (b) of subsection (3) of section 3 of this Act is not the patentee or the proprietor of the design and has not paid any sum or given any consideration by way of royalty or otherwise in respect of the patent or design and, on payment of the price, will be entitled to deal with the goods free from any restriction as regards the patent or design.

(2) Where the goods to be valued are goods consisting of or containing matter in which copyright subsists it shall also be assumed for the purpose of computing the price aforesaid that the buyer under the sale mentioned in paragraph (b) of subsection (3) of section 3 of this Act is not the owner of the copyright and has not paid any sum or given any consideration by way of royalty or otherwise in respect of the copyright and, on payment of the price, will be entitled to deal with the goods free from any restriction as regards the copyright.

4. Where the seller of goods to be valued —

- (a) is, or is associated in business with, the proprietor or a registered user of a trade mark registered in respect of the goods; or
- (b) could have sold them under such trade mark without infringing the right to the use of the trade mark given by the registration thereof,

it shall also be assumed, for the purpose of computing the price aforesaid that the sale mentioned in paragraph (b) of subsection (3) of section 3 of this Act is a sale under the said trade mark, unless it is shown to the satisfaction of the Comptroller that the goods to be valued have not at any time been, and security is given, to the satisfaction of the Comptroller, that they will not be, so sold by or on behalf of the seller or any person associated in business with him.

5. Where a particular form of get-up is used in Guyana by any person in relation to the goods of the class to which the goods to be valued belong, and the goods to be valued are the goods of that person, it shall also be assumed for the purpose of computing the price aforesaid that the sale mentioned in paragraph (b) of subsection (3) of section 3 of this Act is a sale of the goods got-up in that form unless it is shown to the satisfaction of the Comptroller that the goods to be valued have not at any time been and security is given, to the satisfaction of the Comptroller, that they will not be, so sold by or on behalf of the seller or any person associated in business with him.

6. For the purposes of this Schedule, two persons shall be deemed to be associated in business with one another if whether



directly or indirectly, either of them has an interest in the business or property of the other or both have a common interest in any business or property, or, some third person has an interest in the business or property of both of them.

*Passed by the National Assembly on the 26th of June, 1969.*

M. B. HENRY

*Acting Clerk of the National Assembly.*

(G. 580 III)

(Bill No. 13/1969)