

THE MERCHANDISE MARKS REGULATIONS

(under section 13 of the Act)

Date of commencement: 22nd April, 1937.

Detention of certain prohibited imports.

1. Goods prohibited to be imported, as having applied to them forged trade marks, false trade descriptions, or figures, letters, marks, names, words, or descriptions otherwise illegal, which upon examination may be detected by the officers of customs, are to be detained by them without the requirement of previous information.

Information to be given by informant.

2. In giving information with a view to detention, an informant shall —
- (a) give to the director of customs or a customs officer at the port of entry or expected importation, notice in writing, stating: the marks and numbers, or other descriptions sufficient for the identification of the packages and goods, the mode of conveyance, the manner in which the goods infringe the Act, and the expected day of the arrival of the goods; and
 - (b) deposit with the director of customs a sum sufficient in the opinion of that officer to cover any additional expense which may be incurred in the examination required by reason of his notice.

Delivery and detention of goods upon arrival and examination.

3. (1) If upon arrival and examination of the goods, the director of customs is satisfied that there exists no ground for their detention, they will be delivered.
- (2) If he is not satisfied, he shall detain the goods, as in a case of detention upon ordinary examination, or require security from the informant for reimbursing him or his officers all expenses and damages incurred in respect of the detention made on the information given and of any proceedings consequent thereon.

Security required.

4. (1) The security thus required must be an immediate *ad valorem* deposit of twenty rand per centum on the value of the goods as fixed by the officer from the quantities or value as shown by the entry (or as may be assessed on examination) and also subsequently a bond to be completed within four days in double such value of the goods with two approved sureties.

(2) The *ad valorem* deposit will be returned upon due completion of the bond, and need not be required to be made at all if, as an alternative, where time permits, the informant prefers to give a like bond, before examination, upon the estimated value of the goods declared to by him, under solemn declaration and approved by the director of customs.

(3) If the security is not duly given, as required by this regulation, the goods shall not be further detained.

Forms of notice of bond. (Schedule)

5. The notice and bond required by regulation 4 shall be in the forms contained in the Schedule or in such other form as the director of customs may direct.

When security to be returned.

6. The security lodged under these regulations shall be returned —

- (a) forthwith if given before examination, and no detention follows;
- (b) on completion or forfeiture if given on detention and the forfeiture is completed either by lapse of time or ultimate condemnation by a competent court;
- (c) on the expiry of three calendar months from —
 - (i) the time of detention of the goods where the security is given on detention and the forfeiture is not completed and the goods are released by the director of customs no suit having been commenced against him or any of his officers in respect of such detention;
 - (ii) the ultimate conclusion of the proceedings where the security is given on detention and the forfeiture is not completed but the goods are released for failure of proceedings taken under any provision of the Customs Act for the forfeiture and condemnation thereof, no suit having been commenced against the director of customs or any of his officers in respect of such detention;
- (d) on the ultimate conclusion of any suit commenced within the aforesaid periods and on the fulfilment of the purpose for which the security was given.

Importer required to make declaration in certain cases.

7. If on the examination or detention of goods imported into Swaziland, the officers of customs find that they bear trade descriptions or figures, letters or marks or names, or any words in any language calculated to lead to the belief that they were not manufactured in the country from which they were imported, unless the said description, etc. wherever they may be applied to the goods are also accompanied by definite statements in close proximity thereto, and in equally indelible, irremovable, and conspicuous form, indicating the country where they were really manufactured, then before delivery of the goods is made, the importer may be required to produce a declaration in writing, made before the British Consul at the port from which they have been imported by the shipper as to the country where the goods were really manufactured and if that be impracticable, the importer himself may be required to make before the director of customs or a customs officer at the port of importation into Swaziland a solemn declaration as to the country of manufacture, and if he fails to produce or make such declaration, the goods shall be taken to be the manufacture of the place or country from which they were imported and not of the country which the said descriptions, etc. indicate:

Provided that the officers of customs may avail themselves of the aid of experts to give evidence or to assist in verifying any evidence produced by the importers as to the country in which the goods were manufactured.

SCHEDULE

NOTICE

To THE OF CUSTOMS

I hereby give you notice that the following goods, that is to say:

Marks and Numbers	Number	Description of Packages and Goods	Values and Particulars necessary for Identification

are about to be imported into your port of entry on or about the day of 19 by from, and that the said goods are liable to detention and forfeiture under the Merchandise Marks Act, being

That, of, and, of, are prepared to be my sureties in any Bond required on detention of the said goods. And I request that the said goods may be detained and dealt with accordingly. I also herewith tender you the sum of ... , being rand per centum on the estimated value of the said goods as a deposit to cover any additional expense which may be incurred in the examination required by reason of this notice.

Dated this day of, 19, at

A. B.
(or Agent for)

BOND

(The Merchandise Marks Act No. 24 of 1937)

Know all men by these presents that we, and,

and _____, are held and firmly bound unto the Government of Swaziland of _____ to be paid to the Government of Swaziland. For which payment, well and truly to be made, we bind ourselves, jointly and severally, our heirs, executors, and administrators firmly by these presents.

Dated this _____ day of _____, in the year of our Lord One Thousand Nine Hundred and _____

Whereas the above _____, having by a notice dated the _____ day of _____, informed the Director of Customs or _____ of customs at _____, that the undermentioned goods, that is to say:

Marks and Numbers	Number	Description of Packages and Goods

were to be imported to the port of entry of _____ contrary to section 13 of the Merchandise Marks Act, and requested that the said goods should be detained and dealt with accordingly.

And whereas the said goods duly arrived at the said port of entry on the _____ day of _____ last by _____, and are now detained pursuant to the said notice: Now the condition of this obligation is such that if the said _____ his executor or administrators shall well and effectually indemnify, save harmless and keep indemnified the Government of Swaziland and its officers of customs and their administrators and executors from and against all loss or damage, payment or payments, and all costs or expenses that shall or may be sustained or incurred by reason or on account of any detention of the said goods following upon the information contained in such notice and against any proceedings consequent upon such detention, then this obligation shall be void, otherwise shall be and remain in full force and virtue.

Signed and delivered in the presence —

of _____
 and _____
 and _____
 this _____ day of _____

As witnesses: