

Customs Act

Passed 13 April 2004

[RT I 2004, 28, 188](#)

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Amended by the following Acts

Passing	Publication	Entry into force
16.01.2007	RT I 2007, 11, 50	18.02.2007
25.01.2007	RT I 2007, 16, 77	01.01.2008
14.02.2007	RT I 2007, 22, 113	15.06.2007
14.02.2007	RT I 2007, 22, 113	01.07.2009
10.06.2009	RT I 2009, 34, 224	01.01.2010
18.06.2009	RT I 2009, 36, 234	01.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
25.02.2010	RT I 2010, 11, 55	01.05.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date determined by the Decision of the Council of the European Union on abrogation of a derogation of the Republic of Estonia on the basis of Article 140(2) of the Treaty on the Functioning of the European Union, Council Decision No. 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
27.10.2010	RT I, 18.11.2010, 2	01.01.2011
17.02.2011	RT I, 21.03.2011, 1	01.01.2012
17.02.2011	RT I, 21.03.2011, 2	01.01.2012

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application

(1) Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50) (hereinafter the Community Customs Code), Commission Regulation 2454/93/EEC laying down provisions for the implementation of Council Regulation No.

2913/92/EEC establishing the Community Customs Code (OJ L 253, 11.10.1993, pp. 1–766) (hereinafter the Community Customs Code Implementing Provisions) and other Community legislation passed for the implementation of customs rules apply to trade between the Republic of Estonia (hereinafter Estonia) and countries and territories remaining outside of the European Community's (hereinafter the Community) customs territory (hereinafter non-Community countries), and to the rights, obligations and liability of a person engaged in such trade and of the customs authorities. This Act applies to issues not regulated by Community legislation.

(2) This Act also provides for the rights and obligations of the customs authorities and a person upon exercise, by the customs authorities, of state supervision of other prohibitions and restrictions, as well as for the liability for violation of the customs rules. Pursuant to Article 1 of the Community Customs Code, the customs rules shall consist of the Community Customs Code and the provisions adopted at Community level or nationally to implement them.

(3) Customs duties on import and export arising from Community legislation are provided for by Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 07.09.1987, pp. 1–675) (hereinafter the Community Customs Tariff). Relief from import duties is provided for by Council Regulation (EC) No. 1186/2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, pp. 23–57) (hereinafter the Community system of reliefs from customs duty). The provisions of Estonian tax laws apply where a tax other than import duty is imposed on the import of goods, provided that such provisions are not in contradiction with Community legislation.

[\[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

(4) The provisions of the Administrative Procedure Act apply to administrative proceeding prescribed by Community legislation, this Act and legislation issued on the basis of this Act, taking into account the specifications provided for by Community legislation and this Act.

(5) For the application of the customs rules, [the Government of the Republic or the Minister of Finance](#) have the right to establish, within the limits of their competence, legislation concerning matters which according to Community legislation are within the competence of a Member State.

§ 2. Basic definitions

(1) For the purposes of this Act, definitions are used within the meaning of the Community Customs Code and the Community Customs Code Implementing Provisions.

(2) For the purposes of this Act, an Estonian person is an Estonian sole proprietor; a legal person founded in Estonia; a foreign legal person whose permanent establishment is in Estonia; an Estonian state, rural municipality or city agency; and a representation of an international organization in Estonia.

(3) Personal effects are articles to be used or consumed on a journey by a traveller, except a commercial means of transport.

(4) A consignment consists of goods which are shipped by the same consignor at the same time from the same place of departure using the same commercial means of transport to the same consignee at the same place of destination.

(5) A commercial means of transport is a means of transport used for the carriage of persons for a charge, or for the carriage of goods for a charge or free of charge.

(6) A traveller is a natural person travelling from a non-Community country to Estonia or from Estonia to a non-Community country, regardless of what is the purpose of the journey.

(7) Risk assessment means analyzing information at the disposal of the customs authorities and, based on such information, assessment of an object as to the possibility of violation of the customs rules involving the object.

(8) Customs authorities means the Tax and Customs Board.

(9) A customs official is an official of the Tax and Customs Board who carries out customs formalities in the performance of his or her duties.

(10) Customs formalities are customs control and other operations which must be completed by the person concerned or the customs authorities in order to comply with the customs rules.

(11) A customs office means any structural unit of the Tax and Customs Board where all or some customs formalities can be carried out.

§ 3. Representation

(1) In compliance with Article 5(1) of the Community Customs Code, any person may appoint a representative in his dealings with the customs authorities. A representative must be an Estonian person, except in the case of lodging of declarations for transit or for temporary importation and in the case of persons who lodge declarations only occasionally, provided that the customs authorities consider this to be reasonable.

(2) In the case of indirect representation, the representative shall have a customs agency activity licence. The organizer of a customs auction is not required to have a customs agency activity licence.

(3) At the reasoned request of the customs authorities, a notarised authorization document shall be submitted by a representative.

§ 4. Customs agency

(1) A customs agency is an Estonian sole proprietor or a legal person founded in Estonia who deals with the customs authorities in connection with conveyance of goods from a non-Community country to Estonia or from Estonia to a non-Community country, and carries out customs formalities on behalf of another person in agreement with the latter.

(2) A customs agency shall provide security to the customs authorities.

(3) A customs agency shall operate through customs agents. A customs agent is a natural person who holds a corresponding certificate issued to him or her by the customs authorities.

§ 5. Customs agency activity licence

(1) A customs agency activity licence shall be issued and revoked by the customs authorities.

(2) The customs authorities shall refuse to issue a customs agency activity licence if the person fails to provide security which satisfies the customs authorities.

(3) If a customs agency fails to provide new security to the customs authorities at least five working days before the expiry of the security, the customs authorities shall suspend the customs agency activity licence on the day following the expiry of the security until the provision of security which satisfies the customs authorities. If the customs authorities have decided to increase the amount of security due to a person's failure to meet the terms specified in subsection 62(1) of this Act or because the person has been punished for an offence specified in subsection (2) of the same section, the customs authorities shall suspend the customs agency activity licence until the provision of security which satisfies the customs authorities.

[RT I 2007, 22, 113 – entry into force 15.06.2007]

(4) A customs agency activity licence shall be revoked on the basis of a written application of the customs agency or on the initiative of the customs authorities. The customs authorities shall revoke a customs agency activity licence if the customs agency fails to provide security which satisfies the customs authorities by the due date.

(5) The Minister of Finance shall establish, by a regulation, the procedure for the issue and revocation of customs agency activity licence and customs agent's certificate, and for the activities of customs agency.

§ 6. Decision of customs authorities

(1) If a person requested in writing a decision of the customs authorities for the implementation of the customs rules, the decision of the customs authorities shall be delivered to the person, according to the request, either by post, by the customs authorities or by electronic means within thirty days as of the receipt of the request, unless the customs rules prescribe a different term.

(2) The following information shall be included in a written decision of the customs authorities:

- 1) the name of the customs office that made the decision;
- 2) the name and position of the official who prepared the decision;
- 3) the name, number and date of the decision;
- 4) the name and postal address of the person with regard to whom the decision has been made;
- 5) the reason for the decision together with references to the corresponding provisions of the customs rules;
- 6) the applicable sanctions upon non-compliance with the decision;
- 7) the procedure for challenging the decision.

§ 7. Challenge of decisions and acts of customs authorities

A person has the right to file a challenge against a decision of the customs authorities or an act of a customs official. A challenge shall be filed and settled pursuant to the procedure for challenges provided for in the Taxation Act, taking into account the specifications provided for by Community legislation.

§ 8. Language of customs formalities

(1) Customs formalities shall be carried out in Estonian.

(2) In cases specified by the customs rules, customs formalities may be carried out in another language; whereas, the customs authorities have the right to request translation of additional

documents submitted together with the customs declaration. In justified cases, the customs authorities have the right to request submission of a translation attested by a notary or certified by a sworn translator.

§ 9. Performance of customs control

(1) The customs authorities shall perform all of the controls provided for in Article 13 of the Community Customs Code in adherence to the provisions of the customs rules concerning examination of goods to be placed under customs procedure.

[\[RT I 2007, 22, 113\]](#) – entry into force 15.06.2007]

(2) Upon controls of cash, the customs authorities shall apply the rules for customs control of goods. The definition “cash” is used in this Act within the meaning of Article 2(2) of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, pp. 9–12).

[\[RT I 2007, 22, 113\]](#) – entry into force 15.06.2007]

(3) For the performance of customs control and the establishment of circumstances, the customs authorities have the right to detain cash for up to 48 hours if a person has violated the obligation to declare cash provided for in Article 3 of the Regulation of the European Parliament and of the Council specified in subsection (2) of this section, or if the customs authorities have reason to believe that cash is related to money laundering or terrorist financing.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

§ 9¹. Ex-ante verification

(1) Before issuing authorizations prescribed by the customs rules, the customs authorities shall conduct an ex-ante verification, in the course of which the ability of the applicant to comply with the terms of the authorization applied for is assessed.

(2) The customs authorities shall prepare a written decision on the ex-ante verification. The decision on the ex-ante verification may also contain requirements or recommendations by the customs authorities for changes to be made in the organization of work of the applicant, including changes to be made in the accounting, reporting or internal rules.

[\[RT I 2007, 22, 113\]](#) – entry into force 15.06.2007]

§ 10. State supervision of prohibitions and restrictions

If a prohibition or restriction established by legislation is in force concerning trade between the Member States of the European Union, postal consignments moving between such states or goods carried by persons travelling from one Member State to another, and the customs authorities exercise supervision of compliance therewith, a customs official is authorized to exercise, upon performance of his or her duties, every right granted to him or her by Community legislation and this Act for the implementation of the customs rules if he or she has reason to believe, after assessing the risks involved, that such prohibition or restriction may be disregarded.

§ 11. Provision of information and forwarding of data by electronic means

(1) A person directly or indirectly involved in trade between Estonia and a non-Community country, or in the movement of postal consignments or travellers between such states shall submit to the customs authorities, at the request of and within a reasonable term set by the

customs authorities, documents needed for risk assessment, or shall forward the relevant data by electronic means and provide the customs authorities with free access to the data concerning goods, means of transport or travellers.

(2) If a prohibition or restriction established by legislation is in force concerning trade between the Member States of the European Union, postal consignments moving between such states, or goods carried by persons travelling from one Member State to another, and the customs authorities exercise supervision of compliance therewith, persons involved in trade between Estonia and other Member States, or in the movement of postal consignments or travellers from one Member State to another are obligated to provide information according to subsection (1) of this section.

(3) A responsible processor of national databases shall grant the customs authorities' access to the databases maintained by him or her if the data contained therein is necessary for risk assessment.

(4) [Repealed – [RT I 2007, 22, 113](#) – entry into force 01.07.2009]

§ 12. Customs control zone

(1) The customs control zone includes the territory of a port and of an airport open for international traffic, area of a railway station, and a border checkpoint, located on a road section, which the Director General of the Tax and Customs Board has, in agreement with the owner or lawful possessor thereof, designated for carrying out customs formalities.

(2) In the customs control zone it is prohibited, without the permission of the customs authorities, to unload goods from and load goods onto a means of transport, and to remove goods from the customs control zone before the required customs formalities have been completed.

§ 13. Goods under customs supervision

(1) Only procedures and transactions approved by the customs authorities may be performed with goods under customs supervision.

(2) If the customs authorities suspect unlawful removal of goods from customs supervision, the debtor is obligated to prove that the goods have not been unlawfully removed from customs supervision. If the debtor is unable to prove this, the goods shall be deemed to be unlawfully removed from customs supervision.

(3) In case of loss of or damage to goods under customs supervision, the possessor of the goods shall be obligated to notify the customs authorities thereof at the earliest opportunity and present evidence concerning the loss of or damage to the goods. If the presented evidence does not satisfy the customs authorities, the goods shall be deemed to be unlawfully removed from customs supervision.

Chapter 2

TAX AND CUSTOMS BOARD AND CUSTOMS OFFICIALS

§ 14. Duties of Tax and Customs Board upon implementation of customs rules

Upon the implementation of the customs rules, the Tax and Customs Board has the duty to protect the society and the economy by combating tax fraud and illicit trafficking, to collect taxes subject to payment upon import of goods, and to facilitate lawful trade between Estonia and non-Community countries.

§ 15. [Repealed – [RT I 2007, 22, 113](#) entry into force 15.06.2007]

§ 16. Co-operation of Tax and Customs Board with other authorities of executive power

(1) In the performance of its duties, the Tax and Customs Board shall co-operate with other authorities of the executive power pursuant to the customs rules and other legislation.

(2) The Tax and Customs Board shall co-ordinate the co-operation between other authorities of the executive power related to conveyance of goods from a non-Community country to Estonia and from Estonia to a non-Community country.

§ 17. Presentation of identification

In the performance of his or her duties, a customs official is required to present identification at the first request.

§ 18. Rights of customs official

In the performance of his or her duties, a customs official has the right:

1) to check the identity documents of a person and make copies thereof; to examine goods, a means of transport, a person and his or her personal effects; and to detain goods, a means of transport and a person in the cases and pursuant to the procedure provided by law;

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

2) to use technical and other means for preventing, combating and detecting violation of the customs rules, tax laws and the Taxation Act without infringing the constitutional rights of persons, and to perform surveillance activities pursuant to the procedure provided by law;

3) pursuant to the procedure prescribed by law, to enter, without hindrance, buildings and territories used by a person for the purposes of checking circumstances which indicate violation of the customs rules, tax laws or the Taxation Act;

4) to stop and check means of transport and goods contained therein, and also to check the documentation of the driver and of the means of transport, and the documents accompanying the goods, and if necessary, to prohibit the use of a means of transport;

5) to perform other operations of customs control prescribed by legislation.

§ 19. Special equipment and weapons

(1) [Repealed – [RT I 2010, 11, 55](#) entry into force 01.05.2010]

(2) [Repealed – [RT I 2010, 11, 55](#) entry into force 01.05.2010]

(3) [Repealed – [RT I 2010, 11, 55](#) entry into force 01.05.2010]

(4) The special equipment of the officials of the Tax and Customs Board includes:

- 1) a protective helmet;
- 2) an armour and another type of bullet proof vest;
- 3) handcuffs;
- 4) lighting and audio equipment;
- 5) painting and labelling devices for special purposes;
- 6) grenades and cartridges evoking smoke, sonic, light or other effect or tears or sensation of pain;
- 7) equipment for entering a building and a means of transport;
- 8) a special vehicle;
- 9) a service dog.

[\[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

(5) The weapons of the officials of the Tax and Customs Board include:

- 1) a truncheon;
- 2) a telescope truncheon;
- 3) gas weapons;
- 4) firearms.

[\[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

(6) In the performance of their duties, officials of the Tax and Customs Board have the right to use special equipment and weapons in the following cases:

- 1) for combating criminal attacks;
- 2) in detaining a person violating the customs rules, tax laws or the Taxation Act; in taking a detained person to the customs office or the police; and also in convoying if the person does not obey or offers resistance to the customs official, or if there is reason to believe that the person may escape or cause harm to other persons, to the surroundings or to himself or herself.

(7) In the performance of his or her duties and in order to ensure his or her own safety, an official of the Tax and Customs Board may use special equipment and weapons against a person violating the customs rules, tax laws or the Taxation Act based on the nature of the violation, the person and the particular situation. In using special equipment and weapons, harm to human health must be avoided insofar as this is possible in any given case.

(8) [The Government of the Republic shall establish, by a regulation](#), the procedure for carrying and keeping special equipment by officials of the Tax and Customs Board.

§ 20. Use of firearm

(1) An official of the Tax and Customs Board has the right to carry and use a firearm. An official has the right to use a firearm as an extreme measure in an emergency with prior warning if the performance of his or her duties is otherwise not possible without endangering life or health.

(2) A firearm may be used to:

- 1) combat a criminal attack which endangers the life and health of an official of the Tax and Customs Board or of another person;
- 2) disarm and detain an armed person;
- 3) force a means of transport, which has failed to respond to repeated orders to stop or is being pursued, to stop by shooting such part of the means of transport which does not

endanger human life;

4) kill an animal in the cases provided for in the Animal Protection Act;

5) hinder the escape of a person who is being convoyed or who is armed and being pursued.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

(3) It is prohibited to use a firearm:

1) against minors, the elderly or women with obvious signs of pregnancy, except in order to combat or prevent an armed or group attack by such persons or in order to disarm them;

2) in foreign diplomatic representations, consular posts, special missions and representations of international organizations, also against vehicles subject to diplomatic immunity, except with the consent of the heads of the representations or agencies or in the cases specified by international agreements;

3) in buildings where highly flammable or toxic substances or explosives are produced or stored, including substances which, as a result of the use of special equipment or firearms, may endanger the life or health of persons.

(4) An official of the Tax and Customs Board is required to notify the head of his or her structural unit immediately of any case in which a firearm has been used.

§ 21. Uniform of officials of the Tax and Customs Board

(1) When on duty, officials of the Tax and Customs Board shall wear a uniform in prescribed cases.

(2) [The Government of the Republic shall establish, by a regulation](#), the description of the uniform of officials of the Tax and Customs Board and the term of use for items belonging to such uniforms.

(3) [The Minister of Finance shall establish, by a regulation](#), the procedure for providing officials of the Tax and Customs Board with uniforms and for wearing the uniforms.

[\[RT I 2007, 22, 113\]](#) – entry into force 15.06.2007]

§ 22. Co-operation of customs officials with officials of other authorities of executive power

(1) Customs officials are required, within the limits of their competence, to assist in the prevention of unlawful attempts by natural persons to cross the border, and to promptly inform police officers of relevant information known to them.

[\[RT I 2009, 62, 405\]](#) – entry into force 01.01.2010]

(2) In the import and export of goods, customs officials are required to co-operate with other supervisory officials pursuant to law.

(3) In the import of goods or assignment of customs-approved treatment or use to goods, customs officials are required to check the documents or labelling certifying the conformity of goods which, pursuant to legislation, are subject to inspection by the Veterinary and Food Board or the Agricultural Board. Only customs-approved treatment or use permitted by an official of the Veterinary and Food Board or the Agricultural Board shall be assigned to such goods.

[\[RT I 2009, 34, 224\]](#) – entry into force 01.01.2010]

Chapter 2¹

SURVEILLANCE ACTIVITIES AND SECRET CO-OPERATION

[RT I, 21.03.2011, 2 – entry into force 01.01.2012]

§ 22¹. Collection of data for deciding on access of person to surveillance information and on employment in service

(1) The Tax and Customs Board may collect, with the written consent of a person, his or her personal data by a surveillance activity specified in subsection 126³(1) of the Code of Criminal Procedure if it necessary for deciding on the access of the person to surveillance information or on his or her employment in the service of the Tax and Customs Board.

(2) The person specified in subsection (1) of this section shall be informed of the performance of the surveillance activity with regard to him or her after the making of the decision, and the data collected by surveillance activities shall be introduced to the person at his or her request.

[RT I, 21.03.2011, 2 – entry into force 01.01.2012]

§ 22². Secret co-operation and covert measures

(1) The Tax and Customs Board has the right to involve persons in secret co-operation and use undercover agents for conducting surveillance activities, ensuring the performance of the surveillance activities or collecting of information, and take covert measures on the terms provided for in the Police and Border Guard Act.

(2) A written permission for the involvement of a person shall be granted by the Head of the Tax and Customs Board or an official appointed by him or her.

(3) A written permission for the use of an undercover agent shall be granted by the Head of the Tax and Customs Board.

(4) A document required for taking covert measures shall be issued and a necessary change in a database or registry shall be made, based on a reasoned request of the Head of the Tax and Customs Board or of an official authorized by him or her, by an administrative authority or a legal person who is competent to issue a document of the relevant type or make changes in the database or registry.

[RT I, 21.03.2011, 2 – entry into force 01.01.2012]

Chapter 3

CONDITIONS FOR APPLICATION OF IMPORT AND EXPORT DUTIES AND OTHER MEASURES REGULATING TRADE

§ 23. Estonian Customs Tariff

The Estonian Customs Tariff includes the Community Customs Tariff and measures established by Estonian legislation (hereinafter the state measures) applicable upon the placing of goods under customs procedures. Upon subjecting goods to applicable measures in

the process of customs clearance, declarants and customs officials shall be guided by the provisions of the Estonian Customs Tariff.

§ 24. Administration and amendment of Estonian Customs Tariff

(1) The Tax and Customs Board, in co-operation with ministries responsible for the correctness of the state measures, is the authority responsible for the administration and correctness of the Estonian Customs Tariff.

[\[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

(2) [The Government of the Republic shall establish, by a regulation](#), the procedure for the administration of the Estonian Customs Tariff.

§ 25. Tariff classification of goods

(1) A declarant shall, pursuant to law, determine the tariff classification of goods.

(2) If the tariff classification of goods determined by the declarant is incorrect, the customs authorities shall immediately inform the declarant thereof and determine the tariff classification of the goods on the basis of the Estonian Customs Tariff within ten days after the date on which the declarant was informed of the need to change the tariff classification of the goods. In justified cases, a longer term may be set. At the request of the declarant, the customs authorities are required to provide written justification for an extended term.

§ 26. Issue of certificate of non-preferential origin of goods

(1) The Estonian Chamber of Commerce and Industry shall issue and approve a certificate of origin which certifies the non-preferential origin of goods. A fee shall be charged for the issue and approval of a certificate of non-preferential origin. Upon calculation of the fee, all expenses incurred by the Estonian Chamber of Commerce and Industry for the issue and approval of certificates of origin, including the costs of information technology, remuneration, liability insurance coverage and printing of forms, shall be taken into consideration. The rates of the fees shall be published on the website of the Estonian Chamber of Commerce and Industry.

(2) [The Government of the Republic shall establish, by a regulation](#), the procedure for the application and issue of certificate of origin which certifies the non-preferential origin of goods.

§ 27. Exchange rate applicable in determining customs value and time limit for decision

(1) The quoted rate specified in Article 168(a) of the Community Customs Code Implementing Provisions is the exchange rate of the euro quoted by the European Central Bank.

[\[RT I, 18.11.2010, 2](#) – entry into force 01.01.2011]

(2) The customs authorities shall make a decision for the determination of the customs value pursuant to Article 181(a) of the Community Customs Code Implementing Provisions within one year after the term set for the provision of additional information by the person concerned.

Chapter 4

PROVISIONS APPLICABLE TO GOODS CONVEYED TO ESTONIA UNTIL CUSTOMS-APPROVED TREATMENT OR USE IS ASSIGNED

§ 28. [Repealed – [RT I 2007, 22, 113](#) entry into force 01.07.2009]

§ 29. [Repealed – [RT I 2007, 22, 113](#) entry into force 01.07.2009]

§ 30. Conditions for temporary storage of goods

(1) Goods in temporary storage may be stored in a customs terminal or a depository accepted by the customs authorities under the conditions prescribed in the customs rules. All persons conveying goods from a non-Community country to Estonia may temporarily store goods in a customs terminal; however, a depository is intended only for a specified user.

(2) A customs terminal and a depository shall be operated by an Estonian person. An authorization to operate a customs terminal and a depository shall be issued and revoked by the customs authorities.

(3) The customs authorities shall refuse to issue an authorization to operate a customs terminal or a depository, if:

- 1) the customs terminal or depository does not meet the requirements prescribed in the customs rules;
- 2) the applicant for an authorization to operate a depository has operated in the field of import of goods for less than one year before the date on which the application is submitted;
- 3) the application is not sufficiently justified;
- 4) the person fails to provide security which satisfies the customs authorities;
- 5) the accounting of the applicant does not enable the customs authorities to check the activities of the applicant;
- 6) the person lacks accurate accounts concerning the movement of goods;
- 7) the person does not have an impeccable business reputation;
- 8) the person has tax arrears with regard to duties payable upon import and export;
- 9) the person has submitted incorrect information.

(4) The customs authorities may refuse to issue an authorization to operate a customs terminal or a depository if during the six months prior to the date of application the applicant has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2,000 euros in the case of a legal person, or the applicant has committed a criminal offence provided for in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register.

[\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

(5) The customs authorities may suspend an authorization to operate a customs terminal or a depository for a period of up to two months and set a term for elimination of circumstances which constitute the basis for the suspension, for fulfilling the requirements of the customs authorities or for the removal of the goods from the customs terminal or depository, if:

- 1) during the six months prior to the date of suspension of the authorization the person operating the customs terminal or depository has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine

exceeding 100 fine units in the case of a natural person and a fine exceeding 2,000 euros in the case of a legal person, or the person has committed a criminal offence provided for in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register;

[[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

2) the inviolability of goods has not been guaranteed;

3) the person operating the customs terminal or depository is in violation of the conditions specified by the authorization;

4) the circumstances listed in clauses (3) 1) and 4)–9) of this section exist.

(6) An authorization to operate a customs terminal or a depository shall be revoked on the basis of a written application of a person operating a customs terminal or depository or on the initiative of the customs authorities. The customs authorities may revoke an authorization if:

1) the authorization was suspended prior to the revocation on the grounds specified in clause 5 1) of this section, or

2) a person operating a customs terminal or depository fails to eliminate the circumstances underlying the revocation of the authorization within the prescribed term.

(7) A person operating a customs terminal or depository is required to keep records of goods pursuant to the procedure prescribed by the customs rules. Goods shall be entered in the records immediately after the arrival thereof in the customs terminal or depository. The customs authorities have the right to check temporarily stored goods and documents concerning such goods at all times.

(8) A person operating a customs terminal or depository shall be liable for the inviolability of goods and correctness of records, unless the person proves that the records were incorrect due to the fault of another person.

(9) [The Minister of Finance shall establish, by a regulation](#), the requirements for a customs terminal and a depository, and the procedure for the issue, suspension and revocation of an authorization to operate a customs terminal and a depository, and the procedure for storing goods.

§ 31. Taking goods into storage

(1) Based on an application of a person in possession of goods, the customs authorities may take the goods into storage until customs-approved treatment or use is assigned, and such goods shall have the status of goods in temporary storage.

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(2) The customs authorities shall refuse to take goods into storage if there are no premises in the customs office suitable for storing such goods, if the premises are occupied, or if storage of the goods on the premises is impossible due to the measurements or nature of the goods.

Chapter 5

ASSIGNMENT OF CUSTOMS-APPROVED TREATMENT OR USE TO GOODS

§ 32. Procedure for assignment of customs-approved treatment or use

(1) Customs-approved treatment or use shall be assigned, by a prescribed term, to goods in temporary storage.

(2) The possessor of the goods is responsible for the assignment of customs-approved treatment or use to the goods. Customs formalities are carried out for the assignment of customs-approved treatment or use.

[[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

(3) [The Government of the Republic may establish, by regulations](#), the procedures for customs formalities necessary for assigning customs-approved treatment or use.

§ 33. Customs control upon assignment of customs-approved treatment or use

(1) A document or entry in a national register which is required pursuant to an Act regulating a given area shall be checked in the course of customs formalities upon the import or export of goods, unless otherwise provided by legislation.

(2) The customs authorities have the right to involve experts in the performance of customs control. The customs authorities shall bear the costs of expert analyses, unless the customs rules prescribe otherwise.

(3) Customs control shall not endanger the life and health of persons and animals or the state of plants, or harm the goods under control or the environment. Customs control shall be carried out without undue delay.

(4) Upon examination of goods, a means of transport, baggage or a traveller, a report shall be prepared concerning the results of the examination in two copies, one of which shall be given to the relevant person and the other of which shall be retained by the customs authorities. The customs authorities are not required to prepare an examination report if baggage is examined in the presence of the traveller and no circumstances indicating violation of the customs rules is discovered in the course of the examination, or if the goods in a means of transport are not moved in the course of the examination of the means of transport.

[[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

§ 34. Premises needed for activities of customs authorities

(1) The customs authorities have the right to use premises, and if possible, furnished office rooms conforming to occupational safety and health requirements, and means of communication free of charge in a customs terminal, customs warehouse, free zone or free warehouse from the owner or lawful possessor thereof, for the activities of the customs authorities. The customs authorities shall pay for communications services.

(2) The customs authorities have the right to use premises, and if possible, furnished office rooms conforming to occupational safety and health requirements, and means of communication free of charge at a border checkpoint, the location of a postal service provider, also at a port, airport or railway station and other transport terminal from the lawful possessor

thereof or from the owner if the owner is not the possessor, for the activities of the customs authorities, unless the customs authorities have agreed otherwise with the owner of a border checkpoint on a road. The customs authorities shall pay for public utilities, including communications services and electricity, if the amount to be paid is calculated separately.

§ 35. Measuring of quantities of goods

(1) The measuring of quantities of goods in the course of customs control may be performed by a person who is established in the Community and approved as professionally competent in the corresponding field of measurement pursuant to the Metrology Act.

(2) Pursuant to the customs rules and in the cases specified therein, a possessor of goods is required to organize, in the course of customs formalities and at his or her own expense, the measuring of goods by a person specified in subsection (1) of this section and to present the document containing the results of the measurements to the customs authorities. The list of goods and cases where a person is required to arrange for the measurement of quantities of goods shall be provided by the procedure for examination of goods and for taking samples and specimens of the goods established on the basis of subsection 39(7) of this Act.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

(3) Upon comparing, in the course of customs control, the result of measurements of unpacked liquids, bulk, sawn timber or timber with the data submitted concerning such goods, the customs authorities may consider the measurement uncertainty of the measurement process.

§ 36. Competence of customs offices

(1) The competence of the customs offices provided for in Article 60 of the Community Customs Code upon carrying out customs formalities, and the time and place of customs formalities shall be determined by the Director General of the Tax and Customs Board.

(2) The costs for carrying out customs formalities at another time as a customs service provided for in Article 202 of the Community Customs Code Implementing Provisions shall be calculated based on the average wages of a customs official and the transport costs. The average wages of a customs official shall be calculated pursuant to the procedure established on the basis of subsection 29(8) of the Employment Contracts Act. The transport costs shall be calculated on the basis of the average cost of a journey per one kilometre of official vehicles of the Tax and Customs Board during the calendar year preceding the year in which a service is provided. The average wages of customs officials and the average cost of a journey per one kilometre which constitutes the basis for the calculation of transport costs shall be published on the website of the Tax and Customs Board. [The Minister of Finance shall establish, by a regulation](#), the procedure for calculating the costs of customs service and for paying for customs service.

[\[RT I 2009, 36, 234\]](#) – entry into force 01.07.2009]

(3) In unforeseeable circumstances, the customs office shall resolve issues concerning customs formalities independently based on the specific situation and public interest.

§ 37. Lodging of customs declaration

(1) A customs declaration shall be lodged through an electronic data processing system. In the cases prescribed by the customs rules, other methods of lodging a customs declaration may be used.

(2) If the quantity or value of a consignment exceeds the statistical threshold provided by Community legislation and declaration of the consignment orally or by another act is impossible pursuant to the Community Customs Code Implementing Provisions, a customs declaration shall be lodged.

(3) In addition to the provisions specified in subsection (2) of this section, a customs declaration shall also be lodged for goods with a customs value or in a quantity that exceeds the tax exempt limit provided by the Community system of reliefs from customs duty or by Estonian tax laws.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

(4) The customs authorities may refuse to accept separate customs declarations for parts of a consignment upon import if the value of a declared part of the consignment does not exceed the tax exempt limit.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

(5) A customs declaration shall be lodged concerning a consignment containing goods with regard to which a restriction is in force also in the cases not specified in subsections (2) and (3) of this section.

(6) A natural person is permitted to lodge a traveller's declaration instead of a customs declaration if the quantity or value of the consignment does not exceed the statistical threshold provided by Community legislation. A traveller's declaration shall not be lodged upon declaration of a means of transport conveyed to Estonia as goods from a non-Community country.

(7) Upon lodging of a customs declaration, the customs authorities shall check the identity of the person, the right of representation of the person and his or her right to lodge a declaration for the particular goods.

(8) [The Minister of Finance shall establish, by a regulation](#), additional instructions for the completion, lodging and acceptance of a written customs declaration and simplified customs declaration.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

§ 38. Liability upon lodging of customs declaration

A declarant and, in the case of indirect representation, the person on whose behalf a customs declaration was lodged are liable for the completeness and correctness of the information contained in the customs declaration, the authenticity of the submitted documents and the compliance of the goods with the customs declaration.

§ 39. Examination of goods and taking of samples and specimens

(1) Calculation of the costs of the examination of goods in another place and at another time as a customs service provided for in Article 239 of the Community Customs Code Implementing Provisions, and payment for customs service shall be carried out pursuant to subsection 36(2) of this Act and the procedure established on the basis thereof.

(2) If a declarant refuses to carry out any of the acts listed in Article 241 of the Community Customs Code Implementing Provisions, the customs authorities shall do so pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. Before the customs authorities apply a coercive measure, the declarant may file a challenge against the

precept issued by the customs authorities within five days after the date of the receipt of the precept.

(3) Information on the results of an analysis, examination and other such treatment of samples and specimens shall be communicated to a declarant, at the request thereof, by post, the customs authorities or electronic means. Unused samples and specimens or remaining samples and specimens shall be returned to a declarant at the declarant's request.

(4) If there is doubt that certain goods could infringe intellectual property rights within the meaning of Council Regulation 1383/2003/EC concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (OJ L 196, 02.08.2003, pp. 7–14), the proprietor of the relevant rights shall provide, within ten working days after being informed of the goods being detained, a written opinion on the suspected goods based on the results of examinations of samples or specimens thereof. The proprietor of the rights shall not be remunerated for giving an opinion.

(5) An opinion shall set out:

- 1) the time and place of giving the opinion;
- 2) the given name, surname and the official title of the person who prepared the opinion;
- 3) a description of the samples based on which the opinion was given;
- 4) a conclusion containing a reasoned opinion of the proprietor of the rights as to whether the goods infringe intellectual property rights or not.

(6) The customs authorities shall immediately send a copy of an opinion received from the proprietor of the rights to the person involved who has the right, within ten days after the receipt of the copy of the opinion, to file with the customs authorities written objections with relevant evidence against the opinion.

(7) [The Minister of Finance shall establish, by a regulation](#), the procedure for the examination of goods and for taking samples and specimens thereof.

§ 40. Examination of means of transport

(1) The customs authorities have the right to stop and examine a means of transport which arrives to, stays in or leaves Estonia.

(2) A means of transport shall be examined in the presence of the possessor thereof. If the possessor of the means of transport cannot be established or if he or she refuses to be present at the examination, the means of transport may be examined on the order of the customs official in the presence of one impartial witness without the presence of the possessor.

(3) Means of transport that cross the border between Estonia and a non-Community country are required to stop at the customs office at the border or, in the absence thereof, to proceed directly to the designated customs office by the specified route. In the case of an unavoidable stop, the customs authorities or the police shall be informed promptly.

[\[RT I 2009, 62, 405](#) – entry into force 01.01.2010]

(4) Officials of a port, postal service provider, railway station and airport, and ship's agents are required to inform the customs authorities in advance of the arrival of any means of transport from a non-Community country and departure thereof to a non-Community country, and shall not permit the unloading, loading or transshipment of imported and exported goods without the permission of the customs authorities.

§ 41. Examination of baggage

(1) A customs official has the right to demand the presentation, for customs examination, of baggage by a traveller crossing the border between Estonia and a non-Community country or staying in the transit area of a port or airport, and to examine the baggage. A person under examination shall present his or her baggage to a customs official and unpack the baggage on the order of the customs official.

(2) Baggage shall be examined in the presence of the possessor thereof. If the possessor of the baggage cannot be established or if he or she refuses to be present at the examination, the baggage may be examined on the order of the customs official in the presence of one impartial witness without the presence of the possessor.

(3) A customs official shall examine the baggage of a traveller staying in the transit area of a port or airport if, based on risk assessment, there is reason to believe that the traveller may possess goods regarding the import or export of which a prohibition or restriction has been established.

§ 42. Examination of traveller

(1) Before an examination of a traveller, a customs official of the same sex may externally feel the clothes of the person under examination in order to ascertain whether he or she is carrying goods subject to declaration but which have not been presented to the customs authorities, or goods which are prohibited or subject to a restriction.

(2) If based on a risk assessment the customs authorities have reason to believe that a traveller crossing the border between Estonia and a non-Community country or staying in the transit area of a port or airport is hiding, on or in the body, goods subject to declaration or goods which are prohibited or subject to a restriction, the customs examination of the traveller may be performed on the order of a customs official.

(3) The examination of a traveller shall be performed in a separate room by a customs official of the same sex as the traveller in the presence of one impartial witness of the same sex. At the request of the traveller under examination, a witness chosen by him or her from the persons present shall be present at the examination.

(4) Before the examination of a traveller, the customs official is required to present his or her identification and provide information on the acts to be performed for the examination of the traveller.

(5) During the examination of a traveller, a customs official has the right to:

- 1) demand that the traveller get undressed and examine him or her by observation;
- 2) search the items of clothing of the traveller;
- 3) send the traveller to a medical institution for bodily examination in the presence of a customs official if the customs official suspects that goods may be in the body of the traveller.

(6) A traveller under examination shall answer the questions concerning the suspicions involving him or her as precisely as possible, and comply with the orders of a customs official given in order to discover hidden goods. A traveller who is a citizen of a foreign country is entitled to use an interpreter when answering the questions posed to him or her and when complying with the orders of a customs official.

§ 43. Examination of postal consignment

(1) An examination of an international postal consignment containing goods which arrives from a non-Community country shall be performed at the location of the postal service provider before the delivery of the postal consignment to the addressee, and an examination of a postal consignment to be sent to a non-Community country shall be performed after or upon the receipt of the postal consignment from the consignor. For the purposes of this Act and legislation established on the basis thereof, express mail items within the meaning of the Postal Act shall not be deemed to be international consignments.

(2) Restricted goods contained in an international postal consignment concerning which a document must be submitted upon the import or export thereof pursuant to an Act regulating the relevant area, if such a document has not been submitted, and goods concerning which a requisite entry has not been made in a state register, and also prohibited goods shall be returned to the consignor at the consignor's expense or detained by the customs authorities, of which the consignor shall be notified.

§ 44. Customs seals

(1) A customs seal is a seal or other preventive means affixed by a customs official to goods, a means of transport or a building to ensure the inviolability thereof. Several customs seals may be affixed to one object.

(2) The possessor of a means of transport or building shall be liable for the inviolability of the goods stored in the means of transport or building protected by a customs seal, and for the intactness of the customs seal. It is prohibited to remove a customs seal without the permission of the customs authorities. A customs seal may be removed without the permission of the customs authorities in unforeseeable circumstances in order to ensure the preservation of goods carried in a means of transport or stored in a building.

(3) The customs authorities may accept customs seals placed by another person or by a customs authority or other competent agency of a foreign state. A customs seal accepted by the customs authorities is equivalent to a customs seal affixed by the customs authorities.

(4) The customs authorities have the right to demand the presence of a person concerned upon affixing and removal of a customs seal by a customs official.

(5) A customs seal shall be affixed in a manner that prevents access to goods without breaking the seal or without leaving traces of a break-in on a means of transport or building. The manner in which a customs seal is affixed shall exclude removal of the customs seal without breaking the seal. A customs official shall make a notation on the corresponding document concerning the affixing of a customs seal.

(6) The possessor of a means of transport or building shall immediately notify the customs authorities of the breakage or loss of a customs seal, removal thereof in unforeseeable circumstances, or of traces of a break-in on or other damage to a means of transport or building protected by a customs seal.

(7) [The Minister of Finance shall establish, by a regulation](#), the procedure for affixing and removing customs seals.

§ 45. Goods subject to occupation

(1) Goods specified in Articles 53, 57 and 75 of the Community Customs Code shall be occupied, sold, destroyed under customs supervision or transferred free of charge by the customs authorities pursuant to the procedure provided for in §§ 97 and 98 of this Act.

(2) The customs authorities shall deliver a written notice to a declarant concerning the intention to occupy goods and shall set a deadline for fulfilling the requirements arising from the customs rules. Goods shall not be occupied if a declarant fulfils the requirements or re-exports the goods from the Community's customs territory within the term set by the customs authorities, destroys the goods under customs supervision or transfers the goods to state ownership with the consent of the customs authorities.

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

§ 46. Simplified declarations

(1) As a general rule, the customs authorities shall refuse to grant authorization to use the local clearance procedure specified in Article 263 of the Community Customs Code Implementing Provisions unless the person forwards information concerning the goods to the customs authorities by electronic means.

(2) An authorization to use a simplified declaration shall be revoked at the written request of the holder of the authorization or on the initiative of the customs authorities. The customs authorities shall revoke an authorization if the requirements for granting the authorization are no longer met or if the person fails to provide security which satisfies the customs authorities within the term indicated in the decision by which security is required.

§ 47. Traveller's declaration

(1) The provisions concerning declaration of a consignment of goods provided for in subsections 37(2), (3), (4) and (6) of this Act apply to the goods in the baggage of a traveller moving from a non-Community country to Estonia or from Estonia to a non-Community country.

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(2) [Repealed – [RT I 2007, 22, 113](#) entry into force 15.06.2007]

(3) [Repealed – [RT I 2007, 22, 113](#) entry into force 15.06.2007]

(4) Personal effects shall be in correspondence with the duration and objective of the journey and need not be declared unless a restriction has been established on the import or export thereof.

(5) A traveller's declaration shall be lodged with regard to personal effects and goods concerning which a restriction has been established, unless the requirement to lodge a customs declaration concerning such goods is provided by legislation.

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(6) A traveller whose baggage, upon movement from a non-Community country to Estonia or from Estonia to a non-Community country, does not contain goods subject to declaration shall declare the absence of such goods to the customs authorities orally or by another act.

(7) At the written request of a traveller, the customs authorities may take goods for storage. The provisions of section 31 of this Act apply to goods in storage.

(8) [The Minister of Finance shall establish, by a regulation](#), the procedure for customs formalities prescribed for a traveller, the format of a traveller's declaration and instructions for the completion thereof.

§ 48. Postal consignment declaration

(1) The sender of an international postal consignment containing goods which is sent out of Estonia to a non-Community country shall complete a postal consignment declaration which shall be appended to the postal consignment. If the consignment contains goods, the quantity or customs value of which exceeds the statistical threshold provided by Community legislation, the person shall also lodge a customs declaration concerning the goods.

[\[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(2) If a consignment arriving from a non-Community country contains goods, the quantity or customs value of which exceeds the statistical threshold provided by Community legislation, the person shall lodge a customs declaration.

[\[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

§ 48¹. Declaration of cash

(1) A cash declaration shall be lodged for cash exceeding the amount specified in Article 3 of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council.

(2) [The Minister of Finance shall establish, by a regulation](#), the procedure for the declaration of cash, the format of a cash declaration and instructions for the completion thereof.

[\[RT I 2010, 11, 55](#) – entry into force 01.05.2010]

§ 49. Amendment and invalidation of customs declaration after release of goods

(1) The customs authorities may, on their own initiative or at the request of a declarant, make amendments to a customs declaration or invalidate a customs declaration after the release of goods.

(2) [The Minister of Finance shall establish, by a regulation](#), additional instructions for making amendments in a customs declaration after the release of goods and for invalidation of a customs declaration.

§ 50. Post-clearance examination of customs declaration

(1) In the process of post-clearance examination of a customs declaration, a customs official may exercise the rights provided for in Article 78 of the Community Customs Code according to the authorization granted to him or her by the Director General of the Tax and Customs Board or a person authorized by the Director General within the limits of his or her competence. It is prohibited for a customs official to enter a dwelling without the permission of the person residing therein.

(2) Post-clearance examination of a customs declaration shall be carried out and documents in proof of the preferential origin of goods shall be examined pursuant to the procedure provided for in the Taxation Act.

Chapter 6

CUSTOMS-APPROVED TREATMENT OR USE

§ 51. Release for free circulation

- (1) Release for free circulation shall confer on goods of non-Community origin the customs status of goods of Community origin.
- (2) [The Government of the Republic shall establish, by a regulation](#), additional instructions for placing goods under the customs procedure of release for free circulation.

§ 52. Customs procedures with economic impact and customs warehouses

(1) Based on the application specified in Article 497 of the Community Customs Code Implementing Provisions, the customs authorities shall grant, under the conditions provided for in Article 86 of the Community Customs Code, authorization to use a customs procedure with economic impact or to operate a customs warehouse.

(1¹) If a person using a customs procedure with economic impact or operating a customs warehouse has not provided the customs authorities with new security five working days prior to the expiry of the security, the customs authorities shall suspend the validity of the authorization to use the customs procedure with economic impact or operate a customs warehouse on the day following the day of the expiry of the security until the provision of security which satisfies the customs authorities.

[\[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(2) In cases where the customs authorities decide to increase the amount of security due to a person's failure to meet the terms specified in subsection 62(1) of this Act or because the person has been punished for an offence specified in subsection (2) of the same section, the customs authorities shall suspend the authorization to use a customs procedure with economic impact or to operate a customs warehouse until the person has provided security which satisfies the customs authorities. The customs authorities shall revoke the authorization if the person fails to provide security which satisfies the customs authorities within the term indicated in the decision by which security is required. The customs authorities shall also revoke an authorization if the requirements for granting the authorization are no longer met.

(3) A person who no longer wishes to use a customs procedure with economic impact or to operate a customs warehouse shall submit a written application for revocation of the person's authorization.

(4) [The Minister of Finance shall establish, by a regulation](#), the requirements for a customs warehouse and the procedure for the grant, suspension and revocation of authorization to operate a customs warehouse, and for the storage of goods.

(5) [The Government of the Republic shall establish, by a regulation](#), additional instructions for placing goods under a customs procedure with economic impact.

§ 53. Placing goods under export procedure

(1) The customs authorities shall examine exported goods based on a risk assessment. In cases provided by a tax law or legislation established for implementation of the Common

Agricultural Policy, the customs authorities shall make a notation on the document in proof of the export of goods.

(2) In cases where a customs declaration of export is lodged by an indirect representative of a declarant, declaration of exported goods in a customs office for exit is not permitted.

(3) [The Government of the Republic shall establish, by a regulation](#), additional instructions for placing goods under export procedure, and the procedure for carrying out customs formalities upon export.

§ 54. Free zone and free warehouse

(1) A free zone and free warehouse shall be established on the application of a person and in compliance with the provisions of Article 167(1) of the Community Customs Code by an order of the Government of the Republic based on a proposal forwarded by the Tax and Customs Board to the Ministry of Finance.

(2) For establishment of a free zone and free warehouse, a written consent of the owner or lawful possessor of the territory of the free zone or the building of the free warehouse is required. In case of multiple owners or possessors, a written consent of all the owners or possessors is required.

(3) The order of the Government of the Republic shall set out the type of the free zone, the term for which the free zone or free warehouse will be established, the co-ordinates of the boundary points of the free zone, the buildings to be used as free warehouses and the entry and exit points of the free zone or free warehouse.

(4) The operation of a free zone or free warehouse shall terminate upon the expiry of the corresponding term, or the operation thereof shall be terminated before the prescribed term by an order of the Government of the Republic if the free zone or free warehouse no longer meets the requirements prescribed in the customs rules or such requirements are no longer fulfilled.

(5) The customs authorities shall refuse to issue an authorization to operate in a free zone if:

1) the performance of customs control would be significantly more complicated or impossible as a result of the operation applied for;

2) the application is not sufficiently justified in the opinion of the customs authorities;

3) the accounting of the person does not enable the customs authorities to check the activities of the applicant;

3¹) the person does not have security which satisfies the customs authorities for operation in a free zone conforming to Article 168(a) of the Community Customs Code;

[\[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

4) the person lacks accurate accounts concerning the movement of goods;

5) the person does not have an impeccable business reputation;

6) the person has tax arrears with regard to duties payable upon import and export;

7) the person has submitted incorrect information.

(6) The customs authorities may refuse to issue an authorization to operate in a free zone if during the six months prior to the date of application the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2,000 euros in the case of a legal person, or the person has committed an offence provided for in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the

punishment register.

[\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

(7) The customs authorities may suspend an authorization to operate in a free zone for a period of up to two months and set a term for elimination of the circumstances which constitute the basis for the suspension, for fulfilling the requirements of the customs authorities or for the removal of goods from the possession of the person if:

1) during the six months prior to the date of suspension of the authorization the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2,000 euros in the case of a legal person, or the person has committed a criminal offence provided for in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register;

[\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

2) the person is in violation of the conditions specified by the authorization to operate in a free zone;

3) circumstances listed in clauses (5) 3)–7) of this section exist.

(8) An authorization to operate in a free zone shall be revoked on the basis of a written application of the person or on the initiative of the customs authorities. The customs authorities may revoke an authorization if:

1) the authorization was suspended prior to the revocation on the grounds specified in clause (7) 1) of this section, or

2) the person fails to eliminate the circumstances underlying the revocation of the authorization by the prescribed term.

(9) [The Minister of Finance shall establish, by a regulation](#), additional instructions for operating in a free zone and free warehouse and the procedure for the issue, suspension and revocation of a corresponding authorization.

§ 55. Transfer of goods to state ownership and destruction of goods

Non-Community goods may be transferred to state ownership with the consent of the customs authorities. [The Minister of Finance shall establish, by a regulation](#), the procedure for transfer of goods to state ownership and for destruction of goods under customs supervision.

Chapter 7

CUSTOMS PREFERENCES AND SIMPLIFICATION OF CUSTOMS FORMALITIES

§ 56. Goods with customs preference

(1) Goods exempt from import or export duties pursuant to the Community Customs Code, the Community system of reliefs from customs duty or this Act shall be deemed to be goods imported to the Community customs territory with customs preference or goods exported from the Community customs territory with customs preference.

(2) Goods imported or exported with customs preference may be used only for the purposes for which the customs preferences are established. The use of such goods for other purposes is permitted only after payment of import or export duties.

(3) A customs preference shall be granted on the condition that the declarant or, in the case of indirect representation, the person on whose behalf the customs declaration was lodged is entitled to the customs preference.

§ 57. Tax exemptions

(1) Supplies, fuel and other goods to be used during a journey on board of a water craft or aircraft engaged in intra-Community transport operations, and which are imported by the person operating such craft as consumption supplies are exempt from import duties. Spare parts and additional equipment shall not be deemed to be consumption supplies.

(2) Goods imported by persons specified in the Vienna Convention on Diplomatic Relations (RT II 1993, 24, 56), the Vienna Convention on Consular Relations (RT II 1993, 23, 53) or an international agreement ratified by the Riigikogu are exempt from import duties.

(3) If goods are imported with customs preference in the case specified in subsection (2) of this section, it is not allowed to give such goods for use free of charge or for a charge, to use such goods as security, or transfer such goods within three years as of the day the goods were released for free circulation, except to another person who is entitled to the same preference.

(4) In case of any giving for use free of charge or for a charge, use as security, or transfer prior to the expiry of the term specified in subsection (3) of this section, one thirty-sixth of the amount of the import duties which should have been paid upon the release of the goods for free circulation if the person had not been entitled to be exempted from import duties shall be paid for every remaining month or a part thereof until the expiry of the term.

(5) [The Government of the Republic shall establish, by a regulation](#), the procedure for customs formalities for goods exempt from all duties and belonging to a foreign mission, to a servant at a foreign mission and his or her family member.

§ 58. Customs formalities for goods of armed forces and for goods intended for security or defence purposes

(1) The customs authorities shall not check a warship, military aircraft or other military equipment used in the performance of the functions of the Defence Forces of the Republic of Estonia, a vessel and aircraft used in the performance of the functions of the police, a means of transport and equipment used in the performance of the functions of rescue service units, or the personal effects of personnel who are performing their duties, unless the customs authorities have reason to believe that these contain goods which are not necessary for the performance of duties. Upon movement of a unit from a non-Community country to Estonia or from Estonia to a non-Community country, the commander of the unit shall declare the supplies and equipment of the unit to the customs authorities pursuant to the procedure prescribed in the customs rules.

[\[RT I 2009, 62, 405](#) – entry into force 01.01.2010]

(2) In the cases not specified in subsection (1) of this section, the means of transport, goods and personal effects of the personnel of units of the Defence Forces, the police and the rescue service, as well as goods for security and defence purposes which are classified on the basis of the State Secrets and Classified Information of Foreign States Act shall be subject to customs control under a simplified procedure.

[\[RT I 2009, 62, 405](#) – entry into force 01.01.2010]

(3) [The Government of the Republic shall establish, by a regulation](#), the procedure for customs formalities for goods of the Defence Forces, the police, the rescue service, international military headquarters, foreign armed forces and civilian staff, and the member thereof, as well as for goods for security and defence purposes.

[RT I 2009, 62, 405 – entry into force 01.01.2010]

(4) The customs control of a foreign warship, military aircraft and other military equipment, means of transport and equipment of rescue service units of a foreign state, and the goods and personal effects of a member of the armed forces, civil staff, their dependants and a member of the rescue service units of a foreign state shall be performed pursuant to the customs rules or an international agreement. Customs formalities for such goods shall be carried out pursuant to the procedure provided for in subsection (3) of this section if the goods, pursuant to legislation, are exempt from all duties upon import.

§ 59. Diplomatic mail and consular consignment of foreign state and Republic of Estonia

(1) Diplomatic mail and consular consignments may contain only documents and goods intended for official use.

(2) Diplomatic mail and consular consignments shall be marked with clearly visible external markings indicating their contents.

(3) Diplomatic mail and consular consignments which are to be imported or exported shall not be opened or detained. If, based on a risk assessment, the customs authorities have reason to believe that diplomatic mail or consular consignments may contain goods not intended exclusively for official use, the customs authorities have the right to ask the addressee or an authorized person of the shipping state to open the consignment in the presence of a customs official. Upon refusal to open such consignment, it shall be returned at the expense of the sender.

§ 59¹. Time-sensitive goods

(1) For expediting the border crossing of a consignment containing live animals and birds, highly perishable foodstuffs, cells, tissues and organs used in medicine, and other time-sensitive goods (hereinafter time-sensitive goods), priority shall be given to carrying out customs formalities.

(2) [The Minister of Finance shall establish, by a regulation](#), the nomenclature of time-sensitive goods.

[RT I 2010, 11, 55 – entry into force 01.05.2010]

Chapter 8 CUSTOMS DEBT

§ 60. Security to cover customs debt

(1) In addition to the types of security provided for in Article 193 of the Community Customs Code, security may be provided in the form of a registered security over a movable or a mortgage established for the benefit of the state pursuant to the procedure provided for in the Law of Property Act or in the Commercial Pledges Act.

(2) The customs authorities may refuse to accept security provided in the form of a registered security over a movable or a mortgage established for the benefit of the state if they find that the security cannot be sold easily or that the acceptance thereof will bring about excessive administrative costs, or the amount of security is less than 63,900 euros.

[[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

(3) [The Minister of Finance shall establish, by a regulation](#), the procedure for the provision, use and release of security and the bases for determination and calculation of amount of security.

§ 61. Amount of security

(1) If the customs authorities require security on the basis of Article 190(1) of the Community Customs Code, the amount of security shall be determined by a decision of the customs authorities. The customs authorities may require security which enables the payment, at any time, of import or export duties arising from a customs debt, or a reduced security.

(2) The minimum rates of security shall be established in the bases for determination and calculation of amount of security provided for on the basis of subsection 60(3) of this Act.

(3) The customs authorities shall reduce the amount of security required from a person in accordance with the provisions of section 62 of this Act.

(4) The customs authorities may make a new decision to require security and increase the amount of security if a person no longer meets the requirements provided for in subsection 62(1) of this Act or has been punished for an offence specified in subsection (2) of the same section.

(5) A decision to increase security shall set out the term for the provision of security which satisfies the customs authorities, and the term may be up to two months after the date of the decision.

§ 62. Requests for reduction of amount of security

(1) The customs authorities shall reduce the amount of security if all of the following conditions have been met:

- 1) the accounting of the person enables the customs authorities to check the activities of the applicant;
- 2) the person keeps accurate accounts concerning the movement of goods;
- 3) the person has an impeccable business reputation;
- 4) the person does not have tax arrears with regard to taxes payable upon import or export;
- 5) the information provided by the person is correct.

(2) The customs authorities may refuse to reduce the amount of security if during the six months prior to the date of making of the decision on the security the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2,000 euros in the case of a legal person, or the person has committed an offence provided for in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register.

[[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 63. Release and use of security

(1) The customs authorities shall release security based on the provisions of Article 199 of the Community Customs Code and shall inform the relevant person thereof within ten days after the date of release of the security. Upon release of security provided in the form of a security over a movable or a mortgage, the entry regarding the registered security over a movable or the mortgage shall be deleted pursuant to the procedure provided by law.

[[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

(2) If customs duties resulting from a customs debt are not paid by the prescribed date, the customs authorities are entitled to deduct from a deposit the amount of import or export duties resulting from the customs debt together with the calculated interest, to collect it from a guarantor or to deduct it from money received from the sale of security. Upon use of security, the amount of import or export duties shall be collected first, and thereafter the interest calculated on the amount. If the same security is used to cover tax liabilities arising, pursuant to Estonian tax laws, as a result of a customs debt and the amount of security is not sufficient to satisfy all tax claims, then, upon the use of the security, the amount of import or export duties shall be collected first, other taxes in proportion to the tax claims shall be collected in the second order and interest shall be collected thereafter.

§ 64. Customs debt resulting from provision of incorrect information

Where a customs declaration in respect of one of the procedures referred to in Article 201(1) of the Community Customs Code is drawn up on the basis of information which leads to all or part of the import or export duties not being collected, the person who provided the information required to draw up the declaration and who knew or who ought to have known that such information was incorrect shall also be considered a debtor.

§ 65. Entry into accounts of amount of duty and notifying debtor thereof

(1) The customs authorities shall enter an amount of import and export duties resulting from a customs debt into accounts.

[[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

(2) If the basis for incurrence of a customs debt is not a customs declaration or if the customs authorities have reason to believe that the information presented in a customs declaration is incorrect, the customs authorities shall determine the amount of import or export duties and inform the debtor thereof pursuant to the procedure provided for in the Taxation Act.

(3) [The Minister of Finance shall establish, by a regulation](#), the procedure for entry of an amount of import and export duties of declared goods into accounts, and for notifying and payment thereof.

§ 66. [Repealed – [RT I 2010, 11, 55](#) entry into force 01.05.2010]

§ 67. Manners of payment of customs duty

Payment of import and export duties shall be made in cash or by way of a non-cash settlement. Payment may be made also from amounts overpaid at an earlier date.

§ 68. Deferment of payment of customs duty

(1) A person who wishes to be granted permission for deferment of payment of import or export duties provided for in Article 224 of the Community Customs Code shall submit a written application to this effect. The application shall set out the information needed to determine the amount of security. An authorization to defer payment shall be issued after provision of security which satisfies the customs authorities.

(2) An authorization to defer payment shall be revoked on the basis of a written application of the holder of the authorization or on the initiative of the customs authorities. The customs authorities shall revoke an authorization if the person fails to provide security which satisfies the customs authorities within the term indicated in the decision for determining the security.

§ 69. [Repealed – [RT I 2007, 22, 113](#) entry into force 15.06.2007]

§ 70. Calculation of deferment of payment of customs duty

Where the period for summing up entries or releasing goods is a calendar week or a calendar month, the customs authorities may permit that the amount of import or export duties in respect of which payment is deferred shall be paid no later than:

- 1) on the Friday of the fourth week following that calendar week, if the period is a calendar week;
- 2) by the sixteenth day of the month following that calendar month, if the period is a calendar month.

§ 71. Collection of unpaid amount of customs duty and interest

If an amount of import or export duties resulting from a customs debt is not paid within the prescribed term, the customs authorities shall collect the amount of duties together with interest under the conditions and pursuant to the procedure established by the Taxation Act.

§ 72. Accrual of customs duties

Import and export duties shall accrue to the state budget.

Chapter 9

LIABILITY FOR VIOLATION OF CUSTOMS RULES

§ 73. Illegal conveyance of goods to Estonia or out of Estonia

(1) Conveyance of goods subject to declaration from a non-Community country to Estonia or from Estonia to a non-Community country by evading customs control, failing to declare the goods, declaring the goods under an incorrect tariff classification or description, or behaving in any other fraudulent manner is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 74. Illegal acts with goods subject to prohibitions and restrictions upon movement thereof between Estonia and non-Community country

(1) Conveyance of goods subject to restrictions and without a mandatory document or register entry or of forbidden goods from a non-Community country to Estonia or from Estonia to a non-Community country, or declaration of such goods for customs-approved treatment or use is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 75. Illegal acts with goods subject to prohibitions and restrictions upon movement thereof between Member States

(1) Conveyance of goods subject to restrictions and without a mandatory document or register entry or of forbidden goods from another Member State of the European Union to Estonia or from Estonia to another Member State of the European Union, where the customs authorities exercise state supervision of compliance with such prohibitions and restrictions, is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 76. Illegal acts with goods located in Estonia

(1) Illegal acts or operations performed with goods conveyed into Estonia from a non-Community country with customs preference or with goods under customs supervision are punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 77. Illegal placing of goods in temporary storage facility, customs warehouse, free zone or free warehouse

(1) Illegal placing of goods in a temporary storage facility, customs warehouse, free zone or free warehouse, or illegal carriage of goods out of such facilities and zones is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 78. Violation of requirements in force in free zone or free warehouse

(1) Operation or construction of a building within a free zone or free warehouse without the permission of the customs authorities is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 79. Hindrance of customs official

(1) Hindrance of a customs official, including obstruction of the performance of an examination or failure to comply with the lawful orders or demands of a customs official, or

refusal to submit documents or information necessary for examination or failure to submit within the term set therefor, or submission of false information, or submission of documents or information in a manner which does not permit the performance of an examination is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 80. Violation of requirements for storage and preservation of goods

(1) Violation of the requirements for the storage or preservation of goods in a temporary storage facility, customs warehouse, free zone or free warehouse or for the keeping of records on such goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 81. Submission of document containing false information concerning origin of goods

(1) Preparation and submission of a document containing false information concerning the origin of goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 82. Acts with goods of person unauthorized to act in certain areas

(1) Conveyance of goods from a non-Community country to Estonia or from Estonia to a non-Community country or declaration of goods for customs-approved treatment or use by a person lacking the mandatory document or registration which certifies the right to operate in the field in question is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 83. Violation of customs rules concerning means of transport

(1) Failure to stop a means of transport in the place prescribed in the customs rules or at the signal of a customs official on duty, or driving a means of transport upon carrying out customs formalities without the permission of the customs authorities, or deviation from a prescribed route when moving to the customs office of destination or other location prescribed or accepted by the customs authorities is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 84. Breaking of customs seal and means of identification of goods

(1) Breaking or unauthorized removal of a customs seal or means of identification of goods, or unlawful entry into a commercial means of transport or building protected by a customs seal is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 85. Failure to comply with time limit provided by customs rules or established by customs authorities

(1) Exceeding the time limit prescribed for the assignment of customs-approved treatment or use to goods, completion of a customs procedure, lodging of a summary declaration upon arrival or leaving of goods or a customs declaration in its stead, or re-export of goods is punishable by a fine of up to 100 fine units.

[[RT I 2007, 22, 113](#) – entry into force 01.07.2009]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,000 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 86. Failure to comply with time limit for keeping of documents

(1) Failure to comply with the time limit prescribed in Article 16 of the Community Customs Code for the keeping of documents is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 87. Illegal berthing of floating vessel

(1) Allowing another floating vessel to berth alongside a floating vessel in the course of customs formalities without the permission of the customs authorities is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 88. Failure to perform acts related to unforeseeable circumstances or *force majeure*

(1) Failure to perform acts related to unforeseeable circumstances or *force majeure* is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 89. Delayed notice to customs authorities

(1) Delaying in notifying customs authorities of the loss of or damage to goods under customs supervision is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros. [[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 90. Failure to give notice to customs authorities of arrival or departure of means of transport

Failure by an official of a port, postal service provider, railway station or airport or by a ship's agent to give advance notice to the customs authorities of the arrival or departure of a commercial means of transport is punishable by a fine of up to 100 fine units.

§ 91. Illegal acts with cargo under customs supervision

(1) Opening, re-packaging, transshipment or unloading of cargo under customs supervision without the permission of the customs authorities is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros. [\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 91¹. Failure to perform obligation to declare cash

Failure to perform the obligation to declare cash provided for in Article 3 of Regulation (EC) No. 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community is punishable by a fine of up to 100 fine units.

[\[RT I 2007, 22, 113](#) – entry into force 15.06.2007]

§ 92. Declaration of goods under incorrect tariff classification

(1) Declaration of goods under an incorrect tariff classification if it does not result in release from obligations or obtainment of rights is punishable by a fine of up to 80 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 640 euros. [\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 93. Material violation

A violation of the customs rules provided for by this Act which if committed by a natural person is punishable by a fine of up to 100 fine units and if committed by a legal person is punishable by a fine of up to 2,000 euros, and an offence provided for in §§ 391–393 of the Penal Code shall be deemed to be a material or serious violation within the meaning of Community legislation, and the customs authorities have the right, upon establishing such violation, to refuse to make a decision favourable to the person or to revoke an initial decision favourable to the person.

[\[RT I 2010, 22, 108](#) – entry into force 01.01.2011]

§ 94. Proceeding

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to the misdemeanours provided for in §§ 73–92 of this Act.

(2) The Tax and Customs Board is the body conducting extra-judicial proceedings in matters concerning the misdemeanours provided for in §§ 73–92 of this Act.

(3) The body conducting extra-judicial proceedings or a court may, pursuant to the provisions of § 83 of the Penal Code, confiscate an object or substance which has been the direct object of commission of a misdemeanour provided for in §§ 73–76 of this Act. Goods infringing

intellectual property which have been the direct object of commission of a misdemeanour provided for in §§ 73–76 of this Act shall be confiscated.

(4) The body conducting extra-judicial proceedings or a court may confiscate a means of transport which has been specifically reconstructed with a view to committing a violation of the customs rules and which has been used as the means of or as an aid to committing a violation of the customs rules.

(5) Goods detained, occupied or confiscated by the customs authorities shall be stored in the possession of the customs authorities or, if the measurements and nature of the goods permit, shall be placed in storage in a customs warehouse or customs terminal.

§ 95. [Repealed – [RT I 2003, 27, 166](#) – entry into force 01.07.2004]

Chapter 10

ACTS WITH GOODS WHICH ARE CONFISCATED, OCCUPIED OR TRANSFERRED TO STATE OWNERSHIP

§ 96. Transfer of goods and means of transport detained by police officer

Goods and means of transport which are involved in a violation of the customs rules and which are detained by a police officer shall be transferred to a customs official by the officer who detained the goods or means of transport. Competent officials of the transferor and transferee shall prepare a statement concerning any transfer.

[\[RT I 2009, 62, 405](#) – entry into force 01.01.2010]

§ 97. Sale of goods and means of transport which are confiscated, occupied or transferred to state ownership

(1) Goods and means of transport which the customs authorities have confiscated, occupied pursuant to section 45 of this Act or transferred to state ownership shall be sold at a customs auction. Highly perishable goods may be sold before a decision on confiscation enters into force.

(2) Abandoned goods or means of transport occupied by the customs authorities shall be sold at a customs auction if:

- 1) the owner or holder of the goods or means of transport cannot be established within 30 days after the date on which the goods or the means of transport arrive in Estonia from a non-Community country or are detained by the customs authorities;
- 2) the goods or means of transport have been detained due to a violation of the customs rules but no decision to confiscate the goods or means of transport has been made, and the owner or holder thereof has not reclaimed such goods or means of transport from the customs authorities within 30 days after the date on which the decision on violation of the customs rules was made.

(3) The customs authorities have the right to take a justified amount of goods from a confiscated lot with the aim to use such goods for the prevention of offences.

(4) Goods specified in subsections (1) and (2) of this section which cannot be sold and goods which infringe intellectual property shall be destroyed under customs supervision pursuant to

the procedure provided for in section 55 of this Act. The customs authorities shall collect the costs of destroying confiscated goods from the person from whom the goods were confiscated. The customs authorities shall collect the costs of destroying occupied goods from the person as a result of whose act or failure to act the goods were occupied, if such person can be established. The person shall not be required to reimburse such costs if they do not exceed 10 euros.

[\[RT I 2010, 22, 108\]](#) – entry into force 01.01.2011]

(5) Confiscated counterfeit goods from which unlawful markings have been removed may be transferred for use free of charge, with the written permission of the proprietor of the relevant rights, to a health care provider, social welfare institution or local government. A health care provider, social welfare institution or local government shall submit an application for the transfer of the goods. [The Minister of Finance shall establish, by a regulation](#), the procedure for the transfer of confiscated counterfeit goods for use free of charge.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

§ 98. Transfer free of charge of goods which are confiscated, occupied or transferred to state ownership

(1) Goods specified in subsections 97(1) and (2) of this Act may be transferred free of charge to a health or social welfare service provider in cases prescribed by legislation, instead of being sold.

(2) Goods specified in subsections 97(1) and (2) of this Act which qualify as protected species or are subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RT II 1993, 27/28, 83) shall be transferred free of charge to an agency designated by the Minister of the Environment, instead of being sold.

(3) If goods specified in subsections 97(1) and (2) of this Act are of cultural value, they shall be transferred free of charge to a museum specified by the Minister of Culture, instead of being sold.

(4) If goods specified in subsections 97(1) and (2) of this Act are records, they shall be transferred free of charge to the State Archives, instead of being sold.

[\[RT I, 21.03.2011, 1\]](#) – entry into force 01.01.2012]

(5) The customs authorities shall transfer the goods to the persons specified in subsections (1) through (4) of this section by an instrument of delivery and receipt. The transferred goods shall have the customs status of goods of Community origin.

[\[RT I 2010, 11, 55\]](#) – entry into force 01.05.2010]

§ 99. Customs auction

(1) A customs auction shall be organized by an Estonian person. The organizer of a customs auction shall be determined by a public competition organized by the Tax and Customs Board. The organizer of a customs auction shall have the right to act as an indirect representative in lodging of a customs declaration and in carrying out customs formalities.

(2) With regard to the goods or means of transport specified in subsections 97(1) and (2) of this Act, the organizer of a customs auction shall lodge to the customs authorities, within two days from the date of the customs auction, a customs declaration for release of the goods for free circulation.

(3) The amount of import and export duties resulting from a customs debt shall be the first to be transferred to the state budget from any amount received from the sale of goods at a customs auction. Secondly, the organizer of the customs auction shall be paid six per cent of the amount received from the auction. If a customs debt arises, taxes payable under Estonian tax laws and interest on such taxes, and the costs of storage and transport incurred after the date of the decision to sell the goods shall be paid thereafter, whereas the costs of storage and transport shall be covered from the sum remaining after the payment of the taxes and interest. The remaining amount shall be transferred to the state budget.

(4) [The Minister of Finance shall establish, by a regulation](#), the procedure for the organization of a customs auction.

Chapter 11

FINAL PROVISIONS

§§ 100–105. [Omitted from this text.]

§ 106. Implementing provisions of this Act

(1) Free zones established for a specified term by orders of the Government of the Republic on the basis of the Customs Code in force up to the entry into force of this Act shall be deemed to be type 1 free zones. Such free zones may operate until the date specified in the corresponding order of the Government of the Republic, provided that the free zone complies with the terms and conditions set by the customs rules.

(2) An authorization issued pursuant to the Customs Code in force up to the entry into force of this Act and which is related to the activity of a customs agent or an authorized representative of a customs agent, to the operation of a customs warehouse, a customs terminal or a depository, or to the activities of a person operating in a free zone, to the lodging of an entry declaration or simplified customs declaration, or to the right to defer payment of duties shall remain valid for one year after the date of entry into force of this Act, provided that the activities of the holder of the authorization are in compliance with the customs rules. The authorizations set out in the Treaty of Accession of the Republic of Estonia to the European Union (RT II 2004, 3, 8) shall be valid under the terms and conditions and during the period of time set out in the Treaty.

(3) Upon processing a customs declaration, the Customs Code in force up to the entry into force of this Act shall apply to goods concerning which a customs declaration was accepted before the entry into force of this Act. The customs procedures specified in the Treaty of Accession of the Republic of Estonia to the European Union shall be completed under the terms and conditions and within the period of time set out in the Treaty. A customs procedure for temporary importation which is used at the time of entry into force of this Act shall be completed on the date indicated in the corresponding customs declaration for temporary importation if the objectives and terms of the procedure do not meet the terms and conditions provided by the customs rules.

(4) Community goods, or goods which have been in free circulation in the Czech Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia or the

Slovak Republic (hereinafter acceding countries), which are conveyed to Estonia and upon the export of which customs formalities are completed in the Community or in an acceding country prior to the entry into force of this Act shall be deemed to be non-Community goods. Goods which were sent to Estonia from a non-Community country or an acceding country before the entry into force of this Act and which arrived in Estonia after the entry into force of this Act shall also be deemed to be non-Community goods.

(5) Estonian goods which are undergoing an outward processing procedure in the Community or an acceding country on the day of the entry into force of this Act shall be deemed to be non-Community goods in the event of conveyance of such goods into Estonia under customs supervision.

(6) Estonian goods which were conveyed prior to the entry into force of this Act to the Community or an acceding country for the purposes which comply with the purposes of applying the temporary importation procedure with total relief from import duties shall be deemed to be non-Community goods in the event of conveyance of such goods into Estonia under customs supervision.

(7) Non-Community goods specified in subsections (4) through (6) of this section shall be released from import duties and other Community customs measures if the documents provided for in the Treaty of Accession of the Republic of Estonia to the European Union are lodged concerning such goods.

(8) A customs declaration for export, outward processing or re-export lodged to the customs authorities prior to the entry into force of this Act for conveying goods from Estonia to the Community or an acceding country shall be invalidated if the goods were not dispatched before the entry into force of this Act.

(9) The customs authorities may accept and process applications for authorizations, certificates and other documents which become valid on the date of entry into force of this Act and issue such documents after the publication of this Act.

(10) Until 30 June 2004, subsection 39(4) of this Act is in force in the following wording:
(4) If there is doubt that certain goods could infringe intellectual property rights within the meaning of Council Regulation 3295/94/EC laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods (OJ L 341, 30.12.1994, pp. 8–13), the proprietor of the relevant rights shall provide, within ten working days after being informed of the goods being detained, a written evaluation on the suspected goods based on the results of examinations of samples or specimens thereof. The proprietor of the rights shall not be remunerated for giving an opinion.

(11) Section 95 of this Act is in force until the entry into force of the Code of Criminal Procedure.

23 November 2011 at 11:53

The numeration of subsections (10) and (11) corrected. Basis: subsection 10(4) of the Riigi Teataja Act.

§ 106¹. Calculation of length of customs service under favourable conditions

(1) The time of service in the position of a customs official shall be deemed to be the length of customs service.

(2) If the total length of customs service of a person is at least twenty years, the period of service as a customs official from 22 October 1990 until 31 July 1994 shall be included under favourable conditions multiplied by three in the length of customs service.

[\[RT I 2007, 11, 50](#) – entry into force 18.02.2007]

§ 107. Entry into force of Act

(1) This Act enters into force on 1 May 2004.

(2) Section 106¹ of this Act enters into force on 1 January 2008.

[\[RT I 2007, 11, 50](#) – entry into force 18.02.2007]