

CUSTOMS ACT, 29.4.2016/304

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Scope of application

This Act governs the customs clearance, customs control and customs taxation of goods imported into and exported outside the customs territory of the European Union (*Union*) in Finland as well as of goods transported through the customs territory of Finland in addition to what is prescribed in the Union legislation. This Act also applies, together with Union legislation, to the compilation of statistics on trade between Finland and other countries and to criminal investigation of customs offences, unless otherwise provided in the Act on Crime Prevention by Customs (623/2015).

The provisions of this Act shall also apply in the performance of other statutory duties by Customs and in the collection of public charges by Customs.

The powers granted under this Act may also be exercised, in compliance with Union legislation, in the internal traffic (*internal traffic*) between the Member States of the Union (*Member State*) in order to supervise compliance with the prohibitions and restrictions concerning the importation and exportation of goods to and from Finland as well as the transit of goods through the territory of Finland.

Additionally, the powers under the customs legislation may be exercised to control taxation when goods are transported, sent or otherwise transferred between a part of the customs territory of the Union constituting a special fiscal territory and a part of the customs territory of the Union not constituting a special fiscal territory.

Section 2

Definitions

Aside from the definitions used in Union law, the following terms shall have the following meanings for the purposes of this Act:

- 1) *Code* means Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;
- 2) *Delegated Regulation* means Commission Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code;
- 3) *Implementing Regulation* means Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;
- 4) *Reliefs Regulation* means Council Regulation (EC) No 1186/2009 setting up a Community system of reliefs from customs duty;

- 5) *customs territory of Finland* means the territory consisting of the land area, the territorial waters and the air space of the Republic of Finland, the customs border nevertheless extending two nautical miles beyond the outer limit of the territorial sea, unless otherwise agreed at international level;
- 6) *third country* means an area not belonging to the customs territory of the Union as defined in Article 4 of the Code;
- 7) *customs measure* means any measure taken within the competence of Customs with the exception of preliminary investigation of customs offences and border checks;
- 8) *customs offence* means
 - a) an offence which constitutes violation of this or any other Act that Customs is responsible for supervising and enforcing;
 - b) obstruction of a customs officer within the meaning of Chapter 16, section 3, of the Penal Code (39/1889) and failure to obey a customs officer within the meaning of section 4b of said Act;
 - c) unlawful dealing in stolen goods within the meaning of Chapter 46, section 6 and 6a of the Penal Code;
 - d) an offence involving importation into, exportation from or transit of property through Finland;
- 9) *prevention of customs offences* means the prevention, detection and investigation of customs offences;
- 10) *customs officer* means a public official appointed to a permanent or contract-based position and engaged in duties related to customs control, prevention of customs offences, taxation or customs duties.

Chapter 2

Competent authorities and their duties

Section 3

Customs

Customs shall be the customs authority and competent authority referred to in the Union customs legislation unless otherwise separately provided.

Section 4

Border Guard

The right of the Border Guard to carry out customs measures shall be provided in section 24 of the Border Guard Act (578/2005).

Section 5

Police

The right of a police officer to carry out customs measures shall be provided in chapter 2, section 21 of the Police Act.

Section 6

Obligations of a Member State laid down in Union legislation relating to customs operations

Customs shall comply with the following obligations of a Member State laid down in Union legislation:

- 1) communication of a decision to exclude a person from TIR operations and its date of application to other Member States and to the Commission in accordance with Article 229, paragraph 2 of the Code;
- 2) communication to the Commission of information on free zones that are in operation in accordance with Article 243, paragraph 2 of the Code;
- 3) communication to other Member States, the Commission and, where appropriate, the economic operator concerned of information on all actual or suspected breaches of security of the electronic systems in accordance with Article 3, paragraph 3 of the Implementing Regulation;
- 4) communication to the Commission of the name and contact information of the Customs operational unit responsible for the registration of operators in accordance with Article 6 of the Implementing Regulation;
- 5) providing the Commission with a list of the Customs units designated to receive applications and any subsequent changes to the list in accordance with Article 11 of the Implementing Regulation;
- 6) providing the Commission with a list of the international Union airports in Finland and any subsequent changes to the list in accordance with Article 45 of the Implementing Regulation;
- 7) notifying the Commission of the names, addresses and contact information of the Customs units that are competent to make, and responsible for, registrations referred to in Article 84 of the Implementing Regulation and for ensuring the administrative cooperation referred to in the Article as well as for informing the Commission of any changes to the information;
- 8) notifying the Commission of the unit prices of the perishable goods as referred to in Annex 23-2 of the Implementing Regulation in accordance with Article 142, paragraph 6 of the Implementing Regulation;
- 9) determining the rate of exchange needed for customs valuation purposes in a situation referred to in Article 146, paragraph 4 of the Implementing Regulation;
- 10) transferring a guarantee corresponding to the customs debt incurred in another Member State to the Member State in question in accordance with Article 153 of the Implementing Regulation when the guarantee has been accepted in Finland;
- 11) assisting other Member States in the recovery of the amount of import or export duty corresponding to the customs debt in accordance with Article 165, paragraph 2;
- 12) notifying the Commission of the contact information and reference number of the Customs unit coordinating customs debt issues relating to the use of ATA carnets and CPD carnets in accordance with Article 166, paragraph 2 of the Implementing Regulation;
- 13) providing the Commission with a list of the cases referred to in Article 181 of the Implementing Regulation where duties have been repaid or remitted;
- 14) notifying the Commission of the decision to remit or repay duties referred to in Article 101, paragraph 2 of the Delegated Regulation;
- 15) the national handling of a request relating to a tariff suspension or quota;
- 16) the obligations of the Member States laid down in Council Regulation (EC) No 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation

between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters;

17) the obligations of the Member States laid down in Commission Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446.

Chapter 3

Powers to carry out customs measures

Section 7

Purpose of the exercise of powers

The powers stipulated in this Chapter may only be exercised when necessary in order to carry out a customs measure, unless otherwise provided hereinafter.

Section 8

Examination of goods and documents

Customs is authorised to examine goods, its manufacture and storage including accounting records and other business documents as well as to sample goods.

Customs is only authorised to open letters, parcels or other equivalent consignments if this is necessary in order to determine whether the consignment contains goods requiring customs clearance or control. The confidentiality of any message contained in the consignment shall be respected.

The contents of a letter, parcel or other equivalent consignment may not be examined beyond what is warranted by the reason for opening it. Appropriate markings shall be made to indicate that a consignment has been opened.

Customs officers shall have access to warehouses and other spaces and locations – excluding premises used for habitual residence – in which goods are manufactured, stored, sold or otherwise processed and in which accounting records and other business documents are kept for the purpose of performing the examination referred to in subsection 1 or for taking samples.

All examinations carried out in warehouses, other spaces and locations referred to in subsection 4 are governed by the provisions of section 39 of the Administrative Procedure Act (434/2003).

More detailed instructions on the markings to be made on opened consignments will be issued by Customs.

Section 9

Retaining the services of an expert in the examination of goods

Where necessary, Customs shall have the right to retain the services of an external expert, with his or her consent, for the examination and sampling of goods in the situations referred to in the Article 239(2) and Article 240(3) of the Implementing Regulation in which the declarant fails to comply with the time limit set by Customs. The expert shall possess the necessary professional qualifications based on experience or training.

When performing the duties referred to in this section, the expert is governed by the provisions concerning the criminal liability of public officials. Provisions on liability for damages are set out in the Tort Liability Act (412/1974).

Section 10

Detention of goods

Customs shall have the right to detain goods that have not been duly cleared or in order to control or determine that the criteria for the import, export, transfer or transit of goods are fulfilled or in order to determine that the criteria referred to in section 100 a, subsection 2 of the Value Added Tax Act (1501/1993) are fulfilled.

The detention of goods shall lapse when:

- 1) the goods are placed under a customs procedure as laid down in the Code;
- 2) the goods are released as it is established that the criteria for the control or determination of the existence of which the detention has taken place are fulfilled;
- 3) it is decided that the goods are detained by Customs or another competent authority under this Act or another act;
- 4) the goods are seized under the Coercive Measures Act (806/2011);
- 5) the goods are abandoned to the State;
- 6) the goods are exported from the country in a legitimate manner.

Section 11

Seizure of goods

If Customs finds that the criteria for the importation, exportation, transfer or transit of goods as defined in section 10(1) of this Act are not met, or if it determines, in the course of the examination of the goods, that the person involved is not allowed to possess the goods under section 34 of the Alcohol Act (1143/1994), Customs shall make a decision to seize the goods.

The decision is issued to the person in whose possession the goods are when seized. The decision on the seizure of a postal item is issued to the recipient or sender if their identity is known to Customs.

Customs shall keep records of the seized goods.

The provisions on the sale, other surrender and destruction of seized goods are set out in Chapter 12.

Section 12

Control of road traffic

Customs officers shall have the right to control road traffic as well as give orders to move a vehicle or, secondarily, have it moved.

Section 13

Stopping and inspecting means of transport

Customs officers shall have the right to stop and inspect means of transport.

If it is probable that a Finnish vessel or a vessel lacking nationality or sailing under a false flag is being used for smuggling goods into Finland or from Finland, the vessel may be stopped and inspected also outside the customs territory, yet not in the territorial waters of a foreign state. The vessel may be brought to port for necessary investigation.

However, facilities used as a permanent residence on a means of transport may only be searched in connection with an inspection carried out promptly on entry to or exit from Finland's customs territory or a special fiscal territory constituting part of Finland's customs territory as well as in the inspection referred to in subsection 2.

Section 14

Isolation of places and restriction of the freedom of movement

Customs officers shall have the right to isolate, close, or vacate a place or area intended for the manufacture, loading, unloading of other processing of goods as well as a means of transport. Additionally, customs officers shall have the right to prohibit or restrict movement in said places, areas or means of transport.

Customs officers shall also have the right to undertake the measures referred to in subsection 1 in order to maintain public safety.

Section 15

Affixation of a distinctive mark

Customs officers shall have the right to affix a customs seal, customs lock or other distinctive mark on a means of transport, goods, warehouse or other location.

Section 16

Stopping a person

Customs officers shall also have the right to stop a person entering or leaving Finland's customs territory or visiting a means of transport or place where goods are unloaded, loaded or stored for the purpose of determining the need for any customs measures in accordance with Customs' rights of access to information. Customs officers shall also have the right, for special reasons, to stop persons elsewhere within Finland's customs territory.

Section 17

Verification of identify

In order to carry out a specific customs measure, customs officers shall have the right to require individuals to disclose their name and personal identity code – or in the absence of such a code – their date of birth and citizenship as well as the location where they can be reached.

In order to verify a person's identity, customs officers shall have the right to detain a person who refuses to disclose the information referred to in subsection 1 or who is likely to provide incorrect information, if detention is necessary for the verification of identity. The detainee shall be released as soon as the required information is obtained yet no later than within 24 hours of detention.

When action is taken to restrict a person's liberty, the person may be frisked and the items carried on his or her person examined in order to locate a document necessary for the verification of identity.

If the person refuses to disclose the information referred to in subsection 1 and his or her identity cannot be verified otherwise, customs officers shall have the right to establish his or her identity by means of personal distinguishing marks. Such a measure shall be governed by the provisions of Chapter 8, section 33(2–4) of the Coercive Measures Act concerning personal search.

Section 18

Personal search

To determine whether a person carries any items whose importation, exportation or transit is to be controlled by Customs under law, he or she may be subjected to a personal search within the meaning of Chapter 8, section 30 of the Coercive Measures Act as provided below when entering or leaving Finland's customs territory or visiting a means of transport or a location in which goods are unloaded, loaded or stored or, for special reasons, elsewhere in Finland's customs territory.

The decision on conducting the personal search referred to in Chapter 8, section 30 of the Coercive Measures Act in order to determine what items the person is carrying in his or her clothes or on his or her person shall be made by the customs officer carrying out the customs measure.

The frisking or bodily search referred to in Chapter 8, section 30 of the Coercive Measures Act conducted in order to determine what items the subject has on his or her person in addition to his or her clothes, may be conducted on a person suspected of an offence upon probable cause carrying a minimum sentence of one year's imprisonment. If so, the personal search may be carried out without initiating a pre-trial investigation. The decision on conducting such a measure shall be made by the designated customs officer serving as the supervisor in charge of customs offence prevention or customs control.

Any personal search shall be carried out with discretion in order to avoid any unnecessary inconvenience or damage to the person being searched or damage to the possessions worn or carried by him or her. A record shall be made of the bodily search referred to in the foregoing subsection 3 to provide a sufficiently accurate description of the measure. A copy of the record shall be issued to the person searched upon request. Additionally, the procedure used in the performance of the personal search shall be governed by the Coercive Measures Act.

Section 19

Safety check

Customs officers shall have the right, in connection with the personal search referred to in section 18 as well as in connection with apprehension, arrest, incarceration, detention and other measures affecting personal liberty, to check what the person has in his clothes or among the other possessions he or she is carrying. The safety check is carried out to ensure that the person does not have in his possession any hazardous items or substances that may jeopardise the search or detention or pose a risk to the person himself or herself or others. Customs officers may also carry out the search in order to find such items or substances in other cases if this is deemed, on well-founded grounds, to be necessary for the occupational safety of the customs officer or the due performance of the customs measure.

If necessary, the person being searched shall be deprived of the hazardous items or substances mentioned above in subsection 1. Similarly, items and substances that may not be possessed under law or any regulation or instruction issued under law shall be seized.

The safety check shall be carried out by exploring by hand or using a trained dog, metal detector or other equivalent technical device or by using some other comparable method. When the check

is carried out, the physical integrity of the person being checked may not be interfered with any more than necessary for the performance of the task. The check shall be carried out with the discretion warranted by the circumstances.

Section 20

Confiscation of items and substances posing a risk to public order and safety

Aside from the provisions of this and other Acts, customs officers shall have the right, in the performance of their statutory duties, to temporarily seize any fire arms, explosives, hazardous items referred to in section 9 of the Public Order Act (612/2003) and items and substances suitable for injuring others referred to in section 10 of the Public Order Act from persons who, due to their age, intoxication, state of mind or other circumstances, may be justly assumed to pose a present risk to public order and safety.

Instead of the entire item, a part or component of the item may be seized if the removal of such a part or components eliminates the foreseen risk.

Section 21

Handling of seized items

Items and substances seized by Customs under section 19 and 20 shall be returned to the person involved promptly or no later than within 14 days.

However, the items are not returned, if:

- 1) the item or substance cannot be returned without risk to the person who it was taken from;
- 2) Customs or other authority initiates confiscation within the meaning of Chapter 7 of the Coercive Measures Act;
- 3) other authority take steps to revoke the license authorising the possession of the item or substance involved;
- 4) return is otherwise prevented by law.

If the item or substance cannot be returned without risk to the person from whom it was taken, it shall be abandoned to the police for further action as provided in the Police Act or the Firearms Act (1/1998).

Chapter 4

Use of force

Section 22

Use of force

When performing official duties, customs officers in customs offence prevention or customs control duties shall have the right to use such necessary force that can be deemed justifiable:

- 1) to overcome resistance;
- 2) to remove a person from a place;
- 3) to apprehend a person;

- 4) to prevent the escape of a person deprived of his liberty;
- 5) to remove an obstacle;
- 6) to prevent an immediate threat of an offence or another dangerous act or event.

When assessing the justifiability of the use of force, the importance and urgency of the official duty, the danger of resistance, the resources available as well as other circumstances affecting the overall assessment of the situation shall be taken into account. Force shall be used only to the extent and for the time necessary to perform a statutory official duty.

When performing official duties, customs officers in customs offence prevention or customs control duties shall also have the right of self-defence as provided in chapter 4, section 4 of the Penal Code. In such self-defence, the customs officers are subject to liability for acts in office. When assessing the justifiability of self-defence, the requirements set on a customs officer on the basis of training and experience shall be taken into account.

Anyone who, on request or with the consent of a customs officer in customs offence prevention or customs control duty, temporarily assists the customs officer in a situation where it is necessary to resort to the help of a bystander when using force in performing an extremely important and urgent official customs offence prevention or customs control duty shall, under the direction of the customs officer, have the right use such force as is authorised by the customs officer acting within his powers.

Provisions on the excessive use of force are laid down in chapter 4, section 6, subsection 3 and section 7 of the Penal Code as well as on excessive self-defence in chapter 4, section 4, subsection 2 and section 7 of the Penal Code.

Section 23

Preparing to use force and warning of its use

If, in performing an official customs offence prevention or customs control duty, there is reason to suspect that resistance will be met or an unlawful attack referred to in chapter 4, section 4, subsection 1 of the Penal Code will occur, preparation for the use of force shall be made in a suitable and appropriate manner.

The persons targeted by the official duty shall be warned of the possibility that force may be used against him if a warning is possible and appropriate. The warning shall be given in a way that is understandable and suitable for the purpose.

Section 24

Equipment for applying force and protective equipment

A customs officer in customs offence prevention or customs control duty shall have the right to carry equipment for applying force required by his duties and to use them, where necessary, in situations requiring the use of force in accordance with section 22, subsection 1.

Customs shall equip customs officers in customs offence prevention or customs control duty with protective equipment required by the duties.

Section 25

Use of firearms

Firearms may be used only when it is necessary to stop the actions of a person posing an immediate and serious danger to the life or health of another person and when no more moderate

means to stop him are available. Firearms may also be used to remove an object, animal or other corresponding obstacle when carrying out an urgent and important duty.

Use of a firearm means warning of the use of a firearm referred to in section 2 of the Firearms Act, threatening with a firearm and firing a shot. Revealing a firearm and getting it ready to use shall not constitute use of a firearm.

Threatening with a firearm and firing a shot shall be decided by the customs officer acting as the head of customs offence prevention. If this is not possible in view of the urgency of the situation, threatening with a firearm and firing a shot shall be decided by a customs officer performing customs offence prevention or customs control duty.

Section 26

Physical restraint

The freedom to move or act of a person targeted by an official duty may be restricted by applying handcuffs, using plastic ties or in another corresponding manner if the restriction is necessary in connection with performing an official duty, to prevent the person from fleeing, to control violent behaviour or to avert imminent violence.

The restriction of freedom to move or act may not continue longer than is necessary. The restriction may not place the person in any danger or cause unnecessary pain.

Section 27

Further provisions on the use of force

Further provisions on the equipment for applying force of Customs and the right of a customs officer in customs offence prevention and customs control duties to carry equipment for applying force may be issued by government decree.

Further provisions on the training in the use of force, the practising and monitoring of the use of force, the storage of equipment for applying force as well as the supervision of the use of force relating to the use of force referred to in this chapter may be issued by Ministry of Finance decree.

Chapter 5

Other powers of Customs

Section 28

Technical monitoring

Technical monitoring means continuous or repeated visual or audio monitoring of vehicles, vehicle drivers, goods, pedestrians or the general public with the help of a technical device as well as automatic recording of sound or image.

Customs shall have the right to carry out technical monitoring in order to monitor compliance with customs legislation and other legislation the supervision of compliance of which falls within the powers of Customs, at border crossing points of the Finnish State border as well as in passenger terminals, port areas reserved for goods traffic, warehouses reserved for goods traffic and other corresponding places and premises, which Customs may monitor after giving prior notification.

Section 29

Prevention of import and export

Customs shall have the right to prevent import to Finland and export from Finland of goods in order to implement the international obligations binding on Finland, the decisions issued under Article 29 of the Treaty on European Union, the regulations issued under Article 215 of the Treaty on the Functioning of the European Union, the decree issued under the Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union (659/1967), or the decision to freeze funds made under the Act on the Freezing of Funds with a View to Combating Terrorism (325/2013).

Section 30

Control of cash

Customs officers shall have the right to check the cash and other possessions carried by a person in order to detect any money laundering offence as defined in Chapter 32 of the Penal Code and constituting a customs offence or terrorist funding as defined in Chapter 34a of the Penal Code.

Section 31

Border control

A customs officer shall have the right to carry out border control with the powers provided for a border guard in sections 28, 28 a, 36 and 38 of the Border Guard Act. In addition, Customs may use the images and sound collected during technical monitoring as provided in section 31 of the Boarder Guard Act with regard to the Border Guard. The customs officer acting as the superior at a customs office shall have the right to direct and restrict movement at a border crossing point as provided in section 30 a of the Border Guard Act for a border guard acting as a superior at a border crossing point and a border guard of at least the rank of lieutenant.

The prevention of exit of persons referred to in section 28, subsection 1, paragraphs 1 and 2 of the Boarder Guard Act as well as the taking into possession of goods and vehicles temporarily for the duration of border checks shall be decided by the customs officer acting as the superior of the customs office or a customs officer acting as the superior of customs offence prevention or customs control and ordered to the duty. In urgent cases, exit is prevented and taking into possession is carried out by the customs officer carrying out the border check who shall refer the matter, without delay, to be decided by the customs officer acting as the superior of the customs office or as the superior of customs offence prevention or customs control.

Conducting a non-intimate body search referred to in section 28, subsection 1, paragraph 9 of the Border Guard Act shall be decided by the customs officer acting as the superior of the customs offence prevention or customs control. A customs officer carrying out a border check may, however, decide on a non-intimate body search directed at a person's clothing or carry-on goods.

Section 32

Retention of goods in order to prevent or investigate an offence other than a customs offence

Customs may retain goods exported from, imported to or in transit through Finland if reasonable grounds exist thereto in order to prevent or investigate an offence other than a customs offence. The retention of goods shall, in that case, be notified, without delay, to the authority deciding on the seizure.

Section 33

Apprehending a wanted person

A customs officer shall have the right to apprehend a wanted person who in accordance with a warrant issued by a competent authority shall be apprehended, arrested or remanded or taken into custody. An apprehended person who is wanted by other than Customs shall be transferred to police custody without delay unless he has to be released immediately.

On request of a customs officer, a wanted person other than the one referred to in subsection 1 shall be liable to present himself at a police station or another place where the measures indicated in the apprehension warrant can be taken. If the person does not follow the request and if it is likely that he will attempt to avoid the measures indicated in the apprehension warrant, the customs officer shall have the right to apprehend him in order to take the measures indicated in the warrant.

Unless otherwise provided in the law on the duration of the measures required in the apprehension warrant, the wanted person shall be liable to remain available for the taking of the measures for at most six hours after being apprehended.

Chapter 6

Procedure when using powers

Section 34

Respecting fundamental and human rights

Customs shall respect fundamental and human rights and, when using their powers, choose from the justifiable alternatives the one that best preserves these rights.

Section 35

Principle of proportionality

The actions taken by Customs shall be justifiable in proportion to the importance, danger and urgency of the function, the goal pursued, the behaviour, age and health of the person subjected to the actions and other corresponding factors related to him as well as to other factors affecting the overall assessment of the situation.

Section 36

Principle of least harm

The actions taken by Customs shall not interfere with the rights of any person more and no person may be caused greater damage or inconvenience than is necessary in order to carry out the duty.

Section 37

Principle of intended purpose

Customs may use their powers only for the purposes provided by law.

Section 38

Performance of duties and their order of importance

Customs shall perform their duties with efficiency and expediency. Where circumstances so require, the duties shall be placed in an order of importance.

Section 39

Indicating customs officer status and identifying a customs officer

A customs officer shall, where necessary, indicate to the person targeted by the customs action that he is a customs officer and present his identity card upon request.

Customs shall ensure that the customs officer who carried out an official duty can be identified, where necessary.

Section 40

Stating the grounds for the use of powers

The grounds for the use of powers affecting personal freedom shall be notified to the person targeted by the action or to his representative as soon as possible, taking into consideration the condition of the person and other circumstances.

Unless otherwise provided by law, a person targeted by an action other than one affecting his personal freedom or his representative shall have the right to know the grounds for the use of powers as soon as it is possible without jeopardising the performance of the customs action.

Section 41

Authority of a customs officer

When exercising the powers laid down in this Act, the act on crime prevention in Customs [Laki rikostorjunnasta Tullissa] or in another act, a customs officer shall have the right, in an individual case, to issue orders and prohibitions binding on everyone necessary for the carrying out of the duties of Customs.

Section 42

Treatment of apprehended persons

The treatment of persons apprehended by Customs under this Act shall be governed by the provisions of the Act on the Treatment of Persons in Police Custody (841/2006) as well as the provisions of chapter 2, section 12, subsections 2 and 3 of the act on crime prevention in Customs on the person in custody with Customs and the custody facilities of Customs.

Section 43

Minutes and entry in another document

Minutes shall, without undue delay, be drawn up or an entry made in another document of the detention of a person in accordance with section 17, subsection 2 of this Act, the taking into possession of property in connection with a security check in accordance with section 19, subsection 2, the taking into possession of objects and substances posing a danger to public order

and security in accordance with section 20 as well as the apprehension of a wanted person in accordance with section 33.

A copy shall be issued, on request, of the minutes or of the entry made in another document to the person apprehended or from whom the goods have been taken into possession.

Customs shall issue further regulations on the drawing up of the minutes and the making of an entry in another document as well as on the contents of the minutes and the entry.

Chapter 7

Duty relief

Section 44

Relief based on certain international agreements

The Ministry for Foreign Affairs shall confirm the existence of duty relief conditions based on the following international agreements:

- 1) the Vienna Convention on diplomatic relations (Finnish Treaty Series 4/1970);
- 2) the Vienna Convention on consular relations (Finnish Treaty Series 50/1980);
- 3) a host country agreement or an agreement relating to the legal position of an organisation concluded between the Finnish government and an international organisation.

An institution of the Union or the European Atomic Energy Community situated in Finland shall confirm the existence of the duty relief conditions based on the Protocol on the Privileges and Immunities of the European Communities or on a headquarters agreement concluded between the Finnish government and the Union institution. The Ministry for Foreign Affairs shall, however, confirm the existence of the duty relief conditions of a person employed by the institution whose position according to the headquarters agreement is comparable to that of a diplomatic representative.

Section 45

Restrictions on the release of goods with relief from duty

Unless otherwise agreed in the agreement or Protocol referred to in section 44, goods may not be sold, rented or transferred for consideration or free or charge, without paying the duty, to other than a person benefiting from a corresponding relief from duty before three years have passed from the transfer of the goods to the use in accordance with the agreement referred to in section 44.

If the relief from duty referred to in section 44 has been granted to a natural person and the person moves from Finland before the period referred to in subsection 1 has expired and if he sells a vehicle that has been in his use in Finland, he shall pay duty in the amount of one thirty-sixth (1/36) per each full or incomplete month of the remaining period.

Section 46

Relief from duty of victualling goods

Relief shall be granted to:

- 1) the goods meant for ordinary victualling and fuel and lubricants of vessels and aircraft involved in professional international traffic;

- 2) the goods meant for ordinary victualling and fuel and lubricants of a foreign vessel in the use of the authorities and visiting the customs territory of Finland;
- 3) the goods meant for ordinary victualling and fuel and lubricants of a domestic vessel in the use of the authorities which departs in accordance with a confirmed visit schedule on an official representational trip outside the customs territory of Finland;
- 4) foodstuffs, tobacco and alcoholic beverages consumed during the voyage of a passenger train in regular traffic between Finland and Russia as well as tobacco, sweets and cosmetic products sold to be carried in the baggage of the passengers which are released to the buyer outside the customs territory of Finland.

Relief from duty shall apply to goods which a vessel or train carries to the customs territory of Finland or which are supplied thereto inside the customs territory of Finland for its own use. The relief shall also apply to goods consumed in the vessel or train inside the customs territory of Finland.

Goods to be sold to be carried in the baggage of a passenger shall not enjoy relief from duty when the vessel does not stop outside the customs or fiscal territory of the Union during its journey. The liability to duty of goods to be sold to passengers shall also be governed by the act on the taxation of goods sold in passenger vessels in foreign traffic in certain cases [laki ulkomaanliikenteessä olevissa matkustaja-aluksissa myytävien tavaroiden verottamisesta eräissä tapauksissa] (397/1969).

Section 47

Supply of victualling goods to a vehicle

Customs shall issue further regulations on the procedure to be complied with when supplying duty-free goods to a vehicle as well as on the accountability relating to the supervision of alcohol and tobacco products. Customs may restrict the quantities of duty-free goods supplied to a vehicle as it deems necessary considering the number of passengers, the size of the vehicle, the area of traffic and other circumstances. The right to restrict the quantities of goods supplied to a vehicle shall also apply to goods sold to equip an aircraft referred to in section 70, subsection 1, paragraph 6 of the Value Added Tax Act, goods sold for sale on board the vessel referred to in paragraph 7 and goods referred to in paragraph 8.

Section 48

Relief from duty of fuel

The fuel in the standard tank of a commercial motor vehicle entering the customs territory of Finland by land from outside the European Economic Area shall be duty-free up to 400 litres and the fuel in the standard tank of a special container up to 200 litres per journey.

Section 49

Relief from duty of goods in air transport

Duty-free goods shall be goods which have been granted relief from duty under an aviation agreement concluded with a third country that has acceded to the Convention on International Civil Aviation (Finnish Treaty Series 11/1949).

Chapter 8

Customs clearance

Section 50

Routes for conveyance of goods

Customs shall issue regulations on the routes for conveyance referred to in Articles 135 and 267 of the Code as well as of routes used to convey goods between a part of the customs territory of the Union belonging to a special fiscal regime and a part of the customs territory of the Union not belonging to a special fiscal regime.

Customs may issue separate regulations on the import transport of goods transported within frontier zones or in pipelines and wires as well as of traffic of negligible economic importance such as mail and passenger traffic.

For a special reason and under the conditions set by it, Customs may in individual cases grant an exemption from compliance with the regulations relating to the conveyance of the goods referred to in subsection 1.

Section 51

Obligation to declare goods in intra-Union transport

If the import of goods from another Member State to Finland, the export of goods from Finland to another Member State or the possession of the goods in Finland requires a permit, certificate or another document granted by an authority and it has not been granted prior to the import or export, the goods shall be declared to Customs upon import or export.

Section 52

Customs formalities and the information to be collected for compiling statistics relating to external trade

Customs may issue regulations on the formalities to be carried out in customs clearance and on the information to be collected from those liable to notify for compiling statistics relating to external trade, the procedures and time limits to be complied with in the collection to the extent that they are not provided in Union or national legislation.

Section 53

On customs representation

When lodging a customs declaration, a person acting as an indirect representative shall provide Customs with the necessary information also on the principal on behalf of whom the customs declaration is lodged. Customs shall issue further regulations on the information to be provided on the principal.

Section 54

Requirement of guarantee

Chapter 2 of Title III of the Code provides for the guarantee required for an existing or possible customs debt.

Customs shall issue further regulations on the determination of the guarantee required with regard to national taxes or charges.

Customs may change the amount of the guarantee on the basis of changes that have taken place in the operations or financial standing of a person.

Customs may issue regulations on the drawing up of the guarantee instrument in a form other than a document as well as on which forms of guarantee referred to in Article 83, paragraph 1 of the Delegated Regulation are approved by Customs.

Section 55

Permission to establish a free zone

Customs shall decide on the permission to be granted for establishing a free zone in accordance with Article 243, paragraph 1 of the Code and on its conditions.

Section 56

Notification of particulars for EORI registration by means other than electronic data systems

Customs may issue a regulation referred to in Article 4 of the Delegated Regulation on events where the particulars necessary for the registration in the Economic Operators Registration and Identification (EORI) system can be submitted by means other than electronic data systems.

Section 57

Transfer of rights and obligations of a holder of special procedure

Customs may, to the extent that they are not regulated by Union legislation, issue regulations on cases where, and the conditions subject to which, the rights and obligations of the holder of a procedure with regard to goods placed under a special procedure other than transit may be fully or partially transferred in the manner referred to in Article 218 of the Code to another person as well as on the procedure concerned.

Chapter 9

Assessment of duty

Section 58

Determination of the amount of duty

Customs shall determine the amount of duty on the basis of the declaration received or of information it has received or acquired otherwise.

The duty shall be determined on the basis of an estimate if no customs declaration has been lodged or if it cannot be used for as the basis for determining the duty even after being supplemented. The decision on the determination of duty shall state the basis for the estimate.

Section 59

Circumvention of duty

If any circumstance or measure has been given legal form that does not correspond to the actual nature or purpose of the issue, the customs clearance shall be carried out as if the right form had been used.

Section 60

Entry of duty in the accounts

Customs shall issue a regulation on the national procedure referred to in Article 104 of the Code for the entry in the accounts of the amounts of import or export duty.

Section 61

Notification of the amount of duty

A customer of Customs using a message format electronic data transfer method shall be notified of the amount of the duty determined:

- 1) with a response message, in which case the customer shall be deemed to have received information on the amount of duty at the time, unless otherwise shown, when the response message arrived in the computer system of the customer; or
- 2) as provided in the Act on Electronic Services and Communication in the Public Sector (13/2003) on a verifiable electronic service.

The amount of duty determined shall be notified to a customer of Customs other than one referred to in subsection 1 with a customs decision. Unless otherwise shown, the customer shall be deemed to have received information on the amount of duty:

- 1) on the date of confirmation of the customs decision if the customs decision has been given to the customer;
- 2) on the weekday following the confirmation of the customs decision if the customs decision has been submitted to the post-office box of the customer at the customs office;
- 3) on the eighth day following the confirmation of the customs decision if the customs decision has been left to be carried by the post.

Section 62

Period for notification of a customs debt

The period for notification of a customs debt is laid down in Article 103 of the Code. If the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal procedure, the period for notification of the customs debt shall be five years from the date on which the customs debt was incurred.

If Customs notifies the customs debt applying the five-year period laid down, Customs shall in its decision also notify the grounds and clarifications due to which it deems that the customs debt can be notified after the close of the three-year period laid down in Article 103, paragraph 1 of the Code as well as state the provisions applied.

Section 63

Hearing the Customs Attorney and notification of the decision to the Customs Attorney

The Customs Attorney shall be heard and he shall be notified of the decision so that the Customs unit making the decision shall reserve the Customs Attorney a possibility to familiarize himself with the decision and the documents relating to the matter.

Chapter 10

Payment of a customs debt

Section 64

Payment of duty

Duty shall be paid to a financial institution to an account designated by Customs. The payer shall be liable for any costs arising from the payment. Duty may also be paid at a customs office, in which case no extra costs will be charged.

Duty shall be paid within 10 days from the confirmation of the customs decision. Provisions on the extension and suspension of the time limit for payment of the duty as well as deferment of payment and other payment facilities to be granted to the debtor are laid down in Articles 108-112 of the Code.

Section 65

Due date for deferred payment

Customs may issue regulations on the application of the due dates for deferred payment laid down in Article 111, paragraph 6 of the Code.

Section 66

Deferral of a due date

Deferral of a due date shall be governed by the provisions of section 15 of the act on the calculation of time-limits laid down [Laki säädettyjen määräaikain laskemisesta] (150/1930). The duty may also be paid on the following first weekday if the due date of the customs authorities is a day on which the payment systems commonly used in the mutual payments of the banks are not in use in accordance with a notification of the Bank of Finland published in the Finnish Treaty Series.

Section 67

Date of payment of the duty

Duty shall be deemed paid to Customs on the day on which:

- 1) the payment has been charged from the account of the payer; or
- 2) the payment has been made in cash to a financial institution or a customs office.

If no information on the date of payment or charge has been conveyed with the payment, the duty shall be deemed paid on the date on which it has been entered in the bank account of Customs unless the debtor can show, or it can be indicated on the basis of documents, that the date of payment or charge was earlier than that.

Section 68

Interest on a payment facility

Credit interest laid down in Article 112 of the Code shall be charged for the duration of the payment facility.

Section 69

Set-off

When Customs repay an amount of duty, tax, a public payment, their delay penalties or credit or other interest on deferment to a person who is liable for an unpaid customs debt or another payment, Customs may use the repayment as payment of a matured duty, tax or payment as well as of their delay penalties and credit or other interest on deferment (*set-off*). The receivables to be used for set-off shall be opposing, similar and collectible.

If specific reasons so require, the party to the matter shall be reserved a possibility to present an explanation before the set-off. In other respects, the procedure shall comply with the Administrative Procedure Act.

The set-off date of Customs shall be the date on which the repayment decision was made. The interest for repayment as well as the delay penalties shall be calculated until the set-off date.

Customs shall notify the debtor of the set-off and, if a repayment for a third-party debtor has been used for the set-off, also the third-party debtor. The set-off notification shall be appended with instructions for appeal. Customs may issue further regulations on the procedure to be complied with in the set-off.

Section 70

Obstacles for set-off

The following shall not be used for set-off:

- 1) excess duty, taxes or payments made in error;
- 2) a repayment, the corresponding funds of which have been paid out as disbursement from the bankruptcy estate of the debtor.

Repayment shall not be used:

- 1) to pay an expired debt;
- 2) to pay a debt in full or in part, the enforcement of which has been interrupted or enjoined.

The bankruptcy of the recipient of the repayment or the execution of the repayment shall not prevent set-off. Customs shall notify the execution officer of the set-off of a customs invoice in execution.

Section 71

Use of repayment for the payment of a claim of another authority

If an amount repaid by Customs and admissible for set-off is not used for set-off of the claims of Customs, it may be used to pay other matured and unpaid State taxes, public payments as well as their delay penalties and deferment interest of the receiver of repayment if the authority in question has requested it from Customs before the repayment has been made.

Correspondingly, a repayment to the debtor from another authority that is admissible for set-off can, on request of Customs, be used for the set-off of a claim of Customs. Set-off shall, in that case, be governed by the provisions of this Act on set-off.

If the repaid amount is not used to pay a claim of Finnish authorities, the repayment may be used to pay a foreign duty or tax that is subject to collection in Finland under an agreement concluded with the foreign state on assistance in customs matters.

Section 72

Allocation of funds

The payer may indicate the customs decisions and post-clearance decisions for the payment of which the payment shall be used. Non-specified payments, repayments used for set-off and funds received from collateral shall be used to pay the claims in chronological order beginning from the earliest decision. Customs duty and taxes to be collected in Finland under an agreement on assistance shall, however, be paid last of the non-specified payments and taxes.

Funds levied, set-off or collected as well as funds received from collateral shall be used to pay a claim in the following order:

- 1) customs duty;
- 2) credit or other payment deferment interest;
- 3) tax increase and interest on arrears;
- 4) increase of customs duty, tax or payment and penalty fee;
- 5) national taxes and payments.

Customs may, in order to prevent the time-barring of a claim or to safeguard the recovery of a claim or to ensure the collection of a duty, allocate the payment in an individual case otherwise than as provided in subsection 1. To ensure the equal treatment of tax recipients, Customs may also, in an individual case, use the funds recovered from the debtor in an order other than that provided in subsection 2.

Section 73

Transfer of payments to Customs

A financial institution shall pay the duties it has received to the account of Customs daily at the latest on the weekday following the date of payment on which the financial institution is open to the public. If the financial institution is not open to the public on the date of payment, the funds shall be transferred to the said account at the latest on the second day thereafter when the financial institution is open.

The banks managing State payment transactions shall, however, transfer the duties they have received to the account of Customs as agreed in connection with the conclusion of the agreement on the management of State payment transactions.

Section 74

Bookkeeping of taxes

Customs shall keep accounts of collected and repaid duties, taxes as well as other payments unless otherwise provided in the bookkeeping of duties in Union legislation.

The bookkeeping of taxes shall include information on collected and repaid duties, taxes and other payments. The bookkeeping shall indicate the information required in the State Budget Act (423/1988) and the provisions issued thereunder as well as the information required by the remittance to the receivers of tax.

Chapter 11

Recovery of a customs debt

Section 75

Recovery of a duty through execution and safeguarding of recovery

Unless otherwise provided in this Act or in Union legislation, the recovery of a duty through execution and the safeguarding of recovery shall be governed by the provisions of the Act on the Enforcement of Taxes and Public Payments (706/2007) with the exception of the provisions on material appeal as well as of the act on the safeguarding of the recovery of taxes and payments [Laki verojen ja maksujen perimisen turvaamisesta] (395/1973).

The provisions of this chapter shall also apply to the recovery of other taxes, duty and tax increases, penalty fees as well as public payments collected by Customs unless otherwise provided by law.

Section 76

Recovery methods

Customs may, after examining the solvency of the debtor and the appropriate recovery method for the recovery of the funds:

- 1) send the unpaid customs duty invoice to be recovered through execution;
- 2) use a guarantee in its possession;
- 3) grant a deferment of payment or another payment facility referred to in the Code;
- 4) petition for bankruptcy of the debtor or another party liable to pay the duty;
- 5) exercise the right to be heard in bankruptcy, merger, demerger, compulsory auction of real estate, public summons, company restructuring and debt restructuring of a private individual as well as in other corresponding situations;
- 6) undertake the necessary legal action;
- 7) undertake precautionary measures;
- 8) request and provide international assistance in the manner separately provided for;
- 9) notify for publication the name, company name and business ID of the debtor or another party liable to pay the duty as well as the municipality of residence known to Customs unless otherwise provided in section 24, subsection 1, paragraph 31 of the Act on the Openness of Government Activities (621/1999) or in section 36, subsection 1 of the act on the population information system and certificate services provided by the Population Register Centre [Laki väestötietojärjestelmästä ja Väestörekisterikeskuksen varmennepalveluista] (661/2009) as well as the tax types and amounts of the unpaid customs duty invoice with delay penalties;
- 10) undertake other necessary actions.

Customs shall, without delay, notify the execution authority of a recovery action in accordance with subsection 1 that may cause changes in the recovery through execution of the customs duty invoice.

Section 77

Suspension of implementation

Suspension of implementation of a decision subject to appeal shall be applied in writing from Customs. An application concerning suspension of implementation shall be handled without delay.

A decision on the suspension of implementation shall, unless Customs decide otherwise in an individual case, be in force until 60 days have passed from the notification of the decision on the adjustment claim of the debtor or until his appeal has been decided with a final judgment. A decision on the suspension of implementation may not be separately appealed against.

Applying for the suspension of implementation regarding property taken in execution from the execution officer shall be governed by the provisions of section 15 of the Act on the Enforcement of Taxes and Public Payments.

Section 78

Non-recovery of a duty

If the amount to be recovered is less than 10 euros, it shall not be recovered. Recovery may, however, be initiated if several payments have been left non-recovered from the same party liable to pay due to a miscalculation or another mistake made by Customs, the party liable to pay or another party to the matter or for another reason or if there are special grounds for the recovery.

Section 79

Waiver from recovery measures

Customs may refrain from recovery of customs duty or interrupt recovery if it is not estimated to bring results. Recovery may, however, be initiated, or interrupted recovery may be continued in a situation where it can be estimated to bring results.

Chapter 12

Customs auction, other sale, abandonment and destruction of goods

Section 80

Goods sold by auction or in another manner

Customs sells the following goods by a public auction:

- 1) goods confiscated to the State by a final judgment;
- 2) goods abandoned to the State;
- 3) goods which are in temporary storage and not placed in a customs procedure or reexported within the period provided for in Article 149 of the Code;

4) goods under customs supervision and which cannot be released for a reason referred to in Article 198, paragraph 1, subparagraph b of the Code;

5) goods that have not been removed within six months from the decision of Customs on their release for free circulation;

6) goods left in the possession of Customs under a final judgment.

If goods referred to in subsection 1 are subject to an import prohibition or restriction, they may be abandoned only to the buyer, who shall present the documents required by abandonment.

If the goods referred to in subsection 1 are perishable, quickly disintegrated, depreciating in value, extremely expensive to handle, or if they for another reason should be sold urgently, the goods may also be sold in another manner and without waiting for the legal force of the judgment referred to in subsection 1, paragraph 1.

Section 81

Other abandonment or destruction of goods

If the goods referred to in section 80 cannot be sold due to the legislation restricting its use or sale or due to another reason relating to their quality or if their sale were not appropriate and the use, abandonment or destruction of the goods is not provided separately, the goods may, by decision of the Ministry of Finance, be abandoned to a state institution or, for a special reason, to another party. In other cases, the goods shall be destroyed.

If the goods referred to in section 80, subsection 1, paragraphs 3-6 are abandoned to a state institution, the title to the goods shall transfer upon abandonment to the State. If the goods are abandoned to a party other than a state institution, the title shall transfer to the recipient unless otherwise decided by the Ministry of Finance.

Section 82

Procedure in the sale of goods

The declarant of the goods and the party on whose behalf the declaration or notification has been lodged shall, where possible, be notified of the sale of the goods in advance in writing. Also the owner of the goods shall be notified of the sale if the owner is known to Customs and his contact information is available to Customs.

The sales notice relating to the customs auction shall be published in the data network open to everyone as well as in another appropriate manner at the discretion of Customs. The sales terms shall be notified prior to the sale of the goods.

When selling goods in a customs auction or otherwise, the lowest acceptable offer shall cover the amount of the customs duty to be collected on the goods on the basis of the sale or any unpaid customs duty, the excise duty and the transaction fee.

Customs may issue further regulations on the holding of a customs auction and the procedure to be complied with otherwise in the sale of goods.

Section 83

Responsibility for the goods to be sold or otherwise abandoned

Customs shall not be responsible for any imperfections or defects in the goods sold or abandoned in accordance with sections 80 and 81 or for any other properties.

Section 84

Customs duty payable on the goods to be sold

The sale of non-Union goods in the manner provided in section 80 shall correspond to the release of goods for free circulation. This shall, however, not apply to non-Union goods which have been declared for release for free circulation but the customs debt relating thereto has not been fully paid.

If a customs debt arises in connection with the sale due to release of goods for free circulation, the customs duty shall be included in the sales price of the goods.

Section 85

Payment of the sales price and transfer of title

The sales price for goods sold at a customs auction or otherwise shall be paid immediately. The buyer shall receive title for the sold goods and the goods shall be abandoned to him after the sales price has been paid. Customs may cancel the sale if the buyer does not pay the sales price immediately.

Section 86

Funds accrued from the sale

The funds accrued from a customs auction or other sale of goods shall be used to pay the costs relating to the goods in the following order:

- 1) customs duty, excise duty and transaction fees;
- 2) costs incurred by Customs from the storage and sale of the goods;
- 3) other national taxes and payments;
- 4) the other items referred to in section 72, subsection 2 in the order laid down in said subsection;
- 5) other costs.

If a surplus remains on the sales price of property owned by the State after the deduction of the costs referred to in subsection 1, it shall be accounted to the State if the declarant of the goods sold or the person on whose behalf the declaration or notification has been lodged does not, within one year from the sale of the goods, claim the surplus with a written application addressed to Customs. Customs shall notify the persons referred to above as well as the previous owner of the goods sold of the surplus if Customs has the necessary contact information.

An account shall be drawn up of the sale of the goods.

Chapter 13

Appeal

Section 87

Transmission of an application for the repayment or remission of a duty to the Commission for decision

Customs shall decide on the transmission of an application for the repayment or remission of a duty to the Commission for decision in accordance with Article 116, paragraph 3 of the Code.

Section 88

Claim for adjustment

Adjustment to a decision of Customs may be claimed from Customs. An application based on Article 116, paragraph 1, subparagraph a of the Code shall be deemed to constitute a claim for adjustment.

The right to claim adjustment to a decision of Customs on behalf of the State shall lie with the Customs Attorney. The Customs Attorney may claim adjustment only when he deems that it is necessary with a view to the application of the law in similar cases or to the uniformity of taxation or legal practice or if the matter is of financial significance or if the supervision of the rights of the State otherwise so requires.

The period of time for presenting a claim for adjustment in a matter relating to the levying, repayment or remission of a duty other than for an amendment on the basis of Article 116, paragraph 1, subparagraph a of the Code shall be three years from receipt of notice of the customs debt, however, always at least 60 days from receipt of notice of a decision on repayment or remission of a duty. The period of time in a matter relating to other than the levying, repayment or remission of a duty shall be 30 days from receipt of notice of the decision. The period of time for the Customs Attorney shall be 30 days from the making of the decision.

A claim for adjustment shall be submitted to Customs within the specified period of time. A claim for adjustment shall be handled without undue delay.

Section 89

Appeal to the Administrative Court

Appeal against a decision on the claim for adjustment may be lodged to Helsinki Administrative Court.

The right of appeal on behalf of the State shall lie with the Customs Attorney. The Customs Attorney may lodge an appeal only on the grounds provided in section 88, subsection 2.

The appeal period in a matter relating to the levying, repayment or remission of a duty shall be three years from the receipt of notice of the customs debt, however, always at least 60 days from the date of receipt of notice of the decision on the claim for adjustment. In other matters, the appeal period shall be 30 days from the date of receipt of notice of the decision on the claim for adjustment. The appeal period of the Customs Attorney shall be 30 days from the making of the decision.

Section 90

Appeal to the Supreme Administrative Court

A decision of the Administrative Court may be challenged by appeal if the Supreme Administrative Court grants a leave to appeal.

The right of appeal on behalf of the State shall lie with the Customs Attorney. The Customs Attorney may lodge an appeal only on the grounds provided in section 88, subsection 2.

The appeal shall be lodged within 60 days from the date of receipt of notice of the decision of the Administrative Court.

Section 91

Keeping of documents relating to appeal

After deciding the appeal, the Administrative Court and the Supreme Administrative Court shall send the documents relating to the appeal to be kept by Customs.

Section 92

Not hearing the State Legal Representative

In addition to the provisions of section 34, subsection 2 of the Administrative Judicial Procedure Act (586/1996) on the resolving of the matter without hearing a party, the Administrative Court may resolve an appeal on a decision relating to customs clearance without hearing the State Legal Representative if the amount of the duty can change at most 6 000 euros as a result of the appeal of the debtor and the matter is not subject to interpretation or ambiguous.

Section 93

Customs duty to be returned due to appeal

If customs duty has been removed or reduced due to a claim for adjustment or by decision of the Administrative Court, the excess customs duty paid shall be repaid without delay notwithstanding appeal.

If customs duty has been repaid due to a claim of adjustment or an appeal, interest shall be paid on the amount to be repaid. The interest paid for the repayment shall not constitute taxable income in the income taxation.

The interest shall be calculated as annual interest, which is the reference rate for the half-year preceding each calendar year referred to in section 12 of the Interest Act (633/1982) deducted by two percent, however, at least 0.5 per cent. The interest shall be calculated from the date on which the claim for adjustment became pending or, if the customs duty was paid only thereafter, from the date of payment of Customs to the date of repayment.

The interest shall be calculated as provided in this section also when the duty to be repaid has been recovered through execution under the Act on the Enforcement of Taxes and Public Payments.

Section 94

Reference provision

Unless otherwise separately provided in this Act or elsewhere, the handling of a claim for adjustment shall be governed by the provisions of the Administrative Procedure Act and the handling of an appeal by the provisions of the Administrative Judicial Procedure Act.

Chapter 14

Sanctions

Section 95

Customs duty increase

Customs may increase the customs duty levied or to be levied if:

- 1) the customs declaration or other information or document for customs assessment the submission of which is prescribed or requested by Customs has been submitted after the prescribed or regulated period of time, by at least 50 euros and at most 2 500 euros;
- 2) the obligation referred to in paragraph 1 is fulfilled only after requested by Customs, by at most 3 500 euros;
- 3) the customs declaration, other information or document referred to in paragraph 1 has been issued in an incomplete or inaccurate form or if the obligation to declare has been neglected in full or in part, by at most 30 per cent;
- 4) the customs declaration, other information or document referred to in paragraph 1 has been issued in an incomplete or inaccurate form or the obligation to declare has been neglected in full or in part intentionally or through gross negligence and the act has been likely to result in a non-levying of duty, by at most 100 per cent;
- 5) a person arriving in the country has intentionally or through gross negligence neglected his obligation to declare when importing or attempting to import tax free more goods than he has the right to and if the matter is not to be handled as a customs offence, by 100 per cent.

If the act or neglect referred to in subsection 1 has concerned only part of the goods, the increase shall be imposed only with regard to these goods.

Section 96

Penalty fee

Customs may impose a penalty fee if:

- 1) the delay referred to in section 95, subsection 1, paragraph 1 or 2 concerns a customs procedure where customs duty is not levied or where the amount of the duty is negligible and no increase has been charged, in an amount of at least 50 euros and at most 3 500 euros;
- 2) the incompleteness, inaccuracy or neglect referred to in section 95, subsection 1, paragraph 3 or 4 concerns a customs procedure where customs duty is not levied or where the amount of the duty is negligible and no increase has been charged or if insufficient or erroneous information or document has been submitted in application procedure or for obtaining a preferential tariff measure, in an amount of at least 50 euros and at most 15 000 euros;
- 3) the delay or other defect concerns the statistical procedure relating to intra-Union trade laid down in Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91 or the import of goods to the customs territory of the Union or export from the customs territory of the Union, the presentation of goods to Customs, the summary entry declaration, the exit summary declaration, the discharge of customs procedure, the unloading and loading of goods presented to Customs, the temporary storage of goods or their removal from customs supervision, the removal or destruction of identification affixed to the goods, packaging or means of transport by the customs authorities laid down in the Code or in the regulations issued thereunder, the destruction of goods in accordance with Article 197 of the Code or the procedure for abandonment of the goods to the State, in an amount of at least 50 euros and at most 3 500 euros;
- 4) compliance with a permission granted by Customs or with a condition of another decision relating to an individual case or the obligation referred to in a regulation issued by Customs under section 47, 52 or 57 of this Act, for the neglect of which no sanction has been provided in section 95 or in paragraphs 1-3 above, has been neglected in full or in part, in an amount of at least 50 and at most 3 500 euros;

5) the obligation to report the data on the movement of containers laid down in Article 18 a, paragraph 4 of Council Regulation (EC) No 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters has been neglected in full or in part or if said data have been submitted in an incomplete or inaccurate form, in an amount of at least 50 euros and at most 3 500 euros;

6) the obligation of the holder of the decision laid down in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 has been neglected in full or in part, in an amount of at least 50 euros and at most 3 500 euros.

The penalty fee shall be imposed on the party liable for the fulfilment of the obligation subject to the inaccuracy or neglect under a provision or regulation.

Section 97

Subsequent customs duty increase and penalty fee

A customs duty increase or penalty fee may be imposed after the notification of a customs debt within three years from the date on which the customs debt has incurred or, if the goods are duty free, from the date on which Customs has approved the information in the customs declaration.

In situations other than those referred to in subsection 1, a penalty fee may be imposed within three years from the date on which a declaration for statistics regarding intra-Union trade, information significant with regard to compliance with the import and export restrictions or other document or information referred to in section 95 has or should have been given.

Section 98

Imposition of a customs duty increase and a penalty fee

The imposition of a customs duty increase and a penalty fee is based on an overall assessment. In assessing the amount, the seriousness and frequency of the act and the financial position of the actor shall be taken into account. In addition, the benefit pursued and the damage caused by the act shall be taken into account in the assessment if they can be determined as well as the cooperation of the actor with Customs for clarifying the matter.

The duty increase or penalty fee shall not be imposed if the act or neglect is minor assessed as a whole or if the imposition of a duty increase or a penalty payment is otherwise deemed clearly unreasonable.

The customs duty increase or penalty fee shall remain in force after the termination of a customs debt or the repayment of duty if the reasons under which a duty increase or penalty fee has been imposed still exist.

The provisions on a tax increase and a taxation decision of the act on a tax or duty increase imposed by a separate decision [Laki erillisellä päätöksellä määrättävästä veron- ja tullinkorotuksesta](781/2013) shall also apply to a penalty fee and a decision of Customs.

Section 99

Customs violation

Anyone who intentionally or through gross negligence breaches

1) the procedure provided in the Code or in a regulation issued thereunder relating to the submission of a customs declaration or other information or document to be issued for customs

taxation, the import of goods to the customs territory of the Union or export from the customs territory of the Union, the presentation of goods to Customs, the summary entry declaration, the exit summary declaration, the discharge of customs procedure, the unloading and loading of goods presented to Customs, the temporary storage of goods or their removal from customs supervision, the removal or destruction of identification affixed to the goods, packaging or means of transport by the customs authorities, the destruction of goods in accordance with Article 197 of the Code or the procedure for abandonment of the goods to the State,

2) a regulation issued by Customs on the basis of section 47 on the procedure relating to the accounting of goods that are tax-free, on the basis of section 50 on the transport routes of goods or on the basis of section 52 on formalities applied in customs clearance,

3) the obligation to declare goods laid down in section 51 of this Act,

shall, unless a more severe penalty has been provided elsewhere in law for the act, be sentenced for a *customs violation* to a fine.

Penalty shall not be sentenced for a customs violation if a duty increase or a penalty fee has been imposed in the matter.

Chapter 15

Miscellaneous provisions

Section 100

Assistance by Customs

In addition to the provisions elsewhere in the law, Customs may, within its powers, on request, provide assistance to another authority in order to carry out its statutory control duty. A precondition for the provision of assistance shall be that it may take place without endangering the performance of the other important statutory duties of Customs.

The decision on the provision of assistance shall be made by the head of the Customs unit referred to in the act on the administration of Customs [Laki Tullin hallinnosta] (960/2012) responsible for the performance of the assistance mission or the head of the operational unit responsible for the performance of the assistance mission. A customs officer with the right to apprehend shall decide on the provision of assistance relating to pre-trial investigation or coercive measures.

Section 101

Assistance provided to Customs

An authority shall provide assistance that is necessary for carrying out a duty belonging to Customs within the competence of the authority. The assistance to be provided to Customs shall also be governed by the provisions of the Act on Cooperation between the Police, Customs and the Border Guard (687/2009).

The decision to request assistance shall be made by the head of the Customs unit referred to in the act on the administration of Customs needing assistance or the head of the operational unit needing assistance. The chief investigator shall decide on the request for assistance relating to pre-trial investigation or coercive measures.

Section 102

Obligation to provide information

A person who is subjected to a customs measure directly or indirectly shall, on request of Customs and within the set time limit, provide Customs with all documents and information necessary for performing the customs measure relating to an importer, exporter, another party, goods, vehicle, passenger and the personnel of the vehicle.

A person who is in possession of information necessary to the customs taxation of another party or to a matter relating to an appeal thereof shall provide Customs with the information on its request and within the time limit. The obligation to provide information shall not apply to information relating to a matter in which the person, under the law, has the right to refuse to testify. It is, however, not possible to refuse to provide information on the financial position.

Section 103

Costs arising from the provision of information and from assistance in control

Anyone who under Article 15 of the Code is liable to present and provide Customs the information necessary for performing customs taxation or customs control or assist in control and anyone who under section 102 is liable to provide Customs with information shall undertake these measures at his own cost.

Section 104

Threat of a fine

Customs may impose the threat of a fine to emphasize the obligation to provide information referred to in section 102, subsection 2 and the obligation to provide information and to assist laid down in Article 15 of the Code. A threat of a fine may, however, not be imposed if the party to the matter is under suspicion of an offence and the requested material is linked to the matter subject to the suspicion.

Section 105

Public payments levied by Customs

The levying, payment and appeal relating to payments for performances of Customs under the Act on Criteria for Charges Payable to the State (150/1992) as well as to other public payments levied by Customs shall be governed by the provisions and regulations on the customs.

The delay penalties of payments referred to in this section shall be governed by the act on tax increases and penalty interest [Laki veronlisäyksestä ja viivekorosta] (1556/1995).

Section 106

Conveyance of control premises

Customs shall have the right to gain access to premises from the owner or holder of a transport location, against a current-value compensation, required for performing control of goods at ports, railway stations and airports.

In determining the size and location of the premises needed by Customs at the transport location, the volume of goods and passenger traffic to be controlled, the traffic and general arrangements of the location, the transport modes to be used as well as the tools and equipment used in control shall be taken into account.

When designing or re-designing the premises referred to in subsection 1, the designs and re-designs shall be agreed on between Customs and the transport location holder prior to commencing the construction work.

Section 107

Electronic services and signatures

Electronic services shall be governed by the Act on Electronic Services and Communication in the Public Sector and the electronic verification of documents in the Act on Strong Electronic Identification and Electronic Signatures (617/2009). Customs shall issue further regulations on how the notifications and other documents to be submitted to Customs electronically have to be verified.

Chapter 16

Entry into force and transitional provisions

Section 108

Entry into force

This Act enters into force on 1 May 2016.

This Act repeals the customs act [Tullilaki] (1466/1994).

After the entry into force of this Act, a reference in another act or decree to the repealed customs act shall mean a reference to this Act.

Section 109

Transitional provisions

Appeal against a decision by Customs pending at the entry into force of this Act shall be governed by the provisions on interest for repayment in force at the entry into force of this Act.

Acts and neglects that took place prior to the entry into force of this Act shall be governed by the provisions on penalty fee and increase of customs duty in force at the entry into force of this Act.