



Tonga

# **CUSTOMS AND EXCISE ACT**

**1988 Revised Edition**





## CUSTOMS AND EXCISE ACT

### Arrangement of Sections

#### Section

|   |                   |    |
|---|-------------------|----|
| 1 | Short Title. .... | 11 |
|---|-------------------|----|

#### **PART I. - PRELIMINARY** **11**

|   |   |    |
|---|---|----|
| 2 | Interpretation. ....                              | 11 |
| 3 | Powers of Officers. ....                          | 16 |
| 4 | What shall be deemed to be act of Collector. .... | 16 |
| 5 | Hours of Attendance. ....                         | 17 |
| 6 | Request by public for extra attendance. ....      | 17 |

#### **PART II. - DUTIES, PROHIBITIONS, DRAWBACKS AND REFUNDS OF DUTY** **17**

|    |   |    |
|----|---|----|
| 7  | Customs and excise duties. ....   | 17 |
| 8  | Controller may remit duty, rent, charges and fees. ....                   | 18 |
| 9  | Time of entry to govern duty payable. ....                                | 18 |
| 10 | Entry may be made before importation. ....                                | 18 |
| 11 | Excise duty to be paid at rate in force on delivery. ....                 | 18 |
| 12 | Effect of obligation to pay duty. ....                                    | 19 |
| 13 | Duty on goods reimported. ....  | 19 |
| 14 | Goods entered for transshipment exempt from duty. ....                    | 20 |
| 15 | Assessment of value of imported goods liable to ad valorem duty. ....     | 20 |
| 16 | Value, etc., in foreign currency to be converted to Tongan currency. .... | 22 |
| 17 | Assessment of value of exported or excisable goods. ....                  | 22 |
| 18 | Duty calculated on weight or measure. ....                                | 22 |
| 19 | Duty calculated on gross weight in certain cases. ....                    | 22 |
| 20 | Duties, etc, to be proportionate to quantity or value. ....               | 23 |

|    |  |    |
|----|--|----|
| 21 | Abatement of duty.....   | 23 |
| 22 | Derelict, etc., goods liable to full duty unless damaged.....                        | 23 |
| 23 | Damage to be assessed by the Collector. ....   | 23 |
| 24 | No abatement on certain goods. ....  | 23 |
| 25 | Qualifications as to abatement. ....   | 24 |
| 26 | Limitations as to wines and beers.....   | 24 |
| 27 | Strength of spirits. ....  | 24 |
| 28 | Goods used contrary to purpose for which imported. ....                              | 24 |
| 29 | Penalty for not producing goods. ....  | 25 |
| 30 | Goods imported for temporary use or purpose.....                                     | 25 |
| 31 | Disposal of deposit. ....  | 25 |
| 32 | Certain goods only may be imported for temporary use. ....                           | 26 |
| 33 | Contract prices of imported goods may be adjusted to meet the change<br>in duty..... | 26 |
| 34 | Controller may prohibit importation, carriage coastwise or exportation.....          | 26 |
| 35 | Goods prohibited or restricted to be imported.....                                   | 27 |
| 36 | Goods prohibited or restricted to be exported. ....                                  | 27 |
| 37 | Saving as to goods in transshipment or stores. ....                                  | 27 |
| 38 | Prohibitions and restrictions elsewhere provided.....                                | 27 |
| 39 | King in Council may direct granting of drawback. ....                                | 27 |
| 40 | Declaration by owners of goods exported on drawback. ....                            | 28 |
| 41 | Certification of debenture.....  | 28 |
| 42 | Evidence of landing or disposal of drawback goods.....                               | 28 |
| 43 | Time limit for debenture payment.....  | 28 |
| 44 | Refund of duties overpaid. ....  | 28 |

### **PART III. - ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS, LANDING OF PASSENGERS AND UNLOADING, REMOVAL AND DELIVERY OF GOODS 29**

|    |  |    |
|----|--|----|
| 45 | Procedure on arrival. ....   | 29 |
| 46 | Collector may direct mooring and discharge. ....   | 29 |
| 47 | Officer may board aircraft or ship.....  | 29 |
| 48 | Officer may open if access not free.....   | 30 |
| 49 | Penalty for interfering with seal, etc., or failing to unload goods if<br>required. .... | 30 |
| 50 | Goods unlawfully discharged.....   | 30 |
| 51 | Search of persons. ....  | 31 |
| 52 | Special authority may be required before search. ....                                    | 31 |
| 53 | Search of female.....  | 31 |
| 54 | Control of small craft. ....   | 31 |
| 55 | General regulations for small craft.....   | 31 |
| 56 | Penalty for infringement of regulations respecting small craft. ....                     | 32 |
| 57 | Licences for small craft. ....   | 32 |
| 58 | Accommodation of officer. ....   | 32 |
| 59 | Report of aircraft or ship. ....   | 32 |

|    |  |    |
|----|--|----|
| 60 | Certain goods to be reported separately.....                                 | 32 |
| 61 | Master to report certain goods before breaking bulk.....                     | 33 |
| 62 | Penalty for not making due report.....                                       | 33 |
| 63 | Penalty for not accounting for package reported.....                         | 33 |
| 64 | Determination of duty under section 63.....                                  | 33 |
| 65 | Refund to consignee where goods not received.....                            | 34 |
| 66 | Master to answer questions.....  | 34 |
| 67 | Penalty for wrongly breaking bulk.....                                       | 34 |
| 68 | Master to deliver previous clearance.....                                    | 35 |
| 69 | Aircraft or ship abandoned may be seized.....                                | 35 |
| 70 | Report when discharging at more than one port.....                           | 35 |
| 71 | Unloading, entry, removal and delivery of goods.....                         | 36 |
| 72 | Restriction on delivery of goods.....  | 37 |
| 73 | Goods other than cargo.....  | 37 |
| 74 | Forfeiture.....  | 38 |
| 75 | Delivery of bullion, etc., and perishable goods requiring refrigeration..... | 38 |
| 76 | Entry in absence of documents.....   | 38 |
| 77 | Disposal of amount paid for provisional entry.....                           | 38 |
| 78 | Goods not entered after declaration.....                                     | 39 |
| 79 | Power to waive production of documents.....                                  | 39 |
| 80 | Payment of additional sum in certain cases.....                              | 39 |
| 81 | Goods deemed to be in a King's warehouse.....                                | 39 |
| 82 | Goods not entered or delivered to be deposited in a King's warehouse.....    | 40 |
| 83 | Goods deposited in King's warehouse may be sold.....                         | 41 |
| 84 | Freight on goods deposited in a King's warehouse.....                        | 41 |
| 85 | Goods deposited in a King's warehouse may be examined.....                   | 42 |
| 86 | Goods may be entered by shipowners, etc.....                                 | 42 |
| 87 | Computation of time.....   | 42 |
| 88 | Aircraft or ship may be detained until goods landed.....                     | 42 |
| 89 | Restrictions as to passengers and other persons.....                         | 43 |

#### **PART IV. - WAREHOUSED GOODS AND GOODS DEPOSITED IN A CUSTOMS AREA**

**43**

|     |   |    |
|-----|---|----|
| 90  | Warehousing.....  | 43 |
| 91  | Government not liable for loss in warehouses or customs areas.....                            | 43 |
| 92  | Private warehouses and customs areas.....   | 44 |
| 93  | Warehouse keeper etc., not to enter warehouse without permission.....                         | 44 |
| 94  | Warehouse keeper etc., to provide facilities.....   | 44 |
| 95  | Revocation of order approving warehouse.....  | 44 |
| 96  | Disposal of goods on revocation.....  | 45 |
| 97  | Procedures as to warehousing.....   | 45 |
| 98  | Goods to be warehoused in packages in which imported, and maybe<br>required to be marked..... | 45 |
| 99  | Penalty for interfering with storage of goods in a private warehouse.....                     | 45 |
| 100 | Stowage of goods in private warehouses or customs area.....                                   | 46 |

|     |   |    |
|-----|---|----|
| 101 | Warehouse keeper neglecting to arrange, stow and maintain goods.....                          | 46 |
| 102 | Goods to be produced to officer. ....   | 46 |
| 103 | Penalty for not warehousing etc. ....   | 47 |
| 104 | Penalty for illegal opening warehouse, customs area or transit shed. ....                     | 47 |
| 105 | Penalty for embezzling warehoused goods, etc.....   | 47 |
| 106 | Proper officer may do reasonable acts to warehoused goods.....                                | 47 |
| 107 | Importer or owner to pay cost of action taken under section 106. ....                         | 48 |
| 108 | Removal of warehoused goods to another warehouse. ....  | 48 |
| 109 | Procedure on delivery.....  | 48 |
| 110 | Goods removed subject to warehouse regulations. ....  | 48 |
| 111 | Goods removed may be entered for use in the Kingdom or for<br>exportation.....                | 49 |
| 112 | Removal, etc. to be subject to certain conditions. ....                                       | 49 |
| 113 | Collector may remove goods warehoused in a Government warehouse.....                          | 49 |
| 114 | Re-warehousing.....   | 49 |
| 115 | Re-examination not required in certain cases.....   | 50 |
| 116 | Disposal of goods not re-warehoused. ....   | 50 |
| 117 | Warehoused goods entered or sold must be removed within 14 days.....                          | 51 |
| 118 | Delivery in special circumstances. ....   | 51 |
| 119 | Stores.....   | 51 |
| 120 | Duty to be paid according to original account. ....   | 51 |
| 121 | Goods entered for exportation or use as aircraft's or ship's stores<br>exempt from duty. .... | 52 |

## **PART V. - LOADING AND EXPORTATION OF GOODS** **52**

|     |  |    |
|-----|--|----|
| 122 | Entry of ships outwards.....   | 52 |
| 123 | Rummage certificate. ....  | 52 |
| 124 | Licence to unload or load at a sufferance wharf.....   | 53 |
| 125 | Conditions to be observed. ....  | 53 |
| 126 | Delivery of licence after unloading or loading.....  | 53 |
| 127 | Subsequent procedure. ....   | 53 |
| 128 | Penalty for breach of sections 122 to 127. ....  | 53 |
| 129 | Limitation. ....   | 54 |
| 130 | Loading goods or exportation or carriage coastwise by ships of less<br>than 100 tonnes net tonnage. .... | 54 |
| 131 | Goods loaded for exportation or carriage coastwise to be separated<br>from other cargo. ....             | 54 |
| 132 | Restriction on exportation of certain goods. ....  | 54 |
| 133 | Penalty.....   | 54 |
| 134 | General provisions regarding loading and exportation of goods.....                                       | 55 |
| 135 | Collector may relax conditions of shipment.....  | 55 |
| 136 | Vessels loading into ship to proceed direct and may be required to be<br>licensed.....                   | 55 |
| 137 | Permission required to discharge goods loaded. ....  | 56 |
| 138 | Penalty for breach of sections 134 to 137. ....  | 56 |

|     |  |    |
|-----|--|----|
| 139 | Penalty for attempting to ship prohibited or restricted goods..... | 56 |
| 140 | Bond may be required in certain cases.....                         | 56 |
| 141 | Master may be required to sign for goods.....                      | 57 |
| 142 | Offences relating to certain goods. ....                           | 57 |
| 143 | Penalty for not exporting bonded goods. ....                       | 57 |
| 144 | Short loading of bonded goods. ....                                | 57 |
| 145 | Exporter to notify short loading of non-bonded goods. ....         | 58 |
| 146 | Collector may allow shipment of stores.....                        | 58 |
| 147 | Drawback and transhipment of goods.....                            | 58 |
| 148 | Loading of goods other than cargo or stores.....                   | 58 |

## **PART VI. - DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS**

**59**

|     |   |    |
|-----|---|----|
| 149 | Clearance of aircraft and ships.....  | 59 |
| 150 | Power to refuse or cancel clearance of ship or aircraft. ....                         | 59 |
| 151 | Power to prevent flight of aircraft.....  | 60 |
| 152 | Penalty for not clearing.....   | 60 |
| 153 | Master to deliver account of cargo etc. ....  | 60 |
| 154 | Penalty for any contravention of section 153.....                                     | 61 |
| 155 | Controller may prescribe special conditions as to clearance. ....                     | 61 |
| 156 | Clearance in ballast.....   | 61 |
| 157 | Ships with passengers and baggage deemed in ballast. ....                             | 61 |
| 158 | Clearance to be produced to officer on demand. ....                                   | 61 |
| 159 | Goods not contained in account forfeited. ....  | 62 |
| 160 | Penalty for failure to produce goods. ....  | 62 |
| 161 | Deficiency in stores, etc. ....   | 62 |
| 162 | Aircraft or ship not bringing to at boarding station or carrying away<br>officer..... | 62 |

## **PART VII. - COASTING TRADE**

**63**

|     |  |    |
|-----|--|----|
| 163 | Definitions. ....  | 63 |
| 164 | Provisions relating to aircraft and ships from places outside the<br>Kingdom. .... | 63 |
| 165 | Removing uncustomed goods coastwise.....   | 63 |
| 166 | Licence for coasting ships.....  | 64 |
| 167 | Coasting aircraft or ships to take only coastwise cargo. ....                      | 64 |
| 168 | Offences. ....   | 64 |
| 169 | Special conditions as to certain goods. ....                                       | 64 |
| 170 | Coastwise cargo not to be put on board on Sundays etc. ....                        | 65 |
| 171 | Forfeiture of goods prohibited etc. to be carried coastwise. ....                  | 65 |
| 172 | Master to keep book cargo.....   | 65 |
| 173 | Master to produce cargo book on demand. ....                                       | 65 |
| 174 | Penalty for failure to keep cargo book correctly.....                              | 66 |
| 175 | Form of cargo book.....  | 66 |

|     |   |    |
|-----|---|----|
| 176 | Coastwise passengers, etc. ....                               | 66 |
| 177 | Master to deliver cargo book to officer before departure..... | 66 |
| 178 | Procedure where no officer is stationed. ....                 | 67 |
| 179 | Master to deliver cargo book on arrival. ....                 | 67 |
| 180 | Controller may vary procedure.....                            | 67 |
| 181 | Search of coasting aircraft or ship.....                      | 67 |

## **PART VIII. - IMPORTATION AND EXPORTATION BY POST** **68**

|     |  |    |
|-----|--|----|
| 182 | Application of customs laws to importation and exportation by post. ....   | 68 |
| 183 | Power to modify such application.....                                      | 68 |
| 184 | Contents of postal packets may be prescribed.....                          | 68 |
| 185 | Right of Chief Postmaster to recover sums payable under customs laws. .... | 68 |
| 186 | Penalty for contravention. ....  | 69 |
| 187 | Goods contained in postal packets contrary to law. ....                    | 69 |
| 188 | Saving Post Office Act, <i>Cap. 95</i> .....                               | 69 |

## **PART IX. - BONDS AND OTHER SECURITIES** **69**

|     |  |    |
|-----|--|----|
| 189 | Bonds and other securities required under the customs laws.....  | 69 |
| 190 | Surety to be deemed a principal debtor. ....                     | 70 |
| 191 | Continuing validity of existing bonds and other securities. .... | 70 |

## **PART X. - PREVENTION OF SMUGGLING** **71**

|     |   |    |
|-----|---|----|
| 192 | Penalty on persons found on board smuggling aircraft or ships. ....     | 71 |
| 193 | Smuggling ships under 100 tonnes forfeited.....                         | 71 |
| 194 | Penalty on aircraft and ships of 100 tonnes or more. ....               | 71 |
| 195 | Ships forfeited for offence during chase. ....                          | 72 |
| 196 | Penalty for not bringing to. ....                                       | 73 |
| 197 | Offences by smugglers, etc., against officers.....                      | 73 |
| 198 | Penalty for assembling to evade customs laws. ....                      | 74 |
| 199 | Penalty for signalling to smugglers. ....                               | 74 |
| 200 | Penalty for interfering with customs gear. ....                         | 75 |
| 201 | Intermeddling with goods found floating or on land.....                 | 75 |
| 202 | Writ of assistance. ....  | 75 |
| 203 | Search warrant.....   | 75 |
| 204 | Officer may patrol freely and stop any aircraft, ship or carriage. .... | 76 |
| 205 | Officer may enter premises used for manufacture of excisable goods..... | 76 |
| 206 | Officer may enter premises for sale of excisable goods.....             | 77 |

## **PART XI. - PENALTIES AND GENERAL PROVISIONS** **77**

|     |                                     |    |
|-----|-------------------------------------|----|
| 207 | General penalty. ....               | 77 |
| 208 | Penalty in cases of forfeiture..... | 77 |
| 209 | Penalty for false declaration.....  | 78 |



|     |  |    |
|-----|--|----|
| 210 | Penalty for evading customs laws regarding imported or exported goods..... | 78 |
| 211 | Penalty in relation to concealed goods, etc.....                           | 79 |
| 212 | Power of Collector to purchase goods in certain cases.....                 | 79 |
| 213 | Officer taking unauthorised fees, making collusive seizure, etc.....       | 80 |
| 214 | Offering goods for sale under pretence that they are smuggled.....         | 80 |
| 215 | Deficiency and excess in excisable stock.....                              | 80 |
| 216 | General provisions as to forfeiture.....                                   | 81 |
| 217 | Procedure on seizure.....  | 81 |
| 218 | Disposal of seizure.....   | 82 |
| 219 | Restoration of seizure, etc., and remission of penalties.....              | 82 |
| 220 | Penalties.....   | 82 |
| 221 | Liability for acts of servants.....  | 83 |
| 222 | Ships' agents.....   | 83 |
| 223 | Form of document.....  | 83 |
| 224 | Production of documents.....   | 83 |
| 225 | Copies of documents to be submitted if required.....                       | 84 |
| 226 | Translation.....   | 84 |
| 227 | Samples.....   | 85 |
| 228 | Examination and handling of goods.....                                     | 85 |
| 229 | Repacking etc., sampling of goods by owner.....                            | 85 |
| 230 | Remission of duty on goods lost, destroyed or abandoned.....               | 85 |
| 231 | Drawback on goods lost.....  | 86 |
| 232 | Drawback on goods abandoned.....   | 86 |
| 233 | Modification of declaration.....   | 86 |
| 234 | Authority to be produced by person acting for another.....                 | 86 |
| 235 | Witnessing of signatures.....  | 86 |
| 236 | Master to attend before Collector if so required.....                      | 87 |
| 237 | Time of importation, exportation, etc.....                                 | 87 |
| 238 | Special packages and coverings deemed goods.....                           | 87 |
| 239 | Power of arrest.....   | 88 |
| 240 | Arrest after escape.....   | 88 |
| 241 | Sales under the customs laws. <i>Cap. 84</i> .....                         | 88 |
| 242 | Value of articles sold by auction.....                                     | 88 |
| 243 | Receipts for duties and other payments made on bills of entry.....         | 88 |
| 244 | Legal protection of officers.....  | 89 |
| 245 | Proof to be in the manner prescribed.....                                  | 89 |

## **PART XII. - LEGAL PROCEEDINGS**

**89**

|     |  |    |
|-----|--|----|
| 246 | Jurisdiction of courts in customs proceedings..... | 89 |
| 247 | Alternative prison sentence.....                   | 90 |
| 248 | Proceedings to be taken within 7 years.....        | 90 |
| 249 | Limitation as to pleading.....                     | 90 |
| 250 | Place of offence.....                              | 90 |
| 251 | Officer may prosecute.....                         | 90 |

|     |                                    |    |
|-----|------------------------------------|----|
| 252 | Costs.....                         | 90 |
| 253 | Procedures regarding seizures..... | 90 |

---

**PART XIII. - PROOF IN PROCEEDINGS** **92**


---

|     |   |    |
|-----|---|----|
| 254 | Onus of proof on defendant in certain cases. ....   | 92 |
| 255 | Averment in any proceedings under the customs laws. ....                                      | 92 |
| 256 | Evidence of officers. ....  | 92 |
| 257 | Valuation of goods for penalty.....   | 92 |
| 258 | Admissibility of copies of documents and of marks on goods,<br>containers, etc.....           | 93 |
| 259 | Presumption relating to excisable goods. ....   | 93 |
| 260 | Proof of order of HM the King, etc., or certificate of pharmacist or<br>officer of court..... | 93 |

---

**PART XIV. - MISCELLANEOUS** **94**


---

|     |   |    |
|-----|---|----|
| 261 | Discretionary power of Collector in special circumstances. .... | 94 |
| 262 | Power to accept compensation for offences. ....                 | 94 |
| 263 | Commission aircraft or ships.....                               | 94 |
| 264 | Collector may prescribe forms. ....                             | 95 |
| 265 | Power to make regulations. ....                                 | 95 |
| 266 | Existing ports warehouses, etc., to continue. ....              | 96 |
| 267 | Repeals .....   | 97 |



Tonga

## CUSTOMS AND EXCISE ACT

*Acts 22 of 1983, 5 of 1987, 46 of 1988, G. S. 111/83, G. S. 121/84, G. S. 31/84,  
G. S. 140/85, 133/85, G. S. 9/86, G. S. 1/86, G. S. 7/87, G. S. 63/87, G. S. 131/87,  
G. S. 213/87, G. S. 17/88, G. S. 25/88.*

### AN ACT RELATING TO THE COLLECTION OF THE REVENUE AND MANAGEMENT OF CUSTOMS AND EXCISE

Commencement [31st July 1984]

#### 1 Short Title.

This Act may be cited as the Customs and Excise Act.

### PART I. - PRELIMINARY

#### 2 Interpretation.

- (1) In this Act and in any other Act relating to the Customs and Excise unless the context otherwise requires—

“**aerodrome**” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“**agent**” in relation to the master or owner of an aircraft or ship, includes any person who notifies the Collector in writing that he intends to act as

agent, and who or on whose behalf any person authorised by him signs any document required or permitted by the customs laws to be signed by an agent:

Provided that the owner of any aircraft or ship, if resident or represented in the Kingdom, shall be deemed to be the agent of the master for all the purposes of the customs laws if no such agent be appointed;

“**air cargo**” means cargo, duly reported as such, arriving in an aircraft from any place outside the Kingdom;

“**aircraft**” includes balloons, kites, gliders, airships, hovercraft, helicopters and flying machines;

“**approved place of unloading**” and “**approved place of loading**” mean respectively any quay, jetty, wharf or other place, including any part of an aerodrome, appointed by the Controller by notice to be a place where coastwise or imported goods or goods about to be carried coastwise or exported may be unloaded or loaded;

“**boarding station**” means any station or place appointed by the Controller by notice in the gazette to be a station or place to bring to for the boarding or setting down of officers;

“**cargo**” includes all goods carried in any aircraft or ship other than such goods as are required as stores for consumption or use by or for that aircraft or ship, its officers, crew and passengers, and the bona fide personal accompanied baggage of such officers, crew and passengers;

“**carriage**” includes every description of conveyance for the transport by land of human beings or goods;

“**Collector**” means the officer appointed in charge of, responsible to the Controller for, the Customs and Excise Department;

“**Controller**” means the Controller of Customs and Excise;

“**crew**” includes every person (except the master) employed or engaged in any capacity on board any aircraft or ship;

“**customs area**” means any place appointed to be a customs area for the deposit of goods subject to customs control by the Controller by notice in writing under his hand;

“**customs laws**” means this Act and any legislative enactment relating to the customs or excise and any proclamation, regulation, resolution or order made under the authority of any law relating to customs or excise;

“**drawback**” means a refund of all or part of any import duty of customs or excise duty authorised by law in respect of goods exported or used in any particular manner;

“**duty**” includes any tax or surtax imposed by the customs or excise laws;

“**entered**” in relation to goods imported, warehoused, put on board an aircraft or ship as stores or exported, means the acceptance and signature by the proper officer of an entry, specification or shipping bill, and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the Crown in respect of the goods, and, in the case of dutiable goods (except on the entry, of warehousing of imported goods), the payment by the importer or exporter to the proper officer of the full duties due thereon, or else, where permitted, the deposit of a sum of money or giving of security for the duties as provided by law, or, in the case of goods for which security by bond is required on the exportation, putting on board an aircraft or goods are as stores or the removal of such goods, the giving of such security.

“**excisable goods**” means goods made or manufactured in the Kingdom which are liable to excise duty under this or any other Act when such are delivered for consumption in the Kingdom;

“**export**” with its grammatical variations and cognate expressions means to take or cause to be taken out of the Kingdom;

“**exporter**” includes any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from the Kingdom or supplied for use as aircraft's or ship's stores and also the owner, or any person acting on his behalf, and any person who for customs purposes signs any document relating to goods exported or intended for supply as aircraft's or ship's stores, as aforesaid;

“**factory**” means any premises or place used for the manufacture or production of excisable goods;

“**goods**” includes all kinds of goods, articles, wares, merchandise and livestock;

“**Government**” means the Government of the Kingdom of Tonga;

“**Government warehouse**” means any building or place under the control of the Government and approved by the Controller by notice to be a place where goods to be warehoused may be lodged and secured;

“**import**” with its grammatical variations and cognate expressions, means to bring or cause to be brought within the Kingdom;

“**importer**” includes any owner or his agent, or any other person for the time being possessed of or beneficially interested in any goods at and from the time of the importation thereof until the same are duly delivered out of the charge of the proper officer, and also any person who signs any

document relating to any imported goods required by the customs laws to be signed by an importer;

“**Kingdom**” means the Kingdom of Tonga;

“**King's warehouse**” means any place approved by the Controller for the deposit of unentered, unexamined, detained or seized goods or such other goods as are required by the customs laws to be deposited therein for the security thereof or of the duty thereon;

“**machinery**” means a combination of moving parts of mechanical elements which may be put into motion by physical or mechanical force, together with their complementary stationary members,

“**Magistrate**” means any person appointed to hold a Magistrate's Court under section 3 of the Magistrates' Courts Act;

“**Magistrate's Court**” means a court established under the Magistrates' Courts Act;

“**manufacturer**” means any person who shall by any means make or produce or cause to be made or produced any excisable goods and “**manufacture**” shall have a corresponding meaning;

“**master**” includes the person having or taking the charge or command of any aircraft or ship, but does not include a person appointed for the conducting of ships into or out of any port;

“**materials**” includes any goods from which excisable goods are capable of being manufactured or produced and any residue from any process of manufacture or production;

“**motor spirit**” means any spirit used to drive an internal combustion engine and includes gasoline and other light oils but not diesel and similar oils;

“**name**” includes the registration mark of an aircraft;

“**night**” means the period between the hours of 6 o'clock in the evening and 6 o'clock in the morning;

“**obscuration**” means the difference, caused by matter in solution, between the actual strength of spirits and the apparent strength as indicated by the hydrometer;

“**occupier**” includes any person who signs as principal any bond in respect of any building or place used for the deposit of goods for the security thereof or of the duties thereon under the customs laws.

“**offence against the customs laws**” includes any act of any person contrary to the custom's laws or any failure of any person to perform an act required by the customs laws to be performed by him;

“**officer**” means any person employed in the Customs and Excise Department and any person appointed to be a customs officer or to discharge any duties in connection with the administration of this Act.

“**over the Kingdom**” means above the area contained within the imaginary lines bounding the Kingdom, and if any person, goods or thing shall descend or fall or be dropped or thrown from an aircraft within such area, such person, goods or thing shall be deemed to have descended or fallen or to have been dropped or thrown from an aircraft over the Kingdom;

“**owner**” in respect of goods, includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having control of, or power of disposition over, the goods;

“**pharmacist**” means a pharmacist registered under the provisions of the Medical Registration Act;

“**port**” means any place, including an aerodrome, whether on the coast or elsewhere, appointed by the Controller by notice, subject to any conditions or limitations specified in such notice, to be a port for the purposes of the customs laws;

“**postal packet**” includes any letter, postcard, newspaper, book, document, pamphlet, pattern or sample packet, parcel or package, or other article whatsoever transmissible by post;

“**private warehouse**” means any building or place appointed by the Controller by notice to a private warehouse;

“**prohibited goods**” and “**restricted goods**” mean respectively any goods the importation or exportation or manufacture of which is prohibited or restricted by law;

“**proper officer**” means any officer whose right or duty it may be to exact the performance of, or to perform, the act referred to;

“**public holiday**” means all public holidays appointed under the Public Holidays Act and any other days which shall be decreed to be holidays or non-working days for civil servants;

“**ship**” includes a steamship, ship, boat, lighter, or other floating craft of any description, but does not include aircraft;

“**smuggling**” means any importation, introduction, exportation or attempted importation, introduction or exportation of goods with intent to defraud the revenue, or to evade any prohibition of, restriction on, or regulation or condition as to, the importation, introduction or exportation of any goods and “**smuggle**” and “**smuggled goods**” have corresponding meanings;

“**sufferance wharf**” means any place other than an approved place of loading or unloading at which the Collector may, in his discretion, and under such conditions and in such manner as he may direct, either generally or in any particular case, allow any goods to be loaded or unloaded;

“**Supreme Court**” means the Supreme Court of the Kingdom of Tonga established under the Supreme Court Act;

“**transit shed**” means any building in a customs area approved by the Controller by notice to be a transit shed;

“**uncustomed goods**” include goods liable to duty on which the full duties due have not been paid or secured, and any goods, whether liable to duty or not, which are imported or exported or in any way dealt with contrary to the customs laws;

“**volume of alcohol**” means the alcoholic strength of spirit as ascertained by Gay Lussac hydrometer at a temperature of fifteen degrees Celsius;

“**warehoused**” means deposited in a Government or private warehouse;

“**warehouse keeper**” means the owner or occupier of a private warehouse;

“**warehouseman**” means the occupier of a customs area and any person or authority in control of a customs area;

- (2) Where reference is made to a penalty in any section of this Act or in any regulation made under this Act the penalty prescribed or any lesser penalty may be imposed only on the conviction of the defendant by a court of competent jurisdiction.

### **3 Powers of Officers.**

- (1) The Controller for the time being shall be charged with the general administration of this Act.
- (2) It shall be lawful to appoint from time to time a Collector of Customs.

### **4 What shall be deemed to be act of Collector.**

Every act, matter or thing required by the customs laws, to be done or performed by, with, to or before the Controller if done or performed by, with, to or before any officer assigned by the Controller for such purpose, shall be deemed to be done or performed by, with, to or before the Collector; and every person performing any duty or service relating to the customs by the orders or with the concurrence of the Controller (whether previously or subsequently expressed) shall be deemed to be the officer for that duty or service, and every act required



by the law at any time to be done by, with, to or before any particular officer nominated for such purpose, if done by, with, to or before any person appointed by the Collector to act for such particular officer, shall be deemed to be done by, with, to or before such particular officer and any act required by the law to be done at any place within such port appointed by the Collector for such purpose, shall be deemed to be done at the particular place so required by law.

## **5 Hours of Attendance.**

The working days and hours of general attendance of officers shall be as notified by the Collector.

## **6 Request by public for extra attendance.**

Every request by any person for a temporary extension of the hours of general attendance which may be notified under section 5 elsewhere in this Act shall be made in writing on the prescribed form to the proper officer at the port where the extra attendance is desired, and it shall be lawful for the said proper officer in his discretion to grant such request subject to the provisions of any regulations and payment of any prescribed fees.

# **PART II. - DUTIES, PROHIBITIONS, DRAWBACKS AND REFUNDS OF DUTY**

## **7 Customs and excise duties.**

- (1) It shall be lawful for the King in Council from time to time, by order —
  - (a) to impose import or export duties of customs upon any goods whatsoever which may be imported into or exported from the Kingdom and to revoke, suspend, reduce, increase or alter any such duties, and to provide for the importation or exportation of any goods without payment of customs duty thereto;
  - (b) to impose excise duties upon any goods manufactured or made in the Kingdom and to revoke, suspend, reduce, increase or alter such duties and to provide for exemptions therefrom.
- (2) All import and export duties of customs and all excise duties and all exemptions from duties of customs or excise set out in Schedule I shall continue in force until revoked, suspended, reduced, increased or altered in the manner provided in this Act.

**8 Controller may remit duty, rent, charges and fees.**

The Controller may in his discretion and upon application submitted through the Collector in any particular case, direct the remission or refund in whole or in part of any duty payable or paid on any goods imported or exported or manufactured or produced in the Kingdom or of any rent, charges or fees payable or paid to the Collector and in directing such remission or refund the Controller may impose such conditions as he may think fit.

**9 Time of entry to govern duty payable.**

All goods deposited in any warehouse without payment of duty on the first importation thereof, or which may be imported or exported and shall not have been entered for use in the Kingdom or for exportation as the case may be, shall if consumed on a vessel or aircraft after arrival in the Kingdom and before clearance thereupon, or upon being entered for use in the Kingdom or for exportation as the case may be, be subject to such duties as may be payable on the like sort of goods under the customs laws in force at the time when the same are entered save in cases where special provision shall be made to the contrary:

Provided that for the purposes of this section, in the case of passengers' baggage or of goods imported into the Kingdom by post, for which entry is not required, the time of entry shall be taken to be the time of delivery of such baggage or goods to the passenger or addressee, as the case may be, and, in the case of goods exported from the Kingdom by post, the time of entry of such goods shall be taken to be the time of posting.

**10 Entry may be made before importation.**

Goods may be entered for use in the Kingdom before Entry importation except during such periods as the Collector may by notice specify and in the case of any goods so entered the rate of duty applicable shall be the rate of duty in force at the time of importation of the goods:

Provided that goods may not be entered more than ten days prior to the arrival of the importing ship and that at the time when such goods are entered a copy of the cargo report of the importing ship shall have been received by the proper officer.

**11 Excise duty to be paid at rate in force on delivery.**

All excisable goods manufactured or deposited in any factory or warehouse without payment of excise duty shall upon being delivered therefrom for consumption in the Kingdom or upon being used in such factory or warehouse be subject to the rate of excise duty in force at the time when the same are

delivered or used as aforesaid save in any case where special provision shall otherwise be made by law.

## 12 Effect of obligation to pay duty.

- (1) Where by entry, bond, removal of goods or otherwise, any obligation has been incurred for the payment of duties such obligation shall be deemed to be an obligation to pay all duties which may become legally payable, or which are made payable or recoverable under the customs laws, and to pay the same as the same become payable.
- (2) When any duty has been short levied or erroneously refunded, the person who should have paid the amount short levied, or to whom the refund has erroneously been made, shall pay the amount short levied or repay the amount erroneously refunded, on demand being made by the Collector.
- (3) Without prejudice to any other provision of this Act any amount due by way of customs or excise duty may be recovered as a debt to the Crown.

## 13 Duty on goods reimported.

- (1) Subject to the provisions of subsection (2) of this section, where any goods whether made or produced within the Kingdom or not, being of a class or description liable to any import duty, are reimported into and entered for use within the Kingdom after exportation therefrom and it is proved that any duty of customs or excise chargeable in respect of goods prior to their exportation was duly paid, either prior to exportation or at any subsequent time, and either that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Collector then—
  - (a) if it is further proved as aforesaid that the goods have not been subjected to any process abroad, or having been so subjected (but without change of their form or character) are goods not liable at the time of reimportation to duty ad valorem, the goods shall be exempt from any further duty when the same are entered for use within the Kingdom after re-importation, unless the rate of duty of excise or customs as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within the Kingdom after re-importation shall exceed the rate paid on the said goods as a duty of excise or on the first importation and entry, as the case may, in which case such goods shall be chargeable with duty according to the difference between the amount of duty previously paid and duty calculated at the rate in force at the date when such goods are entered for use within the Kingdom after re-importation;

- (b) if the goods at the time when the same are entered for use within the Kingdom after re-importation are of a class or description liable to an import duty ad valorem, and it is further shown as aforesaid that the goods have been subjected to a process of repair, renovation, or improvement abroad, but that their form or character has not been changed such goods shall be chargeable with duty as if the amount of the increase in the value of the goods attributable to the process were the whole value thereof, and, where the sum has been contracted to be paid for the execution of the process, that sum shall be prima facie evidence of that amount, but without prejudice to the powers of the Controller under the customs laws as to ascertainment of the value of the goods for the purpose of assessing duty thereon ad valorem:

Provided that if the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within the Kingdom after re-importation shall exceed the rate paid on the said goods as duty or excise or on first importation and entry, as the case may be, then, in such case, in addition to the ad valorem import duty chargeable according to the amount of the increase in the value of the goods attributable to the process, such goods shall be chargeable with additional excise or customs duty calculated in the manner set out in paragraph (a) of this subsection, as if such goods had been subjected to any process of repair, renovation or improvement abroad.

- (2) The provisions of subsection (1) shall be conditional on the person exporting goods for subsequent re-importation giving notice in writing and producing such goods for identification at the port or place of shipment to the proper officer, or, in the case of exportation by post, to the proper postal authority, before the exportation of such goods, unless the Collector in his discretion shall waive this condition in any case in which in his opinion it may seem reasonable or impose hardship.

#### **14 Goods entered for transshipment exempt from duty.**

Goods entered for transshipment through the Kingdom in accordance with any regulations in that behalf made under the customs laws shall be exempt, from the payment of import or export duties.

#### **15 Assessment of value of imported goods liable to ad valorem duty.**

- (1) For the purposes of any enactment for the time being in force whereunder any import duty is chargeable on goods by reference to their value, the value of any imported goods shall be taken to be the normal price, that is

to say the price which in the opinion of the Controller they would fetch, at the time when they are entered (or, if they are not entered, the time of importation), on a sale in the open market between buyer and seller independent of each other.

- (2) The normal price of imported goods shall be determined on the following assumptions:
  - (a) that the goods are treated as having been delivered to the buyer at the port or place, of importation;
  - (b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that port or place; but
  - (c) that the buyer will bear any duty or tax chargeable in Tonga.
- (3) A sale on the open market between buyer and seller independent of each other presupposes—
  - (a) that the price is the sole consideration and
  - (b) that the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business, with him, other than the relationship created by the sale itself;
  - (c) that no part of the proceeds of any subsequent re-sale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him.
- (4) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly either of them has any interest in the business or property of the other or both have a common interest in any business or some third person has an interest in the business or property of both of them.
- (5) Where the goods to be valued,—
  - (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied, or
  - (b) are imported under a foreign trade mark; or
  - (c) are imported for sale, other disposal or use under a foreign trade mark,

the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods.

- (6) For the purposes of subsection (5) the expression “trade mark” includes a trade name and a design and a “foreign trade mark” is a trade mark used

for the purpose of indicating that goods in relation to which it is used are those of:

- (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside Tonga; or
- (b) a person associated in business with any such person as is referred to in the last preceding paragraph; or
- (c) a person to whom any such person as is mentioned in either of the last two preceding paragraphs has assigned the goodwill of the business in connection with which the trade mark is used.

### **16 Value, etc., in foreign currency to be converted to Tongan currency.**

In converting the value for duty purposes, as defined in section 15, and any other charges, costs or amounts to be taken into account, from any foreign currency into the legal currency of the Kingdom, the rate of exchange shall be the selling rate of such foreign currency by the Bank of Tonga as last notified before the goods were entered.

### **17 Assessment of value of exported or excisable goods.**

In the case of exported or excisable goods the value of the purposes of customs shall be determined in the manner from time to time prescribed by the Controller.

### **18 Duty calculated on weight or measure.**

Where duty is imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures established by the laws of the Kingdom and shall be calculated on the net weight or actual measurement of the goods:

Provided that in the case of goods which are marked or labelled or are imported in containers which are marked or labelled as containing a weight or measurement greater than the net weight or actual measurement of such goods duty shall be calculated on the weight or measurement so marked or labelled thereon.

### **19 Duty calculated on gross weight in certain cases.**

If any goods subject to the payment of duty according to the weight thereof are imported in any package intended for sale, or of a kind usually sold with the goods when the same are sold retail, and such package is not marked or labelled,

or is not in the opinion of the Collector commonly sold as containing or commonly reputed to contain a specific quantity of such goods, and the importer is not able to satisfy the Collector as to the correct net weight the duty thereon shall be calculated according to the gross weight of such package and its contents.

**20 Duties, etc, to be proportionate to quantity or value.**

All duties, rates, charges and drawbacks imposed and allowed according to any specified quantity, or any specified value, or any particular description of package, shall be deemed to apply in the same proportion to any greater or less quantity or value, or any other description of package, and shall be paid and received in the legal tender of the Kingdom.

**21 Abatement of duty.**

No claim for any abatement of duty in respect of any goods imported shall be allowed on account of damage unless it shall be proved that such damage was sustained before the delivery of the goods out of customs control.

**22 Derelict, etc., goods liable to full duty unless damaged.**

All goods derelict, jetsam, flotsam and wreck brought or coming into the Kingdom, and all droits of Admiralty sold in the Kingdom shall at all times be subject to the same duty as goods of the like kind on importation into the Kingdom are subject unless it shall be proved that such goods are damaged, in which case a claim for abatement of the duty may be made.

**23 Damage to be assessed by the Collector.**

Subject to the provisions of sections 21, 24 and 25 the damage sustained by any goods shall be assessed by the Collector who shall allow abatement of the duty in proportion to such damage.

**24 No abatement on certain goods.**

No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, cigarettes, cigarillos, spirits, wine, beer and other fermented beverages unless approved by the Controller.

**25 Qualifications as to abatement.**

When the carrier is liable for damage to any goods or any goods are insured against damage, no claim for abatement of duty on account of damage shall be allowed in respect of imported goods (not being goods derelict, jetsam, flotsam or wreck brought or coming into the Kingdom or droits of Admiralty sold in the Kingdom) except on proof that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage and the abatement shall not exceed such proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with Section 15.

**26 Limitations as to wines and beers.**

No liquor containing more than 24 per cent volume of alcohol shall be deemed wine; and no liquor containing more than 11.5 per cent volume of alcohol shall be deemed beer, ale, stout or porter. All liquor containing more than 24 per cent volume of alcohol and all liquor, other than wine, containing more than 11.5 per cent volume of alcohol, shall be deemed spirits.

**27 Strength of spirits.**

- (1) In ascertaining, the strength of any spirit, any obscuration shall be determined and allowed for.
- (2) The certificate of the Collector or of any pharmacist as to the strength of any liquid containing alcohol shall be prima facie evidence of the strength thereof.

**28 Goods used contrary to purpose for which imported.**

If any goods which are ordinarily liable to duty at a given rate are allowed by law to be, and are in fact, entered at a lower rate of duty, or free of duty, on any special conditions, or for use for some specified purpose or in some particular place or because they are the property of or intended for use by some particular person or functionary, and if such conditions are not observed, or the goods are at any time within 5 years of the date of importation thereof used for any other than the specified purpose or in any other than that particular place, or being goods entered as aforesaid because they are the property of or intended for use by some particular person or functionary are sold or transferred to any other person or if such functionary continues to own or use such goods and they remain within the Kingdom after he ceases to be a functionary as aforesaid, such goods, unless the full duties thereon or such lesser amount as the Collector either generally or in any particular case may decide shall be chargeable, shall have been paid, shall be forfeited and the importer and any person who shall be knowingly concerned in the use of such goods contrary to such conditions, or for



some purpose other than that specified or in any way contrary to this section shall each be guilty of an offence and be liable to a fine not exceeding \$200 unless the full duties on such goods or such lesser amount as aforesaid shall be paid with the prior consent of the Collector.

### **29 Penalty for not producing goods.**

The importer of any goods falling within the provisions of section 28 shall, on demand, produce them to any officer or otherwise account for them within such period of 5 years as aforesaid, and if he shall fail to produce such goods, or otherwise account for the same as aforesaid, he shall be guilty of an offence and be liable to a fine not exceeding \$200 or treble the duty paid value of such goods, whichever is greater.

### **30 Goods imported for temporary use or purpose.**

The proper officer may give permission to any person to import any goods without payment of duty thereon, upon being satisfied that such goods are imported for temporary use or purpose only. Such permission shall be subject to the provisions of sections 31 and 32 and to the following conditions —

- (a) that such goods shall be exported within four months of the date of such goods being entered; and
- (b) that the person to whom such permission is given shall deposit in the hands of the proper officer the amount of duty on such goods, or else give security therefor, at the election of the proper officer.

### **31 Disposal of deposit.**

If any goods imported under the provisions of section 30 are not exported within four months of the date of such goods being entered the deposit in the hands of the proper officer shall be forfeited, or, if security has been given as aforesaid, then the importer shall pay to the proper officer the full duties on such goods. If such goods are exported as aforesaid such deposit shall be refunded, or the security cancelled.

Provided that the proper officer may, in his discretion, and on provision of additional security where he so requires, allow any additional period where he is satisfied that the goods are the bona fide property or bona fide in the use of any person on a temporary visit to the Kingdom.

**32 Certain goods only may be imported for temporary use.**

The King in Council may make regulations prescribing goods which may be imported in accordance with the provisions of section 30 and the conditions under which temporary importation of goods may be permitted.

**33 Contract prices of imported goods may be adjusted to meet the change in duty.**

- (1) Where any new import duty of customs or any new excise duty is imposed, or where any import duty of customs or excise duty is increased, and any goods in respect of which the duty is payable are delivered on or after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover, as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.
- (2) Where any import duty of customs or excise duty is repealed or decreased, and any goods affected by the duty are delivered on or after the day on which the duty ceases or the decrease in the duty takes effect in pursuance of a contract made before the day, the purchaser of the goods in the absence of agreement to the contrary may, if the seller of the goods has had, in respect of those goods, the benefit of the repeal or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.
- (3) Where any addition to or reduction from the contract price may be made under this section on account of any new, increased, repealed or reduced duty, such sum as may be agreed upon, or in default of agreement, determined by the Collector, as representing, in the case of a new or increased duty, any new expenses incurred, and in the case of a repealed or reduced duty, any expenses saved may be included in the addition to or reduction from the contract price and may be recovered or reduced accordingly.

**34 Controller may prohibit importation, carriage coastwise or exportation.**

The Controller may from time to time, by notice, prohibit the importation, carriage coastwise or exportation of any goods, and any such notice may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such period as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation, or may prohibit importation, carriage coastwise or exportation, except on compliance with any conditions which may be specified in the order, or may prohibit importation

from or exportation to, or carriage coastwise from or to any particular place named in the order.

**35 Goods prohibited or restricted to be imported.**

- (1) The goods, the particulars of which are set out in Part I of Schedule II, are prohibited or restricted to be imported as the case restricted to be imported as the case may be as thereby excepted.
- (2) The King in Council may, from time to time, by order, amend Part I of Schedule II.

**36 Goods prohibited or restricted to be exported.**

- (1) The goods, the particulars of which are set out in Part II of Schedule II, are prohibited or restricted to be exported as the case may be, save as thereby excepted.
- (2) The King in Council may, from time to time, by order, amend Part II of the Schedule II.

**37 Saving as to goods in transshipment or stores.**

Goods imported for transshipment to any place outside the Kingdom or as the bona fide stores of any aircraft or ship, shall not be deemed to be goods prohibited or restricted to be imported or exported unless such goods are expressly prohibited or restricted to be imported for such transshipment, or as aircraft's or ship's stores, under the provisions of the customs laws or any other Act prohibiting or restricting the importation or exportation of goods.

Provided that any goods imported as aforesaid shall be duly re-exported within such time as the Controller shall allow.

**38 Prohibitions and restrictions elsewhere provided.**

The provisions of sections 34, 35, 36 and 37 shall be additional to the provisions of section 132 and to any provisions of any other Act prohibiting or restricting the importation, carriage coastwise or exportation of any goods.

**39 King in Council may direct granting of drawback.**

- (1) The King in Council may from time to time, by regulations, direct on what goods a drawback of the whole or any part of the duties paid on the importation thereof may be granted, and the conditions under which such drawback shall be allowed.

- (2) Notwithstanding anything hereinbefore contained in this section all drawbacks payable under any Act repealed by this Act shall be paid or allowed under this Act until cancelled by direction of the King in Council under this section.

**40 Declaration by owners of goods exported on drawback.**

The owner of any goods on which drawback is claimed shall make and subscribe a declaration on a prescribed form of debenture that the conditions under which drawback is allowed have been fulfilled, and, in the case of goods exported or put on board an aircraft or ship for use as stores, that such goods have been actually exported or put on board for use as stores, as the case may be, and have not been returned and are not intended to be returned to the Kingdom and that such owner at the time of entry of such goods was and continues to be entitled to the drawback thereon.

**41 Certification of debenture.**

Every sum of money which shall be due upon any debenture Certification shall be paid on the prescribed form of debenture certified by the Collector.

**42 Evidence of landing or disposal of drawback goods**

The Collector may require the owner to produce satisfactory evidence of the landing or disposal of any goods before certifying any debenture.

**43 Time limit for debenture payment.**

No debenture for any drawback shall be paid after the expiration of one year or such further time as the Controller may allow from the date of entry of any goods for drawback or from the date of the performance of the conditions on which drawback is allowed, as the case may require, or, in the case of goods exported or put on board an aircraft or ship for use as stores, from the date of putting the same on board the exporting or using aircraft or ship.

**44 Refund of duties overpaid.**

Subject to sections 77 and 80, any sum of money which has been overpaid as duties may be refunded at any time within one year, or such time as the Controller may allow after such payment on proof of such overpayment.

### **PART III. - ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS, LANDING OF PASSENGERS AND UNLOADING, REMOVAL AND DELIVERY OF GOODS**

#### **45 Procedure on arrival.**

If any aircraft or ship arriving in the Kingdom —

- (a) without reasonable cause, does not come to some port therein, or such other place as may be allowed by the Collector in any special circumstances, without landing or touching at any other place in the Kingdom; or
- (b) on arriving at any such port or place does not come as quickly up to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place;
- (c) in proceeding to such proper place does not bring to at the station appointed by the Controller by notice for the boarding of aircraft or ships, or
- (d) after arriving at such proper place departs therefrom except directly to some other place of mooring or unloading approved by the proper officer, or with the authority of the proper officer, directly to some other port or to some place allowed by the Collector in any special circumstances as aforesaid in the Kingdom, or directly on any flight or voyage to a place outside the Kingdom in accordance with the provisions of the customs laws, or
- (e) after departing as aforesaid on any flight or voyage to a place outside the Kingdom, lands or brings to within the Kingdom, unless in accordance with the customs laws, or with the permission of the proper officer, or for reasonable cause;

then in every such case the master of such case the master of such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$200.

#### **46 Collector may direct mooring and discharge.**

The Collector may, subject to any other authority provided by law, give reasonable directions as to what particular part of any port or other place ships or aircraft shall moor or shall discharge their cargo.

#### **47 Officer may board aircraft or ship.**

Any officer on duty may board any aircraft or ship within the Kingdom and stay on board for any period, and shall have free access to every part, with power to

secure any part by such means as he shall consider necessary, and to examine any goods, and take account of them, and to require any goods to be unloaded, and removed for examination, or for the security thereof, or to unload and remove such goods at the expense of the master or owner, or the agent of either, and to examine any goods in course of being unloaded or removed, or when unloaded or removed, and to lock up, seal, mark or otherwise secure any goods on board such aircraft or ship.

**48 Officer may open if access not free.**

If any officer acting under the provisions of section 47 finds that there is not free access to any place or any box or chest, or if the keys of any such place, box or chest, if locked, are withheld, such officer may open any such place, box or chest in any manner; and such officer shall not be liable to prosecution or action at law for so doing; and if any goods be found concealed on board, they shall be forfeited.

**49 Penalty for interfering with seal, etc., or failing to unload goods if required.**

If any officer acting under the provisions of section 47 places any lock, mark or seal upon any goods or stores on board an aircraft or ship or upon any place or package in which the same may be, and such lock, mark or seal be wilfully opened, altered or broken before due delivery of such goods or stores, or within the Kingdom except with the authority of the proper officer, or if any such goods or stores be secretly conveyed away, or if any goods or stores, place or package after having been secured by the officer be opened within the Kingdom, except with the authority of the proper officer, or if any officer shall require any goods to be unloaded or removed for examination or for the security thereof and such goods are not unloaded and removed forthwith as required by the officer, the master of such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$200.

**50 Goods unlawfully discharged.**

If any officer boards any aircraft or ship and finds any goods thereon, and after leaving such aircraft or ship, such officer, or any other officer boards such aircraft or ship, and such or any part of such goods are no longer on board, and the master is unable to give a due account of the lawful discharging of the same, the master of such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$200, or treble the duty paid value of such goods, whichever is greater.

**51 Search of persons.**

If any officer is informed or has reason to suppose that any person on an aircraft or ship, or any person who has landed from an aircraft or ship, or any person whom the officer may suspect has received any goods from any such person, is carrying or has any uncustomed or prohibited goods about his person, such officer may search such person; and if any such person, upon being questioned by any officer as to whether he has any goods obtained outside the Kingdom upon his person, or in his possession, or in his baggage, refuses to answer or denies having the same, and any such goods are discovered to be or have been upon his person, or in his possession, or in his baggage, such goods shall be forfeited. No officer shall be liable to any prosecution or action at law on account of any search made in accordance with the provisions of this section.

**52 Special authority may be required before search.**

Before any person is searched he may require to be taken with all reasonable despatch before a Magistrate, or the Collector, or other superior officer, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise, direct that he be searched.

**53 Search of female.**

A female shall not be searched except by a female.

**54 Control of small craft.**

If upon boarding any ship not exceeding one hundred tonnes net tonnage any officer finds any goods of which the master is not able to give satisfactory account, and if such officer suspects that such goods are being or have been or are intended to be dealt with in any way contrary to the customs laws, he may arrest and detain such master, and take him before a Magistrate, or a Judge, whichever is appropriate and if such master fails to satisfy the Magistrate or a Judge, that such goods had not been, were not being, and were not intended to be dealt with contrary to the customs laws, such ship and such goods shall be forfeited, and the master shall be guilty of an offence and liable to a fine not exceeding \$200.

**55 General regulations for small craft.**

The King in Council may from time to time make regulations of general application to ships not exceeding one hundred tonnes net tonnage prescribing, with reference to the tonnage, build or general description of such ships, the limits within which the same may be used or employed, the manner in which

such ships shall be so used or employed, the number and description of arms and quantity of ammunition which such ships may carry, and such other terms, particulars, conditions and restrictions as may be prescribed in such regulations.

#### **56 Penalty for infringement of regulations respecting small craft.**

Every ship which is used or employed contrary to any regulations made under section 55 shall be forfeited unless the same shall have been specially licensed by the Collector to be used or employed, as provided in section 57.

#### **57 Licences for small craft.**

The Controller may, if he thinks fit, grant licences in respect of any ships not exceeding one hundred tonnes net tonnage upon such terms and conditions, and subject to such restrictions and stipulations as in such licences mentioned and if any ship so licensed shall not comply with the conditions imposed by or expressed in any such licence or if such ship shall be found without having such licence on board, such ship shall be forfeited. The Controller may revoke, alter or vary any licence granted as aforesaid.

#### **58 Accommodation of officer.**

If the master of any ship on board of which any officer is stationed shall neglect or refuse to provide every such officer with proper and sufficient food and suitable bedding accommodation in a cabin of the ship to the satisfaction of the Collector, or if the master of any ship or aircraft fails to provide safe access to or egress from a ship or aircraft, he shall be guilty of an offence and liable to a fine not exceeding \$100.

#### **59 Report of aircraft or ship.**

The master or agent of every aircraft or ship, whether laden or in ballast, shall (except as otherwise provided in any regulations made under this Act) with 24 hours after arrival from any place outside the Kingdom at any port, or at any place specially allowed by the Collector make report of such aircraft or ship and its stores and cargo to the Collector on the prescribed form in the prescribed manner and give the prescribed particulars.

#### **60 Certain goods to be reported separately.**

Every report required by section 59 shall show separately any goods which are to be transferred to another aircraft or ship for re-exportation, and shall state whether there be any goods which are to remain on board for exportation in the



same aircraft or ship, and such report shall, except in the case of a ship of not less than one hundred tonnes net tonnage or except where otherwise specially allowed by the Collector, give a particular account of all goods remaining on board for exportation and shall be made before bulk is broken.

**61 Master to report certain goods before breaking bulk.**

The master of a ship of not less than one hundred tonnes net tonnage shall make a report of the stores of the ship, and of any packages and parcels for which no bill of lading has been issued, before bulk is broken unless the Collector shall otherwise allow.

**62 Penalty for not making due report.**

If the master or agent of any aircraft or ship, fails to make due report, or if any of the particulars contained in such report be false, such master, or his agent, shall be guilty of an offence and liable to a fine not exceeding \$200, and all goods not duly reported shall be forfeited unless the omission is explained to the satisfaction of the Collector.

**63 Penalty for not accounting for package reported.**

- (1) If any package or parcel which is duly reported (except where remaining on board for re-exportation or, with the permission of the Collector for direct transfer to another aircraft or ship for use as stores or for re-exportation) is not duly unloaded, removed and deposited in a customs area or other place approved by the Collector, the master or his agent shall pay the duty thereon unless he proves that such package or parcel has not been imported or that it has been re-exported or that it has been surrendered into the custody of a warehouseman.
- (2) Where the master or agent proves that any package or parcel has been duly surrendered into the custody of a warehouseman the warehouseman shall pay the duty thereon unless it is proved that such package or parcel has been duly delivered to the consignee or his agent.

Provided that this section shall not apply in a case in which any package or parcel is surrendered to and received by the proper officer.

**64 Determination of duty under section 63.**

Where it is necessary for the purpose of determining the amount of any duty payable under section 63 to classify any goods and to assess the quantity, value, quality, weight, measurement or strength thereof such goods shall be deemed to be of such description and of such quantity, value, quality, weight, measurement

or strength as may be determined by the proper officer having regard to the information in his possession relating thereto unless the actual description, quantity, value, quality, weight, measurement or strength is proved.

### **65 Refund to consignee where goods not received.**

If at any time within one year of the payment as duties of customs any sum of money the consignee of the goods in respect of which such duties were paid, claims that the goods were not delivered to him or his agent, the said sum of money shall be refunded unless the warehouseman in whose area the goods were deposited on importation, proves that such goods were delivered to the consignee or his agent.

### **66 Master to answer questions.**

The master or agent shall —

- (a) answer immediately all such questions relating to the aircraft or ship, its cargo, baggage, crew, passengers, and flight or voyage as shall be put to him by the proper officer, and
- (b) produce all such books and documents in his custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew, passengers and flight or voyage as the proper officer may require, and
- (c) before any person (unless permitted by the proper officer) disembarks, deliver to the officer who boards such aircraft or ship on arrival at any port or place a list containing the name of each passenger on board such aircraft or ship, and also, if required by such officer, the name of the master, and of each officer and member of the crew;

and if such list be not correct and complete, unless the inaccuracy or omission is explained to the satisfaction of the Collector, or if he fails to comply with any provisions of this section, the master or his agent shall be guilty of an offence and in respect of every such offence shall be liable to a fine not exceeding \$200.

### **67 Penalty for wrongly breaking bulk.**

- (1) If after arrival in the Kingdom bulk is broken contrary to sections 60 or 61, or any alteration made in the stowage of the cargo of any aircraft or ship so as to facilitate the unloading of any part of such cargo before such aircraft or ship has arrived at her proper place of unloading, or, being a ship of less than 100 tonnes net tonnage, or an aircraft or ship specially allowed to do so before report of such aircraft or ship has been made as hereinbefore provided, or if at any time after arrival as aforesaid any

goods, before they are duly surrendered into the custody of a warehouseman, are wilfully staved, destroyed or thrown overboard, or any package is opened without the knowledge and consent of the proper officer, in every such case the master or his agent shall be guilty of an offence and liable to a fine not exceeding \$200 unless cause be shown to the satisfaction of the Collector.

- (2) Any person who, before delivery thereof from customs control, wilfully staves or destroys any goods or opens any package without the knowledge and consent of the proper officer shall be guilty of an offence and liable to a fine not exceeding \$200 and in addition to the offender, the warehouseman shall incur a like penalty if any goods or packages are so staved, destroyed or opened after surrender thereof into his custody and before due delivery therefrom.

#### **68 Master to deliver previous clearance.**

The master of every aircraft or ship or his agent shall if required, deliver to the Collector at the time of making a report the clearance of such aircraft or ship, from the port or ports from which such aircraft or ship shall have arrived.

#### **69 Aircraft or ship abandoned may be seized.**

Any officer may seize any aircraft or ship found abandoned within the Kingdom and such aircraft or ship shall be delivered into the custody of the Collector.

#### **70 Report when discharging at more than one port.**

Notwithstanding any provisions contained in this Act to the contrary, it shall be lawful, on the arrival from any place outside the Kingdom at any port, or at any place in the Kingdom specially allowed by the Collector, of any aircraft or ship having on board cargo intended to be delivered at more than one port or place in the Kingdom, for the master or his agent to make report at the first mentioned port or place of her whole cargo, reporting separately such portion of her cargo as may be intended for the first mentioned port or place and there discharge the same; and after the discharge of such cargo, and upon being authorised by the proper officer, the master may proceed to any other port or to any other place in the Kingdom specially allowed by the Collector, where such portion of the cargo as may be intended for such port or place shall be reported by the master or his agent, in like manner as if such master had first arrived at such last mentioned port or place, and the master or agent so reporting any aircraft or ship and all persons concerned in discharging the cargo shall be subject to all the provisions in such respect contained in the customs laws.

**71 Unloading, entry, removal and delivery of goods.**

- (1) Save in accordance with any regulations made under this Act, or with the permission of the Collector which shall not be unreasonably withheld —
- (a) no goods shall be unloaded from any aircraft or ship arriving from any place outside the Kingdom unless authority for unloading the same has been given by the proper officer, nor from any ship of less than 100 tonnes net tonnage unless such goods shall first have been duly entered;
  - (b) no goods shall be unloaded or removed from any aircraft or ship arriving from any place outside the Kingdom on Sundays or public holidays at any time whatsoever, or on any other days except between such hours as may be notified, or shall be transferred from any such aircraft or ship into any vessel at such time as will cause such goods to be afloat in such vessel on the said days, or on other days except between the said hours;
  - (c) no goods after having been unloaded from any aircraft or ship arriving from any place outside the Kingdom into any vessel to be landed shall be transhipped, or removed into any other vessel previously to their being landed and the vessel into which any goods after being unloaded from a ship shall be put, shall, if so required by the Collector be a ship licensed under section 166 and any goods which have been loaded from any aircraft or ship and put into any vessel to be landed shall be taken directly and without delay to an approved place of unloading or sufferance wharf approved for the purpose within the same port, there to be landed forthwith;
  - (d) no goods (except goods unloaded into a vessel to be landed in accordance with paragraph (c) of this subsection) shall be unloaded from any aircraft or ship arriving from any place outside the Kingdom except at an approved place of unloading or sufferance wharf approved for the purpose, and all goods when so unloaded, and all goods which shall have been put into a vessel to be landed in accordance with paragraph (c) of this subsection shall immediately upon being unloaded or landed be conveyed directly and without delay into the customs area, or to a King's warehouse if the Collector shall so require:

Provided that such goods as the proper officer may deem to be unsuited for storage in a customs area or King's warehouse shall be deposited in such place as the proper officer may direct, at the risk and expense of the importer, as if such goods were deemed to be unsuited for storage in a King's warehouse under the provisions of section 81;

- (e) no goods shall be removed from any part of the customs area or from the King's warehouse into which the same shall have been

conveyed unless such goods shall first have been duly reported and entered, and authority for the removal or delivery of the same has been given by the proper officer;

- (f) goods entered to be warehoused shall be removed by the importer by such ways, in such manner and within such time as the proper officer shall direct, to the warehouse for which the same are entered and delivered into the care of the officer in charge of the warehouse:

Provided that, if the Collector shall so require, the importer shall first enter into a bond for the due warehousing of such goods.

- (2) The provisions of this section shall apply only to the cargo of an aircraft or ship.

## **72 Restriction on delivery of goods.**

- (1) During any period not exceeding 3 months specified at any time by order of the Collector for the purposes of this section, the Controller may refuse to allow the removal for use within the Kingdom on payment of duty, or the sending out for use within the Kingdom after the charging of duty, of goods of any class or description chargeable with a duty of customs or excise, notwithstanding payment of that duty, in quantities exceeding those which appear to the Collector to be reasonable in the circumstances.
- (2) Where the Collector has during any such period as aforesaid exercised his powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent out for use within the Kingdom after the end of that period, the duties of customs or excise and the rates thereof chargeable on those goods shall, notwithstanding any other provision of the customs or excise laws relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

## **73 Goods other than cargo.**

- (1) No goods whatsoever other than cargo duly reported as such shall be taken out of any aircraft or ship arriving from any place outside the Kingdom or delivered to any person aboard such aircraft or ship other than for the consumption or use of the crew or passengers thereof, except under such conditions (which conditions may vary the procedure as to reporting the aircraft or ship as required by this Act) as may be prescribed by regulation made under this Act or as directed by the Collector in any particular case.

- (2) In this section the expressions “goods” includes passengers' baggage, stores and any goods which may be taken on board any aircraft or ship arriving from any place outside the Kingdom while such aircraft or ship is within the Kingdom.

#### **74 Forfeiture.**

Any goods unloaded, removed or dealt with contrary to the provisions of section 71 or 73, or to the terms and conditions contained in any written permission of the Collector shall be forfeited.

#### **75 Delivery of bullion, etc., and perishable goods requiring refrigeration.**

Notwithstanding anything hereinbefore contained the proper officer may permit the delivery to the importer of any bullion, currency notes or coin, or any perishable goods requiring storage under refrigeration, without entry thereof, but if such importer fails to enter such goods within 48 hours, excluding Sundays and public holidays, after delivery, he shall be guilty of an offence and liable to a fine not exceeding \$100.

#### **76 Entry in absence of documents.**

If the importer of any goods is not able to furnish full particulars of such goods for want of any documents or information concerning them (other than documents or information relating to the origin of such goods required by any provision of customs laws) he shall make and subscribe a declaration in the prescribed form to that effect before the proper officer and the proper officer shall thereupon permit the importer to examine and enter such goods notwithstanding that there shall not be satisfactory documentary evidence regarding the same and may allow delivery of such goods provided that the proper office is satisfied that the description of the goods for tariff and statistical purposes is correct and also in the case of goods liable to duty ad valorem, that the value declared on the entry is approximately correct, and in the case of goods liable to duty according to weight, measurement or strength thereof, that the weight, measurement or strength declared on the entry is correct.

#### **77 Disposal of amount paid for provisional entry.**

In the case of goods liable to duty ad valorem the entry made in accordance with section 76 shall be provisional. The amount estimated as the duty for the purpose of making such provisional entry together with such sum as the proper officer may require, not exceeding one half of the estimated duty, shall be paid by the importer and shall be brought to account as duty:

Provided that should the importer, within 4 months or such further period as the proper officer may in any special circumstances allow, produce to the proper officer satisfactory evidence of the value, and make final entry of such goods, there shall be repaid to such importer so much of the sum already paid by him as exceeds the amount calculated as duty on such goods after the making of such final entry.

#### **78 Goods not entered after declaration.**

If the importer, having made a declaration in accordance with section 76, fails to make entry as therein provided, or if the proper officer is not satisfied as aforesaid (in which case any entry which shall have been made shall be void), the proper officer shall cause the goods referred to in such declaration to be deposited in a King's warehouse and dealt with as provided in section 83.

#### **79 Power to waive production of documents.**

Notwithstanding anything hereinbefore contained, if the Collector is satisfied, whether before or after the deposit in the King's warehouse under section 78 of any goods liable to duty ad valorem, that it is impossible at the time of entry for the importer to obtain satisfactory documentary evidence of the value of such goods, or if in any case the documentary evidence of the value of such goods, though not complete, is in the opinion of the Collector sufficient to enable a reliable estimate of the value to be made, the Collector may permit such goods to be entered according to a value which two officers to be appointed by the Collector for the purpose are satisfied is, as nearly as may be estimated, and not less than, the correct value of such goods.

#### **80 Payment of additional sum in certain cases.**

Where the Collector permits any goods to be entered in the absence of any documents required under the provisions of section 79, he may require the person entering the goods to pay to him an certain additional sum not exceeding one half of the estimated duty:

Provided that the Collector shall repay such sum to the person entering the goods should such person produce the required document and make final entry of such goods within 4 months of the date of provisional entry.

#### **81 Goods deemed to be in a King's warehouse.**

Where under the customs laws any goods are or may be required to be deposited in a King's warehouse, and for any reason the proper officer, in his discretion, decides that it is undesirable or inconvenient to deposit such goods in a King's

warehouse, such goods shall for all purposes be deemed to be deposited in a King's warehouse as from the time that the same are required to be deposited in a King's warehouse, and shall in addition to the rent and other charges payable under section 82 be chargeable with such expenses for securing, watching, guarding, and of removing the same from the original to some other place of deposit (if the proper officer shall so require) as the proper officer shall deem reasonable, and no officer shall be liable to make good any damage which such goods may sustain by reason of or during the time of their being so deposited and dealt with as aforesaid:

Provided that such rent or other charges shall not be payable where such goods remain in a transit shed or customs area and are subject to rent or other charges payable to the owner or occupier of such transit shed or customs area.

## **82 Goods not entered or delivered to be deposited in a King's warehouse.**

- (1) If any goods imported in any aircraft or ship having been unloaded are not entered and delivered from the customs area within 2 days (excluding Sundays and public holidays) from the date of the completion of unloading or within such further period as the proper officer may in any special circumstances allow then such goods shall be deposited in such King's warehouse as the proper officer shall direct by the agent of such aircraft or ship or where such goods have been surrendered into the custody of any other person by such other person; or if there be no agent nor such other person or if the agent or such other person shall not act forthwith as herein required the proper officer may cause the goods to be deposited in a King's warehouse and such goods shall in every case be subject to rent and other charges as may be prescribed.
- (2) If any agent of an aircraft or ship or other person fails without reasonable cause to comply with subsection (1) he shall for each failure be guilty of an offence and liable to a fine not exceeding \$100.
- (3) Notwithstanding the provisions of subsection (2) where the Collector is satisfied that the failure of the agent of an aircraft or ship or other person to comply with the provisions of subsection (1) is due to the fault of the importer of such goods, the importer shall incur a penalty of \$0.50 per tonne or per cubic metre at the discretion of the proper officer for each day after the prescribed period that such goods remain in the customs area.
- (4) No compensation shall be payable by the Government to any porter, owner or consignee of any goods deposited in a King's warehouse in respect of any loss or damage which occurs to such goods while so deposited, save when loss or damage occur as the direct result of the wilful act or negligence of an officer.



**83 Goods deposited in King's warehouse may be sold.**

- (1) Where under the provisions of this Act any goods are deposited or deemed to be deposited in a King's warehouse and such goods are of a perishable nature, then the proper officer may, with the approval of the Controller, notwithstanding such provisions, sell the same forthwith by public auction; and if such goods, though not perishable, are of a kind not permitted by any provision of law to be deposited in a King's warehouse, the proper officer may, with the approval of the Controller notwithstanding such provisions, sell the same by public auction after 14 days' notice of intended sale given by public notice or in such other manner as may be prescribed.
- (2) Where any goods are deposited or deemed to be deposited in a King's warehouse under the provisions of this Act and the same are not entered for warehousing or delivery from such King's warehouse within one month after such deposit or within such further period as the proper officer may direct, and all charges for removal, freight and rent and all other expenses incurred in respect thereof duly paid, such goods shall be advertised by public notice or in such other manner as the Collector may direct and 2 weeks after such advertisement shall with all convenient speed be sold by public competition.
- (3) In all cases where goods are sold under the provisions of this section, the proceeds shall be applied first in discharge of duties (if any), of the expenses of removal and sale, and of rent and charges due to the Government, and then freight and other charges for which a claim has been made before the date of the sale, and the balance, if any, shall be paid to the owner of the goods on his application for the same, if such application be made within one year from the time of the sale of such goods, but otherwise shall be paid into the general revenue of the Kingdom.
- (4) If any goods on being offered for sale as aforesaid cannot be sold for a sum sufficient to pay all duties, expenses, rent and charges, the same may be destroyed, or otherwise disposed of as the Collector may direct.

**84 Freight on goods deposited in a King's warehouse.**

Subject to section 83, any officer having the custody of any goods which come into his hands under this Act may refuse delivery thereof from a King's warehouse until proof be given to his satisfaction that the duties, rent, freight, landing and storage charges due on such goods have been paid.

**85 Goods deposited in a King's warehouse may be examined.**

The Collector may cause any goods which under the provisions of this Act are required to be removed to a King's warehouse to be opened for examination by any officer, as often as may be required, at the expense of the owner of such goods.

**86 Goods may be entered by shipowners, etc.**

Where the importer of any goods imported in any ship into the Kingdom fails to make entry thereof, or having made entry, fails to land the same or to take delivery thereof by the times severally hereinafter mentioned, the shipowner or master or the agent of either may make entry of the said goods at the time, in the manner, and subject to the following conditions —

- (a) if a time for the delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the time so expressed; and
- (b) if no time for the delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the expiration of 72 hours, excluding Sundays and public holidays, after the report of the ship:

Provided that if at any time before the goods are landed or unshipped, the importer of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall, in such case, be preferred to any entry which may have been made by the shipowner or master, or the agent of either.

**87 Computation of time.**

The periods of time mentioned in sections 82 and 86 shall be computed from the time at which the aircraft or ship or goods shall have been released from any quarantine to which they may have been subjected.

**88 Aircraft or ship may be detained until goods landed.**

Whenever any goods remain on board any importing aircraft or ship beyond the period of 10 days after the arrival of such aircraft or ship, or beyond such further period as the proper officer may allow, such aircraft or ship may be detained by the proper officer until all expenses of watching or guarding such goods beyond such 10 days, or such further time, if any, allowed as aforesaid and of removing the goods or any of them to the King's warehouse, in case the officers shall so remove them, be paid; and like charge may be made in respect of any derelict or other aircraft or ship coming, driven, or brought into the Kingdom under legal

process, by stress of weather, or for safety, when it is necessary to station any officer in charge, either on board thereof or otherwise, for the protection of revenue, so long as the officer shall so remain.

**89 Restrictions as to passengers and other persons.**

- (1) No person, whether a passenger or not, shall disembark or go ashore from, or go on board any aircraft or ship that has arrived within the Kingdom save at such times, by such means and by such ways as may be prescribed or otherwise as the Collector may allow.
- (2) The master of any aircraft or ship who permits, allows or suffers any person to leave such aircraft or ship after arrival in the Kingdom save as permitted under the provisions of the customs laws shall be guilty of an offence and the master or his agent shall be liable to a fine not exceeding \$200.

**PART IV. - WAREHOUSED GOODS AND GOODS  
DEPOSITED IN A CUSTOMS AREA**

**90 Warehousing.**

Any goods while in any warehouse, and all goods whatsoever while in any customs area, shall be subject to such regulations as may be prescribed and in the case of goods warehoused in a Government warehouse or customs area in the occupation or use of the Government to the payment by the owner of such goods, at the prescribed times, of such rent and other charges as the Controller shall prescribe and if at any time any such rent or other charges are not paid to the proper officer when due and payable on any goods in any such Government warehouse or customs area, such goods may, without prejudice to any other lawful method of recovery, be sold, or otherwise dealt with, and any proceeds applied, as if they were goods which might be sold or otherwise dealt with, under the provisions of sections 116 and 117.

**91 Government not liable for loss in warehouses or customs areas.**

- (1) No compensation shall be payable by the Government to an importer, owner or consignee of any goods deposited in a Government warehouse or in a customs area in the occupation or use of the Government by reason of any loss or damage which occurs while the goods are so deposited, save when loss or damage occurs as the direct result of the wilful act or negligence of an officer.

- (2) No action shall be brought against the Government or any public officer for loss or damage sustained by goods while in any private warehouse or private customs area or for any wrong or improper delivery of goods therefrom, save when any loss or damage occurs as a direct result of the wilful act or negligence of an officer.

## **92 Private warehouses and customs areas.**

No building or place may be used as a private warehouse or, save with the written permission of the Controller, as a private customs area, until a bond, in such sum as may from time to time in each case be required by the Controller is given by the warehouse keeper or by the owner or occupier of the customs area, as the case may be, with one or more sufficient sureties, conditioned on due payment of all duties and the due observance of the provisions of the customs law.

## **93 Warehouse keeper etc., not to enter warehouse without permission.**

The owner or occupier of any customs area or a warehouse keeper shall not by himself or by any person in his employ open or gain access to any building in a customs area or transit shed or private warehouse except in the presence or with the knowledge and without consent of an officer acting in the execution of his duty.

## **94 Warehouse keeper etc., to provide facilities.**

The owner or occupier of any private warehouse or customs area or transit shed shall provide such office, sanitary and lavatory accommodation and weights, scales, measures and other facilities for examining and taking an account of goods and for securing the same as the Controller may require.

## **95 Revocation of order approving warehouse.**

The Controller for reasonable cause may revoke the appointment of any private warehouse or customs area and on such revocation the duties on all goods warehouse therein shall be paid, or the goods shall be exported or removed to another warehouse or area within such time, not less than 3 months, as the Controller may direct. Notice in writing of revocation addressed to the warehouse keeper of the private warehouse or area and left thereat, shall be deemed to be notice to all persons interested in the goods.

**96 Disposal of goods on revocation.**

If any goods are not duly exported or removed in conformity with section 95 such goods shall be taken to a King's warehouse by the proper officer and may be sold, or otherwise dealt with, and any proceeds applied as if the goods were goods which might be sold or otherwise dealt with under the provisions of section 83.

**97 Procedures as to warehousing.**

Upon presentation of any entry for goods to be warehoused, the proper officer shall, subject to any other direction of the Controller, take a particular account of such goods at the approved place of unloading and shall enter in a book prepared for that purpose the name of the importing aircraft or ship, and of the person in whose name such goods are entered, the number of packages, the mark and number of each package, the description of the goods and the name of the warehouse in which the same shall be deposited; and when the same shall have been so deposited with the authority of such officer the warehouse keeper, in the case of goods warehoused other than in a Government warehouse, shall acknowledge in writing at the foot of the account, the receipt of the goods into the warehouse, and the proper officer at the warehouse shall certify that the entry and warehousing of the goods is complete; and such goods shall from that time be considered goods duly warehoused.

**98 Goods to be warehoused in packages in which imported, and may be required to be marked.**

- (1) All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to be dealt with as provided in section 229, in which case they shall be deposited in the packages in which they are contained when the account thereof is taken by the proper officer on the completion of the operation.
- (2) The importer or owner of any warehoused goods shall mark such particulars on the packages containing such goods or any of them and in such manner as the Controller may direct.

**99 Penalty for interfering with storage of goods in a private warehouse.**

If in the case of goods warehoused in a private warehouse any alteration shall afterwards be made in the goods or packages so deposited, or in the packing thereof in the warehouse or in the marks or numbers of such packages without the presence and sanction of the proper officer or if the name shall be removed from the part of the warehouse in which they were deposited without the knowledge of the proper officer, except for delivery after they have been duly

entered, and under the authority of the proper officer, such goods shall be forfeited.

### **100 Stowage of goods in private warehouses or customs area.**

All goods deposited in any private warehouse or private customs area shall be arranged, stowed and maintained in such private manner that easy access can be had to every package or parcel thereof.

### **101 Warehouse keeper neglecting to arrange, stow and maintain goods.**

Where goods are not arranged, stowed and maintained in conformity with the requirements of section 100, the occupier of the private warehouse or customs area shall, on receipt of a written notice from the Controller comply with any directions given under the provisions of that section within a period of 7 days (excluding Sundays and Public Holidays) and if the occupier fails to comply he shall be guilty of an offence and liable, in respect of every package or parcel not so arranged, stowed and maintained, to a fine not exceeding \$10 together with a further penalty not exceeding \$2 for each day during which any such package or parcel shall not be so arranged and stowed.

### **102 Goods to be produced to officer.**

- (1) If the occupier of any private warehouse or customs area does not produce to any officer on his request any goods deposited in such warehouse or customs area, which have not been duly entered or delivered therefrom, the proper officer shall send to the occupier a written notice requiring him within a period of 7 days (excluding Sundays and public holidays) to produce such goods to the officer, or to account for the goods to the satisfaction of the Controller.
- (2) Should the occupier fail within such period to produce the goods to the officer or to account for them to the satisfaction of the Controller, the occupier shall for every such failure be guilty of an offence and liable to a fine not exceeding \$10 in respect of every package or parcel not so produced or accounted for.
- (3) Notwithstanding anything in this section contained, the occupier shall, in every case, pay the duties, in addition to any penalty, due upon every package or parcel not produced or accounted for to the satisfaction of the Controller.

**103 Penalty for not warehousing etc.**

If any goods entered to be warehoused shall not be duly warehoused by the importer in pursuance, of such entry, or if any goods whatsoever, being duly warehoused or deposited in a customs area shall be in any way concealed in or removed from the warehouse or customs area, or abstracted from any package or transferred from one package to another, or otherwise for the purpose of illegal mixing, removal or concealment, they shall be forfeited.

**104 Penalty for illegal opening warehouse, customs area or transit shed.**

If any person without the authority of the proper officer or without just and sufficient cause opens any warehouse or customs area or transit shed or gains access to the goods therein, he shall for every such offence be guilty of an offence and liable to a fine not exceeding \$200 and if any person not authorised by the warehouse keeper enters any warehouse or part of a customs area when forbidden by such officer, or refuses to leave any warehouse or any part of a customs area when requested to do so by such officer, he shall be guilty of an offence and liable to a fine not exceeding \$50.

**105 Penalty for embezzling warehoused goods, etc.**

- (1) If any goods required to be previously entered are unlawfully taken out of any warehouse or customs area without being duly entered, the warehouse keeper or the occupier of any part of a customs area where such goods have been deposited shall forthwith pay the duties due upon such goods.
- (2) Any person who —
  - (a) unlawfully takes any goods out of any warehouse or customs area without such goods having been duly entered, or assists or is concerned in such taking; or
  - (b) destroys, steals or in any way misappropriates or converts any goods duly warehoused or deposited in a customs area;

shall be guilty of an offence and shall be liable upon conviction to imprisonment for not exceeding 2 years, and where any such person is an officer and has been prosecuted to conviction, no duty shall be payable in respect of such goods, and any damage sustained by reason of such destruction, theft, misappropriation or conversion shall, with the consent of the Controller, be made good to the importer, consignee or owner.

**106 Proper officer may do reasonable acts to warehoused goods.**

The proper officer shall have power at the expense of the owner of the goods warehoused in a Government warehouse, or deposited in a customs area in the

occupation or use of the Government, to do all such reasonable acts as may by him respectively be deemed necessary for the proper custody and preservation of such goods, and shall have a lien on the said goods for expenses so incurred; but no such acts shall be done until the expiration of 24 hours after the owner of such goods has been notified that such acts are required, unless the proper officer shall in his discretion decide that immediate action is necessary for the proper custody or preservation of the goods as aforesaid.

### **107 Importer or owner to pay cost of action taken under section 106.**

The importer or owner of any such goods shall pay any expenses incurred in respect thereof under section 106 at such times and in such manner as the Controller shall either generally or in any particular case direct, and if any such expenses be not paid in accordance herewith, such goods may be sold or otherwise dealt with, and any proceeds applied as if they were goods which might be sold or otherwise dealt with under the provisions of section 116.

### **108 Removal of warehoused goods to another warehouse.**

The removal of warehoused goods from a warehouse to any other warehouse shall be subject to such conditions as may be prescribed by regulations and to such other conditions as the Controller may direct.

### **109 Procedure on delivery.**

On the delivery of any goods for removal as aforesaid, an account containing the particulars thereof shall be transmitted by the proper officer of the port or place of removal to the proper officer of the port or place of destination, and the person requiring the removal thereof shall enter into a bond, with such security as the Controller shall require, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time as the proper officer may direct; and such bond shall not be discharged unless such goods shall have been produced to the proper officer and duly re-warehoused at the port or place of destination within the time directed by the proper officer as aforesaid, or unless the full duties of customs shall have been paid thereon, or unless such goods shall have been otherwise accounted for or until the full duties due upon any deficiency of such goods not so accounted for shall have been paid.

### **110 Goods removed subject to warehouse regulations.**

Upon the arrival of such goods at the port or place of destination, they shall be warehoused in the same manner, and under and subject to the same customs laws and regulations, so far as the same are or can be made applicable, as on the



warehousing of goods on the first importation thereof except that further entry of the goods shall not be required.

**111 Goods removed may be entered for use in the Kingdom or for exportation.**

If, upon the arrival of goods so removed as aforesaid at the port or place of destination, the parties are desirous forthwith to export the same or to pay duty thereon for use within the Kingdom, without actually lodging the same in the warehouse, the officer at such port or place may permit the same to be entered and delivered for use within the Kingdom or to be entered and loaded for exportation, as if such goods had been actually lodged in such warehouse.

**112 Removal, etc. to be subject to certain conditions.**

If any goods taken from a warehouse for removal or for exportation or use as aircraft's or ship's stores are removed or put on board an aircraft or ship except with the authority or under the care of the proper officer, and in accordance with any regulations made under this Act and in such manner, by such persons and within such time, and by such roads or ways, as such officer shall permit or direct, such goods shall be forfeited; and if any such goods are illegally removed or carried away prior to being put on board the exporting or removing aircraft, ship or carriage, or from any exporting or removing aircraft, ship or carriage, in or on which the same have been put, any bond given in respect thereof shall be forfeited, and may forthwith be put in suit for the penalty thereof, although the time prescribed in such bond for putting the goods on board the exporting aircraft or ship, or re-warehousing such goods at the place of destination, has not expired; and all such goods may be forfeited.

**113 Collector may remove goods warehoused in a Government warehouse.**

Notwithstanding anything hereinbefore contained, the Controller, if in his discretion he decides that such action is advisable, may remove goods at the cost of Government from one Government warehouse to another in any manner he may deem reasonable.

**114 Re-warehousing.**

All warehoused goods shall be entered and delivered either for use within the Kingdom or as aircraft's or ship's stores, or for exportation not later than 2 years after the day on which the same were warehoused, unless the owner of such goods shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officer, and the duties due upon any deficiency

or difference between the quantity ascertained on warehousing and the quantity found to exist on such examination, together with the necessary expenses attendant thereon, and any charges incurred in respect of the said goods, shall, subject to such allowance as is by the law permitted in respect thereof, be paid to the Collector at the rates in force at the time of such examination; and the quantity so found shall be warehoused in the name of the then owner thereof in the same manner as on first warehousing:

Provided that no goods shall be re-warehoused under this section unless the proper officer certifies that the goods are in proper condition to be re-warehoused.

### **115 Re-examination not required in certain cases.**

If the owner of the warehoused goods desires, with the concurrence of the warehouse keeper, to re-warehouse the same according to the account taken at the warehousing thereof, without re-examination, such re-examination may be dispensed with if the officer is satisfied that the same are still in the warehouse, and that there is no reason to suspect that there is any undue deficiency; but the warehouse keeper shall be liable to make good the duty on an deficiency not allowed by law which may be discovered in the goods at the time of delivery thereof, or any earlier date.

### **116 Disposal of goods not re-warehoused.**

If any warehoused goods are not duly entered for use within the Kingdom, or as aircraft's or ship's stores, or exported or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid and any charges and expenses are not paid at the expiration of 2 years from the previous entry and warehousing thereof, the same shall be advertised by public notice, or in such other manner as the Controller may direct, and 2 weeks after such advertisement shall with all convenient speed be sold by public auction, and the proceeds thereof shall be applied to payment of the duties, expenses of the same and of any rent and charges due to the Crown, then in discharge of any lien for freight and other charges, and the surplus, if any, shall be paid to the owner of such goods on his application for the same within one year from the time of sale, but otherwise shall be paid into the general revenue of the Kingdom; and if such goods, on being offered for sale, cannot be sold for a sum to pay all duties, expenses, rent and charges due to the Crown, then the same may be destroyed or otherwise disposed of as the Controller may direct; and the duties due upon any deficiency in any warehoused goods not allowed by any regulations made under this Act shall be forthwith paid by the owner of such goods.

**117 Warehoused goods entered or sold must be removed within 14 days.**

If any goods remain in any warehouse for a period of 14 days after being entered for use within the Kingdom or after being sold by public auction under the customs laws, they shall be forfeited and disposed of in such manner as the Controller may direct, unless the failure to remove the same is explained to the satisfaction of the Controller.

**118 Delivery in special circumstances.**

The Controller may permit any goods to be taken out of any warehouse or customs area without payment of duty for such purpose and for such period as to him may appear expedient and in such quantities, and under such regulations and restrictions, and with such security by bond for the due return thereof, or the payment of the duties due thereon, as he may direct or require, and if any such goods are dealt with in any way contrary to the terms of such permission or to such regulation or restrictions, the same shall be forfeited.

**119 Stores.**

The Collector may permit warehoused goods to be delivered as stores for a ship of not less than 30 tonnes net tonnage, or an aircraft, in accordance with section 146, and if any goods taken from a warehouse for use as stores are not duly put on board the aircraft or ship for which the same are entered, or otherwise accounted for to the satisfaction of the Collector, or shall be dealt with in any way contrary to the customs laws, such goods shall be forfeited.

**120 Duty to be paid according to original account.**

The duties to be paid when warehoused goods are entered for use within the Kingdom shall be at the rates in force at the date of entry, and shall not be less in amount than would have been payable according to the value or quantity thereof at the time of importation, except as to the following goods, namely, tobacco in leaf, oil in casks, malt liquor in casks, and spirits in casks, the duties whereon, when cleared from the warehouse for use within the Kingdom shall be chargeable upon the quantity of such goods ascertained by weight, measure or strength, as the case may be, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of any deficiency has been caused by illegal abstractions:

Provided that if at any time any deficiency beyond that which can be accounted for by natural waste or other legitimate cause is found in goods warehoused, or operated on in warehouse, the warehouse keeper or the owner of the goods shall on the written demand of the proper officer be liable immediately to pay

according to the account of the goods as warehoused and, if he fails to pay the duty, shall incur a penalty of double the amount of such duty.

### **121 Goods entered for exportation or use as aircraft's or ship's stores exempt from duty.**

Subject to the observance by the exporter of all the provisions of the customs laws and the condition of any bond, no import duty or excise duty shall be charged in respect of —

- (a) any goods entered under bond for exportation or use as aircraft's or ship's stores, and subsequently proved to have been duly exported to and landed at some place outside the Kingdom, or exported as stores as the case may be, or
- (b) any goods remaining on board an importing aircraft or ship for re-exportation or use as stores on the importing aircraft or ship,

unless the Collector has reasonable grounds to suppose that any deficiency in any such goods, or any part thereof, has arisen from illegal abstraction, in which case double the amount of duty shall be paid on such deficiency by the owner of such goods.

## **PART V. - LOADING AND EXPORTATION OF GOODS**

### **122 Entry of ships outwards.**

The master of any ship in which any goods are to be exported, or his agent, shall if required, before any goods be taken on board, deliver to the proper officer at the port at which such ship shall have first arrived an entry outwards of such ship, verified by his signature, in the prescribed form, and containing the several particulars indicated in or required thereby, and in such entry outwards the master or his agent shall declare that no imported goods are left on board such ship other than such goods and stores as shall be specified in the entry outwards.

### **123 Rummage certificate.**

The master of every ship shall, if required, obtain from the proper officer a certificate of rummage. If he desires to obtain such certificate before the whole of the inward cargo of the ship has been discharged, he shall remove and stow the inward cargo remaining on board such ship in such manner as such officer shall direct in order to enable him to rummage the ship, and after the ship has been rummaged, shall stow the inward cargo remaining on board separately and

keep it separated to the satisfaction of the proper officer from any coastwise or any outward cargo that may subsequently be put into such ship.

#### **124 Licence to unload or load at a sufferance wharf.**

Before any goods are unloaded from or loaded into an aircraft or ship at a sufferance wharf the master of such aircraft or ship shall furnish the Collector with particulars on the prescribed form of the goods to be so unloaded or loaded, as the case may be, and this form when signed by the proper officer shall be the licence for such aircraft or ship to proceed to such sufferance wharf.

#### **125 Conditions to be observed.**

The master of an aircraft or ship unloading or loading goods at a sufferance wharf shall, if the Collector requires, first enter the goods at the port at which the licence has been issued and shall comply with the conditions of the licence and such other conditions as the Collector may impose.

#### **126 Delivery of licence after unloading or loading.**

When unloading and loading at a sufferance wharf has been completed the master or his agent before the aircraft or ship shall depart therefrom shall enter on the licence particulars of the cargo so unloaded or loaded and after signing such account shall deliver the licence to the proper officer.

#### **127 Subsequent procedure.**

After unloading or loading any goods at a sufferance wharf the master shall, unless the proper officer shall otherwise direct, proceed with his aircraft or ship forthwith to the port at which the licence was issued and shall there comply with all the provisions of the customs laws as nearly as may be as if such goods had been unloaded at such port.

#### **128 Penalty for breach of sections 122 to 127.**

If any goods are taken on board any aircraft or ship at any port contrary to any of the provisions of sections 122 and 123 or if any goods are unloaded from or loaded into any aircraft or ship at a sufferance wharf contrary to any of the provisions of section 124, 125, 126 and 127 or if any of the requirements of the said sections 122, 123, 124, 125, 126 and 127 are not observed, the master of such aircraft or ship or his agent shall be guilty of an offence and liable to a fine not exceeding \$200 unless such contravention is explained to the satisfaction of the Collector.

**129 Limitation.**

Nothing contained in sections 122, 123, 124, 125; 126 and 127 shall be deemed to authorise the loading of goods except from an approved place of loading or a sufferance wharf, unless specially allowed by the Collector under section 135.

**130 Loading goods or exportation or carriage coastwise by ships of less than 100 tonnes net tonnage.**

On arrival at any port or place in the Kingdom any ship of less than one hundred tonnes net tonnage, about to deliver cargo at more than one port or place in the Kingdom, or having on board any goods duly reported for exportation in the same ship, it shall be lawful, subject to any regulations made under this Act, or to such conditions as the Collector may deem necessary, to allow the entry outwards of such ship, and to permit the loading of goods for exportation in such ship or for carriage coastwise as provided in section 164, before the whole of the goods imported in such ship are discharged therefrom.

**131 Goods loaded for exportation or carriage coastwise to be separated from other cargo.**

In cases where the Collector permits the loading of goods for exportation or for carriage coastwise in accordance with the provisions of section 130, such goods shall be completely separated from the inward cargo and from any cargo remaining on board for exportation to the satisfaction of the proper officer.

**132 Restriction on exportation of certain goods.**

No person shall export or attempt to export any warehoused goods, or goods liable to duties of customs transferred from an importing aircraft or ship, or goods entitled to drawback on exportation, nor shall enter or attempt to enter any such goods for exportation in any ship of less than 30 tonnes net tonnage, unless the Controller shall otherwise permit.

**133 Penalty.**

Any person who exports or enters or attempts to export or enter any goods contrary to section 132 or places any goods on board a ship of less size than is thereby permitted for exportation shall be guilty of an offence and liable to a fine not exceeding \$100, and such goods shall be forfeited.

**134 General provisions regarding loading and exportation of goods.**

- (1) Subject to the provisions of section 135, no goods shall be put on board any aircraft or ship for exportation or use as stores, or be put on board any vessel for the purpose of being put on board any aircraft or ship for exportation or use as stores —
  - (a) on Sunday or a public holiday, or on any other day except between such hours as may be prescribed; or
  - (b) from any place not being an approved place of loading; or
  - (c) without the authority of the proper officer; or
  - (d) before due entry outwards of the exporting aircraft or ship, if the same is by law required to be entered outward; or
  - (e) before such goods are duly entered.
- (2) No goods having been put into any vessel to be waterborne to any aircraft or ship for exportation or use as stores shall be put on board the exporting aircraft or ship outside the limits of any port.
- (3) Without prejudice to section 228 any officer may open and examine any goods put on board any aircraft or ship or brought to any place to put on board an aircraft or ship for exportation or use as stores.

**135 Collector may relax conditions of shipment.**

Notwithstanding the provisions of section 134, the Collector may permit any goods to be put on board any aircraft or ship on such days, at such times, from or at such places, and under such conditions as he may either generally or in any particular case direct, and in like manner the Collector may direct what goods need not be entered by the exporter until after the departure of any aircraft or ship, but any such goods must be entered within 48 hours (excluding Sundays and public holidays) or such departure or such further time as the Collector may allow; and, if they are not so entered, the exporter shall be guilty of an offence and for every such offence shall be liable to a fine not exceeding \$200:

Provided that where any goods are permitted to be entered after being put on board the Collector may in such case require the exporter or his agent to give security for the payment of any export duties of customs on any goods liable thereto.

**136 Vessels loading into ship to proceed direct and may be required to be licensed.**

Any goods which have been put into any vessel to be waterborne to any aircraft or ship for exportation or use as stores shall be taken directly and without delay to the aircraft or ship in which the same are to be exported or used as stores, and

put on board forthwith; and every vessel in which the same are water-borne as aforesaid to any aircraft or ship shall, if so required by the Collector, be a ship licensed under section 57.

### **137 Permission required to discharge goods loaded.**

No goods having been put on board any aircraft or ship in accordance with section 148, or for exportation, or use as stores, shall be discharged in any part of the Kingdom without the written permission of the proper officer, and except in accordance with such conditions as the Collector shall impose.

### **138 Penalty for breach of sections 134 to 137.**

If any person puts or attempts to put any goods on board any aircraft or ship or discharges, or attempts to discharge, or deals with any goods in any way contrary to any of the provisions of sections 134, 135, 136 and 137, such person shall be guilty of an offence and liable to a fine not exceeding \$200 and all such goods shall be forfeited.

### **139 Penalty for attempting to ship prohibited or restricted goods.**

If any person puts on board any aircraft or ship, or puts off or puts into any vessel to be water-borne to any aircraft or ship for exportation or use as stores, or brings to any aerodrome, customs area, quay, wharf or any place whatever in the Kingdom for exportation or use as stores, or exports any goods prohibited to be exported, or any goods the exportation of which is restricted, contrary to such restriction, or attempts to perform or is knowingly concerned in the performance of any of the aforesaid acts, he shall (except as otherwise provided in section 133) be guilty of an offence and liable to a fine not exceeding \$200 and all such goods shall be forfeited.

### **140 Bond may be required in certain cases.**

Before any warehoused goods or goods entitled to any drawback on being put on board an aircraft or ship for use as stores or for exportation, or goods exportable only under particular regulations, or restrictions, or goods liable to duties of customs intended for transfer from an importing to an exporting aircraft or ship shall be permitted to be entered for use as stores, or for exportation or for transfer as aforesaid, the exporter shall give security by bond, if the proper officer shall so require, to such amount as the proper officer may decide in the circumstances of each case, that such goods shall be duly put on board the aircraft or ship for which the same are entered and shall be used as stores (if so entered) or else exported to and discharged at the place for which they are



entered within such time as the proper officer may deem reasonable, or be otherwise accounted for to the satisfaction of the Collector.

**141 Master may be required to sign for goods.**

The master of an exporting aircraft or ship shall, if required by the proper officer, give on the relative shipping bill or other appropriate document an acknowledgement of the receipt on board of the goods referred to therein.

**142 Offences relating to certain goods.**

If any goods for which bond is required under section 140, or any goods liable to export duties of customs be put on board any aircraft or ship or brought to any aerodrome, customs area, quay, wharf or other place to be put on board an aircraft or ship and are on examination by the proper officer found not to agree with the entered particulars thereof, or being goods on which drawback is being claimed or allowed are found to be goods not entitled to drawback, all such goods shall be forfeited, and the exporter of such goods shall in every such case incur a penalty of \$200.

**143 Penalty for not exporting bonded goods.**

If any goods for which bond is required under section 140, after being entered and put on board an aircraft or ship are used otherwise than as stores (if so entered) or are not duly exported to and discharged at the declared destination (such goods not having been discharged in the Kingdom with the permission of the proper officer as provided in section 137) or otherwise accounted for to the satisfaction of the Collector, the same shall be forfeited; and the master of the aircraft or ship in which such goods have been put shall be guilty of an offence and liable to a fine not exceeding \$200.

**144 Short loading of bonded goods.**

If any person who has entered any goods for which bond is required under section 140 fails, in case such goods or any of them are not duly put on board the aircraft or ship for which the same have been entered, to attend before the proper officer within 24 hours of the time of clearance of the aircraft or ship or such further period as the Collector may allow, and notify such officer of the short loading of such goods and re-warehouse or re-enter for exportation or use as stores in some other aircraft or ship within such period of 24 hours any such goods which shall have been removed from a warehouse for exportation or use as stores, any such goods entered as aforesaid shall be forfeited.

**145 Exporter to notify short loading of non-bonded goods.**

If any exporter who has entered any goods, not being goods for which bond is required, for exportation in any aircraft or ship fails, in case such goods or any of them are not duly put on board the aircraft or ship for which the same are entered, to attend before the proper officer within 24 hours after the departure of such aircraft or ship, or such period as the Collector may allow, and notify such officer of the short loading of such goods, he shall be guilty of an offence and liable to a fine not exceeding \$10.

**146 Collector may allow shipment of stores.**

Notwithstanding anything to the contrary contained in the customs laws, and subject to any regulations made under this Act, the Collector may, upon due request being made, permit the master of any aircraft or ship departing from any port in the Kingdom upon a flight or voyage to any place outside the Kingdom to take on board stores (not being goods prohibited to be exported) for the use of such aircraft or ship, and of the master, crew and passengers, upon payment of any export duty leviable on the like kind of goods exported and upon such other terms and conditions as the Collector may direct, and in such quantities as the Collector in his discretion shall deem reasonable; and every such request shall be made on the prescribed form and contain the particulars required thereby or indicated therein, and shall be signed by the master or his agent; and no stores shall be put on board for the use of any aircraft or ship, nor shall any articles taken on board any aircraft or ship, be deemed to be stores; except such as shall be or have been put on board such aircraft or ship in accordance with the provisions hereof.

**147 Drawback and transhipment of goods.**

The provisions of the customs laws with reference to the exportation of warehoused goods, so far as they are applicable, shall be deemed to apply to and include goods liable to duties of customs transferred from an importing to an exporting aircraft or ship, and goods exported on drawback.

**148 Loading of goods other than cargo or stores.**

Notwithstanding anything to the contrary in the customs laws, and subject to any regulations made under this Act, the proper officer may permit the loading of passengers' baggage, and also permit any person to take on board any aircraft or ship any goods for sale or delivery to the passengers, officers, or crew of such aircraft or ship or for such other purpose as the proper officer shall allow, under such conditions as he may either generally or in any particular case direct; but if any goods, not being part of the cargo or authorised stores of any aircraft or ship,

shall be taken on board any aircraft or ship, which is about to proceed to any place outside the Kingdom, or which has any goods remaining on board thereof from a voyage from a place outside the Kingdom, or if any attempt shall be made to put any such goods on board any such aircraft or ship without permission of or contrary to any conditions directed as aforesaid by the proper officer, or otherwise contrary to the customs laws, the same shall be forfeited.

## **PART VI. - DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS**

### **149 Clearance of aircraft and ships.**

No aircraft or ship shall depart from any port or place in the Kingdom to any port or place outside the Kingdom, either direct or via another port or place in the Kingdom, until the master or his agent has satisfied the proper officer that all the provisions of the customs laws have been fulfilled, whereupon unless he has decided to withhold clearance in accordance with any other provision of the law, such officer shall deliver to the master or his agent a clearance in the prescribed form and such clearance shall be the authority for the departure of such aircraft or ship as aforesaid.

### **150 Power to refuse or cancel clearance of ship or aircraft.**

- (1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under any enactment, or for the purpose of securing compliance with any provision of this Act or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods —
  - (a) the proper officer may at any time refuse the clearance of any ship or aircraft; and
  - (b) where clearance has been granted to a ship or aircraft, any officer may at any time while the ship is within the limits of any port or the aircraft is at any customs airport demand that the clearance shall be returned to him.
- (2) Any such demand may be made either orally or in writing on the master of the ship or aircraft, and if made in writing may be served —
  - (a) by delivering it to him personally; or
  - (b) by leaving it at his last known place of abode; or
  - (c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.

- (3) Where a demand for the return of a clearance is made as aforesaid —
- (a) the clearance shall forthwith become void; and
  - (b) if the demand is not complied with, the master of the ship or aircraft shall be liable to a penalty of \$200.

### **151 Power to prevent flight of aircraft.**

- (1) Any officer, if it appears to him that an aircraft is intended or likely to depart for a destination outside the Kingdom from any port or place in the Kingdom before customs clearance is given therefrom, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.
- (2) Any person who contravenes any instructions given under the foregoing subsection shall be guilty of an offence and liable to a fine not exceeding \$1000; and if an aircraft flies in contravention of any such instruction or notwithstanding any steps taken to prevent the flight, the owner or the master thereof shall, without prejudice to the liability of any other person under this subsection, each be similarly liable unless either proves that the flight took place without his consent or connivance.

### **152 Penalty for not clearing.**

If any aircraft or ship departs from any port or place as aforesaid without authority having been granted as required by section 149 the master or his agent shall be guilty of an offence and liable to a fine not exceeding \$200.

### **153 Master to deliver account of cargo etc.**

The master of every aircraft or ship, or his agent, shall immediately before the departure of such aircraft or ship from any port or place in the Kingdom deliver to the proper officer a content in the prescribed form of such aircraft or ship and containing the several particulars therein required as far as the same can be known to him and shall make and subscribe the declaration at the foot thereof in the presence of such officer and shall answer all such questions as shall be put to him by such officer concerning the aircraft or ship, the cargo, the stores, the baggage, the officers, crew and passengers and the voyage:

Provided that the Collector may generally or in any particular case require the master or agent to furnish a list of the officers crew and passengers to the proper officer at least one hour before the scheduled time of departure of any aircraft or ship.

**154 Penalty for any contravention of section 153.**

If a master or agent fails to deliver the content required by section 153 or if any of the particulars contained in such content are false or if any of the required particulars are omitted from such content and such omission is not explained to the satisfaction of the Collector or if a master or agent otherwise fails to comply with any of the provisions of section 153 such master or agent shall be guilty of an offence and liable to a fine not exceeding \$200.

**155 Controller may prescribe special conditions as to clearance.**

Notwithstanding the provisions of sections 149 and 153 or any other provisions of the customs laws relating to the departure and clearance of aircraft and ships, the Controller may by notice or by writing under his hand addressed to the Collector require all aircraft and ships whatsoever, or any particular aircraft or ship, to be cleared in any manner specified in such notice or writing; and if any aircraft or ship shall depart contrary to the provisions of such notice or writing as aforesaid of which the master or agent shall have been informed by the Collector in writing, the master or agent shall be guilty of an offence and liable to a fine not exceeding \$100.

**156 Clearance in ballast.**

If any ship departing in ballast from the Kingdom to any place outside the Kingdom, not having any goods onboard except stores duly shipped as such, nor any goods reported inwards for exportation in such ship, the proper officer shall on the application of the master or his agent, clear such ship in ballast, and the master of such ship or his agent shall comply with the customs laws as if such ship had cargo on board, except that the words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo.

**157 Ships with passengers and baggage deemed in ballast.**

For the purposes of section 156 ships having only passengers with their bona fide baggage on board in addition to stores as aforesaid, shall be deemed to be in ballast.

**158 Clearance to be produced to officer on demand.**

Any officer may go on board any aircraft or ship within the Kingdom and demand the clearance of such aircraft or ship, and if the master fails to produce the same, or if the master of any aircraft or ship whatsoever which may be boarded as aforesaid by any officer fails to answer or does not truly answer such questions concerning the aircraft or ship, the cargo, stores, baggage, officers,

crew, passengers and intended flight or voyage, as may be demanded by him, he shall be guilty of an offence and liable to a fine not exceeding \$200.

### **159 Goods not contained in account forfeited.**

If there be any goods or stores on board any aircraft or ship which may have been boarded by an officer within the Kingdom not contained in the content or account required to be signed as the clearance of such aircraft or ship (if any) such goods or stores shall be forfeited, and the master shall be guilty of an offence and liable to a fine not exceeding \$200.

### **160 Penalty for failure to produce goods.**

If any officer having boarded any aircraft or ship within the Kingdom after clearance, discovers that any goods which were loaded in the Kingdom on board thereof as stores or for exportation or which at the time of clearances remained on board from the inward voyage, are no longer on board such aircraft or ship (unless the same shall have been discharged in the Kingdom, with the permission of the proper officer, as provided in section 137, or being stores remaining on board from the inward voyage, are in the opinion of the proper officer less than should be on board after making due allowance for what might reasonably have been consumed, having regard to the period during which the aircraft or ship shall have been within the Kingdom), the master shall pay the duty on such goods at the rate chargeable on similar goods and in addition shall be guilty of an offence and liable to a fine not exceeding \$50 for every package or parcel not on board.

### **161 Deficiency in stores, etc.**

If any aircraft or ship, having departed from the Kingdom on a flight or voyage to a place outside the Kingdom and having returned within the Kingdom, is boarded by an officer, and if such officer discovers any deficiency in the stores of such aircraft or ship which in his opinion are in excess of the quantity which might fairly have been consumed having regard to the period which has elapsed between the departure of such aircraft or ship and the discovery of the deficiency, the master shall pay the duties of such deficiency at the rate chargeable on similar goods imported, and in addition shall be guilty of an offence and liable to a fine not exceeding \$200.

### **162 Aircraft or ship not bringing to at boarding station or carrying away officer.**

If any aircraft or ship departing from the Kingdom does not bring to at the proper boarding station for setting down officers, or for any other purpose

required by the customs laws, or departs on a flight or voyage with any officer on board without the assent in writing of such officer, the master shall be guilty of an offence and liable to a fine not exceeding \$200 unless the same shall be explained to the satisfaction of the Collector.

## **PART VII. - COASTING TRADE**

### **163 Definitions.**

Except as provided in section 163, all trade by sea or by air from one part of the Kingdom to any other part thereof shall be deemed to be coasting trade, and all aircraft or ships while employed therein shall be deemed to be coasting aircraft and coasting ships, and if any doubt shall at any time arise as to what, or to or from what parts of the Kingdom, shall be deemed a passage by sea the Controller may determine and direct in what cases the trade by water from one port or place in the Kingdom to another of the same shall or shall not be deemed a trade by sea within the meaning of the customs laws.

### **164 Provisions relating to aircraft and ships from places outside the Kingdom.**

- (1) Notwithstanding any provisions in the customs laws to the contrary, where any aircraft or ship arrives in the Kingdom from any place outside the Kingdom, having on board cargo intended to be delivered at more than one port in the Kingdom, or intending to load cargo for a foreign port at more than one port in the Kingdom, the proper officer may permit such aircraft or ship to convey goods from any port at which such aircraft or ship partially discharges her cargo or loads cargo for a foreign port, to her port or ports of destination within the Kingdom for delivery there. Such goods shall be completely separated from the inward cargo still on board, to the satisfaction of the proper officer.
- (2) Any aircraft or ship referred to in subsection (1) of this section conveying goods from one port within the Kingdom to another port within the Kingdom shall not, by reason thereof be deemed a coasting aircraft or a coasting ship within the meaning of the customs laws.

### **165 Removing uncustomed goods coastwise.**

Goods imported at a port in the Kingdom but consigned to and intended for delivery at another port in the Kingdom may, subject to such conditions as the Collector may impose, be transhipped at the port of first importation and carried by another aircraft or ship in either the foreign or coasting trade to the port of

destination prior to entry and without being examined, provided that at the latter port the goods shall be dealt with as goods imported direct from a place outside the Kingdom and that if goods are so carried in an aircraft or ship in the foreign trade such conveyance of goods shall not constitute the aircraft or ship a coasting aircraft or coasting ship within the meaning of the customs laws.

### **166 Licence for coasting ships.**

The King in Council may make regulations for the licensing of coasting aircraft or coasting ships to carry uncustomed goods coastwise.

### **167 Coasting aircraft or ships to take only coastwise cargo.**

No uncustomed goods shall be carried in any coasting aircraft or coasting ship except such as shall be loaded to be carried coastwise at some port or approved place of loading in the Kingdom.

### **168 Offences.**

If any aircraft or ship licensed under the provisions of section 166 deviates from its flight or voyage, unless forced by unavoidable circumstances, whereof the proof shall lie on the master of such aircraft or ship, or if the master of any coasting aircraft or coasting ship has taken on board any wrecked or other goods or discharged any uncustomed goods in the course of a flight or voyage from one part of the Kingdom to another fails to render an account of the circumstances and of any goods so taken on board or discharged and to proceed forthwith direct to the nearest port in the Kingdom and to declare and explain the same to the satisfaction of the proper officer, and to deliver all goods so taken on board into his care, such master shall be guilty of an offence and liable to a fine not exceeding \$200, and the aircraft or ship may be detained by the proper officer until such penalty be paid.

### **169 Special conditions as to certain goods.**

Uncustomed tobacco, cigars, cigarillos, cigarettes, wine and special spirits (except spirits the product of the Kingdom removed under the provisions of the excise laws or with the permission of the Collector), shall not be put on board any aircraft or ship for carriage coastwise except at an approved place of loading or sufferance wharf and in the presence or with the authority of an officer, and if any such goods shall be put on board contrary hereto, or if any attempt is made so to put them, such goods shall be forfeited and a penalty of \$50 shall be incurred.



**170 Coastwise cargo not to be put on board on Sundays etc.**

If any uncustomed goods are discharged from any aircraft or ship arriving coastwise, or from any vessel into which the same have been put to be landed, or to be water-borne, to be put on board any aircraft or ship for carriage coastwise on Sundays or public holidays or on any other days except between such hours as may be prescribed, save with the written permission of the Collector, the same shall be forfeited, and the master of the aircraft, ship or vessel shall be guilty of an offence and liable to a fine not exceeding \$100 and the aircraft, ship or vessel may be detained by any officer until such penalty is paid.

**171 Forfeiture of goods prohibited etc. to be carried coastwise.**

If any person puts on board any coasting aircraft or coasting ship, or puts off, or puts into any vessel to be put on board any coasting aircraft or coasting ship, or brings to any aerodrome, customs area, quay, wharf or any place whatever in the Kingdom for carriage coastwise, or carries coastwise any goods prohibited to be carried coastwise, or any goods the carriage coastwise of which is restricted, contrary to such restriction, or any goods the carriage coastwise of which is contrary to the customs laws, or attempts to perform, or is knowingly concerned in the performance of any of the aforesaid acts, he shall be guilty of an offence and liable to a fine not exceeding \$200, and all such goods shall be forfeited.

**172 Master to keep cargo book.**

The master of any coasting aircraft or coasting ship licensed under the provisions of section 166 shall keep or cause to be kept a cargo book, stating the name of the aircraft or ship, the master and the port to which the aircraft or ship belongs, and the port or place to which it is bound on each flight or voyage, and unless the Collector otherwise directs, shall at every port or place of loading enter in such book the name of such port or place, an account of all goods there taken on board such aircraft or ship, stating the descriptions of the packages, and the quantities and descriptions of any goods stowed loose and the names of the respective consignors and consignees, and shall at every port or place of discharge of such goods note the respective days on which the same, or any of them are delivered out of such aircraft or ship, and the respective time of departure from every port or place of loading and of arrival at every port or place of discharge.

**173 Master to produce cargo book on demand.**

The master of any coasting aircraft or coasting ship who under the provisions of section 172 is required to keep a cargo book shall, on demand, produce such cargo book for the inspection of any officer, who may make any note or remark

therein; and if upon examination any package entered in the cargo book as containing imported goods shall be found not to contain such goods, such package with its contents shall be forfeited; or if any package shall be found to contain imported goods not entered in such book such goods shall be forfeited.

#### **174 Penalty for failure to keep cargo book correctly.**

If any master who under the provisions of section 172 is required to keep a cargo book fails correctly to keep or cause correctly to be kept such cargo book or to produce the same, or if at any time there is found on board such aircraft or ship any goods not entered in such book as loaded, or any goods noted as delivered, or if any goods entered as loaded and not noted as delivered are not on board, the master of such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$50 and the aircraft or ship may be detained by any officer until such penalty is paid.

#### **175 Form of cargo book.**

A cargo book required to be kept under the provisions of section 172 shall be in the prescribed form, and shall contain such particulars as the prescribed form shall indicate or require; and if such cargo book is not in the prescribed form the master of the aircraft or ship shall incur a penalty of \$20 and the aircraft or ship may be detained by any officer until such penalty is paid.

#### **176 Coastwise passengers, etc.**

The carriage of passengers, officers, and crew coastwise, whether in a coasting aircraft or coasting ship or not, shall be subject to any regulations made under this Act.

#### **177 Master to deliver cargo book to officer before departure.**

Before any aircraft or ship licensed under the provisions of section 166 departs from any port or place of loading, her cargo book, containing the several particulars required by this Act and signed by the master shall be delivered to the proper officer who if he is satisfied that it contains the several particulars required as aforesaid, shall return it dated and signed by him, and such cargo book shall be the clearance of the aircraft or ship for the voyage; and if the master fails to deliver such cargo book he shall be guilty of an offence and liable to a fine not exceeding \$50 and the aircraft or ship may be detained by any officer until such penalty is paid.

**178 Procedure where no officer is stationed.**

Any aircraft or ship licensed under the provisions of section 166 taking cargo on board at a place where no officer is stationed, to be carried coastwise, may depart from such place without delivering such cargo book, on condition that the master of the aircraft or ship shall produce the cargo book to the proper officer at the first place where an officer is stationed at which such aircraft or ship arrives after loading, and the officer shall thereupon sign such book, if satisfied as to its correctness.

**179 Master to deliver cargo book on arrival.**

Immediately after the arrival of any aircraft or ship licensed under the provisions of section 166 at any port or place of discharge and before any goods be unloaded, the cargo book with the name of the place or wharf where the cargo is to be discharged noted thereon shall be delivered to the proper officer, who shall note thereon the date of delivery:

Provided that such a coasting aircraft or coasting ship having cargo duly loaded to be carried coastwise may discharge at a place where no officer is stationed without delivering the cargo book as herein required, on condition that the cargo book, containing an account of the cargo so discharged, is produced to the proper officer at the first place where an officer is stationed at which the aircraft or ship arrives after discharging.

**180 Controller may vary procedure.**

Notwithstanding anything hereinbefore contained, the Controller may permit the loading and clearance and the entry and unloading of any aircraft or ship licensed under the provisions of section 166 and any uncustomed goods under such conditions as he may, in any particular case, impose.

**181 Search of coasting aircraft or ship.**

Any officer may go on board any coasting aircraft or coasting ship in any port or place in the Kingdom or on any coasting ship at any period of her voyage and search such aircraft or ship and examine all goods on board, and all goods then being loaded or unloaded, and demand all books or documents which ought to be on board such aircraft or ship, and may require all or any such books or documents to be brought to him for inspection, and the master shall answer all such questions concerning the aircraft or ship and its cargo, officers, crew, passengers and the flight or voyage as may be put him by such officer; and if the master refuses to produce such books or documents on demand, or to bring the same to such officer when required, he shall be guilty of an offence and liable to

a fine not exceeding \$50; and the aircraft or ship may be detained by any officer until the penalty is paid.

## **PART VIII. - IMPORTATION AND EXPORTATION BY POST**

### **182 Application of customs laws to importation and exportation by post.**

Subject to the provisions of any regulations made under the next following section, the provisions of the customs laws shall apply to postal packets in like manner, so far as is consistent with the tenor thereof, as they apply to any other goods, and persons may be punished for offences against the customs laws and goods may be examined, seized and forfeited, and the officers examining and seizing them shall be protected and legal proceedings, in relation to the matters aforesaid, may be taken accordingly, under the customs laws.

### **183 Power to modify such application.**

The King in Council may make regulations for the purpose of modifying or excepting the application of any of the customs laws to postal packets, and for the purpose of securing in the case of such packets the observance of the customs laws, and for carrying into effect any arrangement with the Government or postal administration of any other country with reference to such packets, and for prescribing penalties for any contravention of the customs laws or of the regulations made under this section.

### **184 Contents of postal packets may be prescribed.**

Regulations made under the provisions of section 183 may prescribe what descriptions of postal packets may or may not contain goods or other articles of any description whatsoever, and the conditions under which they may contain such goods or articles.

### **185 Right of Chief Postmaster to recover sums payable under customs laws.**

The Chief Postmaster shall have the same right of recovering any sum payable in pursuance of the customs laws or otherwise under the said regulations in respect of any postal packet as he would have if the sum so payable were a rate of postage.

**186 Penalty for contravention.**

A contravention of the regulations made under section 183 shall be deemed to be a contravention of the customs laws, and shall involve accordingly the like punishment of persons guilty thereof and the like forfeiture of goods.

**187 Goods contained in postal packets contrary to law.**

Any officer of the post office may detain any incoming postal packet which he has reasonable cause to suspect of containing any letter, printed matter, document or any other thing whatsoever, the conveyance of which by post or the importation of which is prohibited or restricted by law, and deliver such packet to the proper officer, who may open and examine the packet in the presence of the person to whom the packet is addressed or of his accredited representative, or in the absence of such person, if, after notice in writing from the officer requiring the attendance of such person left at or forwarded by post to the address on the packet, if any, he or his accredited representative fails to attend; and if the proper officer finds any goods therein, or any letter, printed matter, document or any other thing whatsoever being conveyed by post, or imported contrary to any lawful prohibition or restriction, he may detain the packet and deal with it and its contents as goods imported contrary to the customs laws; but if he finds no such goods, letter, printed matter, document or other thing, he shall deliver the packet either to the person to whom it is addressed, or to his accredited representative, upon his paying the postage or other sum, if any, chargeable thereon, or if he is absent, forward the packet by post to the person to whom it is to be delivered.

**188 Saving Post Office Act.**

Sections 182, 183, 184, 185, 186 and 187 shall be in addition to and shall not derogate from any provisions of the Post Office laws.

## **PART IX. - BONDS AND OTHER SECURITIES**

**189 Bonds and other securities required under the customs laws.**

- (1) The Collector may, if he sees fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs or excise.
- (2) All bonds and other securities relating to customs or excise for the performance of any conditions or matter incidental thereto shall be taken to or for the use of the Crown.

- (3) All such bonds and other securities as aforesaid may, after the expiration of 3 years from the date thereof, or from the time, if any, limited therein for the performance of the conditions thereof, cancelled by, or by the order of the Collector.
- (4) All bonds and other securities given under the provisions of the customs laws by persons under 21 years of age shall be invalid.
- (5) No bond given under or in pursuance of the customs laws shall be invalid by reason only of a formal defect in the execution thereof or by reason of the lack of a witness to such execution.

### **190 Surety to be deemed a principal debtor.**

- (1) Without prejudice to any rights of a surety under any bond or other security required by the customs laws against the person for whom he is surety, a surety shall, under the bond or other security executed by him, be deemed a principal debtor and not merely a surety and accordingly, shall not be discharged nor shall his liability be affected by any giving of time for payment, or by any omission to enforce the bond or other security or by any other act or omission or means whereby the liability for the surety would not have been discharged if he had been a principal debtor.
- (2) Whenever any person bound under a bond or other security required by the customs laws pays the whole or any part of the sum for which he is bound, or being a surety —
  - (a) dies; or
  - (b) becomes a bankrupt or enters into any arrangement or composition with or for the benefit of his creditors; or
  - (c) departs from the Kingdom without leaving sufficient property therein to satisfy the whole amount for which he is bound; or
  - (d) for any other reason is, in the opinion of the Collector, unable or likely to be unable to satisfy the bond or other security if called upon,

the Controller may, if he thinks fit, require a new bond or other security to be executed.

### **191 Continuing validity of existing bonds and other securities.**

All bonds and other securities executed under the authority or pursuance of any provisions of the customs laws before the commencement of this Act shall be valid and effectual according to the tenor thereof, notwithstanding anything contained in this Act.

## PART X. - PREVENTION OF SMUGGLING

### 192 Penalty on persons found on board smuggling aircraft or ships.

If any aircraft or ship is found or discovered to have been within or over the Kingdom —

- (a) which has any secret or disguised place adapted for concealing goods or any device adapted for smuggling goods; or
- (b) which has on board or in any manner attached thereto, or which is conveying or has conveyed in any manner any goods imported contrary to the customs laws or goods intended for exportation contrary to the customs laws; or
- (c) from which any part of the contents of such aircraft or ship has been thrown overboard to prevent seizure; or
- (d) on board which any goods have been staved or destroyed to prevent seizure,

then in every such case every person who is found or discovered to have been on board any such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$200, and all such goods shall be forfeited:

Provided that no person shall be liable under this section unless there shall be reasonable cause to believe that such person was concerned in or privy to the illegal act or thing proved to have been committed.

### 193 Smuggling ships under 100 tonnes forfeited.

Every ship of less than 100 tonnes net tonnage on board which, or in respect of which any offence against section 192 has been committed shall be forfeited.

### 194 Penalty on aircraft and ships of 100 tonnes or more.

- (1) With regard to aircraft or any ship of not less than 100 tonnes net tonnage on board or in respect of which any offence against section 192 has been committed, such aircraft or ship shall not be forfeited for such offence, but the following provisions shall apply —
  - (a) any such aircraft or ship shall incur a penalty not exceeding \$200 the amount of which shall be determined by the Collector, subject to appeal to the Controller, in any case where in his opinion a responsible officer (as hereinafter defined) of such aircraft or ship is implicated either actually or by neglect;

- (b) for the purpose of collecting such penalty, the Collector shall have power to require the deposit in his hands, at the port or place where such aircraft or ship shall be, or such sum, not exceeding \$200 as he may think right, pending the ultimate determination, and in default of such deposit the Collector shall have power to withhold clearance and to detain the said aircraft or ship;
  - (c) if in any case the Collector considers that the penalty of \$200 aforesaid will not be an adequate penalty against any such aircraft or ship for the offence committed thereon, it shall be lawful for him to take proceedings for condemnation of the said aircraft or ship in a penalty not exceeding \$1000, at the discretion of the court. And for this purpose the Collector may as to any aircraft or ship referred to in this section require the deposit in his hands as aforesaid of a sum not exceeding \$1000, to abide the decision of the court, and in default of payment of such deposit the Collector may withhold clearance and detain such aircraft or ship;
  - (d) no claim shall be made against the Collector for damages in respect of the payment of any deposit, or the detention of any aircraft or ship under this section.
- (2) The expression “responsible officer” in this section includes the master, mates and engineers of any ship, and in the case of a ship carrying a passenger certificate, the purser or chief steward, and where the ship is manned by Asiatic seamen, the serang or other leading Asiatic officer, and, in the case of an aircraft, the pilot, co-pilot, navigator, chief steward, chief stewardess or chief engineer. The meaning of “neglect” in this section includes circumstances in which goods not owned by any of the crew are discovered in a place in which such goods could not reasonably have been put or have remained if the responsible officer having supervision of such place had exercised proper care at the time of loading of the aircraft or ship or subsequently.

### **195 Ships forfeited for offence during chase.**

- (1) If any ship within the Kingdom does not bring to upon the proper signal made by any vessel or boat in His Majesty's service or in use by or subject to the control of the Collector for the purposes of enforcement of the customs laws and flying the flag referred to in subsection (2) of this section whereupon chase is given, and any person on board such ship during chase or before such ship brings to or upon bringing to throws overboard any part of her contents, or staves or destroys any part thereof to prevent seizure, such ship shall be forfeited.
- (2) The display by any officer of the Customs flag on a boat, such flag being of not less dimensions than 120 by 60 centimetres, with the upper



horizontal half coloured blue and containing the Tongan Jack, and the lower horizontal half coloured white, with the letters "H.M.C." conspicuous thereon, shall be deemed sufficient proof of the authority of such officer, and any person other than an officer displaying such a flag shall be guilty of an offence and liable to a fine not exceeding \$500.

### **196 Penalty for not bringing to.**

If any aircraft or ship liable to seizure or examination under the customs laws does not bring to when required so to do and so remain for such period as the officer shall require, the master of such aircraft or ship shall be guilty of an offence and liable to a fine not exceeding \$200.

### **197 Offences by smugglers, etc., against officers.**

- (1) If any person maliciously shoots at aircraft or ships in use by an officer for the enforcement of the customs laws, or maliciously shoots at, maims, or wounds any officer in the execution of his office or duty, or with violence commits any of the offences mentioned in subsection (4) of this section, every person so offending, and every person aiding, abetting or assisting therein shall be guilty of an offence and liable on conviction thereof to imprisonment for any term not exceeding 12 years.
- (2) If any person engaged, or who has been engaged, in the commission of any offence against the customs laws is armed with firearms or other offensive weapons, or whether so armed or not, is disguised in any way, or being so armed or disguised is found with any goods liable to forfeiture under the customs laws, he shall be guilty of an offence, and on conviction thereof shall be liable to imprisonment for any term not exceeding 5 years.
- (3) If any person by any means procures or hires or deposes or authorises any other person to procure or hire any person to assist in any evasion of the customs laws, he shall be guilty of an offence and on conviction be liable to imprisonment for any term not exceeding 2 years.
- (4) If any person staves, breaks or destroys any goods to prevent seizure thereof by an officer or other person authorised to seize the same, or rescues, or staves, breaks or destroys to prevent the securing thereof any goods seized by an officer or other person authorised to seize the same, or rescues any person apprehended for any offence under the customs laws, or prevents the apprehension of any such person or obstructs any officer going, or remaining on or returning from an aircraft or ship within the Kingdom, or in searching an aircraft or ship, or in searching a person liable to be searched under the customs laws, or in seizing any goods liable to forfeiture, or otherwise acting in the execution of his duty, or

attempts or endeavours to commit, or aids, abets or assists in the commission of any of the offences mentioned in this subsection, he shall be guilty of an offence and for each such offence be liable to a fine not exceeding \$200.

- (5) If any person not being an officer, takes or assumes the name, designation, appearance or character of an officer for the purpose of thereby obtaining admission into any aircraft, ship, house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, he shall, in addition to any other punishment to which he may be liable for the offence, be liable., on conviction, to imprisonment for any term not exceeding 6 months.
- (6) In this section “violence” means any criminal force or harm to any person, or any criminal mischief to any property, or any threat or offence of such force, harm or mischief or the carrying or use of dead dangerous or offensive weapons in such manner as is likely to cause terror to any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm or mischief to them or to their property.

### **198 Penalty for assembling to evade customs laws.**

All persons to the number of three or more who assemble for the purpose of evading any of the provisions of the custom laws, or who having so assembled evade any such provisions, shall each be guilty of an offence, and shall each be liable on conviction to imprisonment for any period not exceeding one year.

### **199 Penalty for signalling to smugglers.**

- (1) Any person who by any means makes any signal or transmits any message from any part of the Kingdom or from any ship or aircraft for the information of a person in any ship or aircraft, being a signal or message connected with the smuggling or intended smuggling of goods into or out of the Kingdom whether or not the person for whom the signal or message is intended is in a position to receive it or is engaged at the time in smuggling goods, shall be guilty of an offence and liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding one year, or to both, and may be detained; and any equipment or apparatus used for sending the signal or message shall be liable to forfeiture.
- (2) If, in any proceedings under the foregoing subsection, any question arises as to whether any signal or message was such a signal or message as aforesaid, the burden of proof shall lie upon the defendant.

- (3) If any officer or any member of His Majesty's defence forces or Police Force has reasonable grounds for suspecting that any such signal or message as aforesaid is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

### **200 Penalty for interfering with customs gear.**

Every person who cuts away, cuts adrift, removes, or alters, defaces, sinks or destroys or in any other way damages or conceals any aircraft, ship, buoy, anchor, chain, rope or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use of the service of the customs shall be guilty of an offence and liable to a fine not exceeding \$100.

### **201 Intermeddling with goods found floating or on land.**

If any person, not being an officer or otherwise authorised by law, intermeddles with or takes up any spirits or any goods prohibited to be imported or exported being in packages found floating upon or sunk into the sea or found upon the land within the Kingdom, such spirits or goods prohibited to be imported or exported shall be forfeited and every such person shall be guilty of an offence and liable to a fine not exceeding \$100 unless such person reports it to the authorities.

### **202 Writ of assistance.**

Any officer having a writ of assistance issued by a court may, by day or by night enter into and search any house, shop, cellar, warehouse, room or other place, and in case of resistance, break open doors, chests, trunks, and other packages, and seize and bring away any uncustomed or prohibited goods, or any books or documents relating thereto, and put and secure the same in a King's warehouse or other safe place:

Provided that entry may not be made at night except in the company of a Police Officer.

### **203 Search warrant.**

If any officer has reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, are harboured, kept or concealed in any house or other place in the Kingdom, and it shall be made so to appear by information on oath before a Magistrate, the Magistrate may by special warrant under his hand authorise such officer to enter

and search such house or other place by day or by night, and to seize and carry away any such uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, as may be found therein; and such officer, in case of resistance, may break open any door, and force and remove any other impediment or obstruction to such entry or seizure as aforesaid:

Provided that entry may not be made at night except in the company of a Police Officer.

#### **204 Officer may patrol freely and stop any aircraft, ship or carriage.**

- (1) Any officer may upon reasonable suspicion stop and examine any ship, aircraft, or carriage within the Kingdom to ascertain whether any uncustomed or prohibited goods are contained therein: and, if none shall be found, the officer shall not on account of such stoppage and examination be liable to any prosecution or action at law, and the person in charge of any such ship or aircraft and any person driving or conducting such carriage refusing to stop or allow such examination when requested by any officer shall be guilty of an offence and liable to a fine not exceeding \$200.
- (2) Any officer, when on duty, may patrol upon and pass freely either on foot or otherwise, along and over and enter any part of the Kingdom other than a dwelling-house, and any such officer proceeding shall not be liable to any criminal or civil proceedings for so doing.
- (3) The officer in charge of any aircraft, ship or carriage employed for the prevention of smuggling, may take such aircraft, ship or carriage to such place as he shall deem most convenient for that purpose, and keep any such aircraft, ship, or carriage at such place and for such time as he shall deem necessary and proper; and such officer shall not be liable to any criminal or civil proceedings for so doing.

#### **205 Officer may enter premises used for manufacture of excisable goods.**

Any officer, after having declared his official capacity and having requested admission, may at any time, by day or by night, enter into and search any part of any factory and examine any machinery or thing therein, engage measure and take an account of every still or other vessel or utensil of any kind and of any excisable goods or materials therefore in such premises or place and take such samples of such goods or materials as he shall require; and if any officer after having requested admittance into any factory shall not be immediately admitted, the manufacturer shall for every default be guilty of an offence and liable to a fine not exceeding \$500, and it shall be lawful for such officer or any person acting in his aid or assistance at all times, but during the hours of darkness only

in the presence of a police officer, to break open by force any doors or windows or break through any walls or any part of such factory as shall be necessary to gain entry.

**206 Officer may enter premises for sale of excisable goods.**

Any officer, after having declared his official capacity and having requested admission, may enter into any premises made use of by any person selling or offering for sale any excisable goods which shall be in the custody or possession of such person, and take at any time samples of any such excisable goods, paying for the same the usual price thereof, if demanded; and if any person selling or offering for sale any excisable goods on any premises shall not immediately admit such officer or shall not aid and assist such officer in measuring and taking an account of all excisable goods in or upon such premises he shall be guilty of an offence and for every such default shall be liable to a fine not exceeding \$50.

## **PART XI. - PENALTIES AND GENERAL PROVISIONS**

**207 General penalty.**

Save as otherwise provided in section 208 any person who is convicted of any offence against the customs laws for which no specific penalty is provided shall incur a fine not exceeding \$100.

**208 Penalty in cases of forfeiture.**

Where any aircraft, ship, carriage or goods become liable to forfeiture under the customs laws, any person who shall be knowingly concerned in the act or omission which renders the same liable to forfeiture shall be guilty of an offence, and shall incur the penalty provided by this Act in respect of such offence, or, where no such penalty is provided, shall incur a fine of \$200, or treble the duty paid value of any goods seized, whichever is greater; and any such person may be arrested and detained by any officer, and taken before a Magistrate to be dealt with according to law:

Provided that no person shall be arrested whilst actually on board any aircraft or ship in the service of a foreign state or country.

**209 Penalty for false declaration.**

Any person who, in any matter relating to the customs laws, or under the control or management of the Collector —

- (a) makes and subscribes, or causes to be made and subscribed, any false declaration; or
- (b) makes or signs or causes to be made or signed any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular; or
- (c) makes or signs any declaration made for the consideration of any officer on any application presented to him, the same being untrue in any particular; or
- (d) when required by the customs laws to answer questions put to him by any officer, refuses to answer such questions or answers any such questions untruly;

shall be guilty of an offence and liable to a fine not exceeding \$1000.

**210 Penalty for evading customs laws regarding imported or exported goods.**

- (1) Every person who —
  - (a) imports or brings or is concerned in importing or bringing into the Kingdom any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, whether the same be unloaded or not; or
  - (b) knowingly unloads or assists or is otherwise concerned in unloading any goods which are prohibited, or any goods which are restricted and imported contrary to such restriction; or
  - (c) knowingly harbours, keeps or conceals, or knowingly permits or suffers or causes or procures to be harboured, kept or concealed, any prohibited, restricted or uncustomed goods; or
  - (d) knowingly acquires possession of or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or
  - (e) is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions, of the customs relating to the importation, warehousing, delivery, removal, loading and exportation of goods;

shall be guilty of an offence and for each such offence incur a penalty of treble the value of the goods or \$200 which ever is greater; and all goods in respect of which any such offence shall be committed shall be forfeited.

- (2) Every person who exports or attempts to export anything prohibited under section 36 of this Act commits an offence and shall be liable to a fine not exceeding \$20,000 or 5 years imprisonment or both. Anything in respect of which any such offence is committed shall be forfeited. (*Inserted by Act 5 of 1987.*)

### **211 Penalty in relation to concealed goods, etc.**

If any person imports or exports, or causes to be imported or exported, or attempts to import or export any goods concealed in any way, or packed in any package or parcel (whether there be any other goods in such package or parcel or not) in a manner calculated to deceive an officer, or any package containing goods not corresponding with the entry thereof, such package and the goods therein shall be forfeited, and such person shall be guilty of an offence and liable to a fine not exceeding \$200 or treble the value of the goods contained in such package, whichever is greater.

### **212 Power of Collector to purchase goods in certain cases.**

- (1) Notwithstanding the provisions of section 211, if, upon the examination of any imported goods, which are chargeable with duty upon the value thereof, it appears to the Collector that the value of such goods as declared by the importer and according to which duty has been or is sought to be paid is not the true value thereof, it shall be lawful for the Collector to detain the same, in which case he shall give notice in writing to the importer of the detention of such goods, and of the value thereof as estimated by him, either by delivering such notice personally, or by transmitting the same by post to such importer addressed to him at his place of abode or business.
- (2) The Controller shall, within 15 days after the detention of such goods, determine either that the goods are or may be correctly entered according to the value declared by the importer and permit the same to be delivered, or to retain the same for the public use of the Kingdom, in which latter case he shall cause the value at which the goods were declared by the importer, together with an addition of 5 per cent, and the duties already paid to be paid to the importer in full satisfaction for such goods, or he may permit such person, on his application for the purpose, to enter, the goods according to such value and on such terms as he may direct.
- (3) Such goods, if retained, shall be disposed of for the benefit of the Kingdom, and if the proceeds arising therefrom, in case of sale, exceed

the sum so paid, and all charges incurred by the Kingdom, such surplus shall be paid in to the general revenue of the Kingdom.

### **213 Officer taking unauthorised fees, making collusive seizure, etc.**

- (1) If any officer shall demand or accept any fee, perquisite or reward whether pecuniary or otherwise, directly or indirectly, from any person on account of anything done or to be done by him, or omitted to be done by him, in or in any way relating to his office or employment, except such as he shall be permitted to demand or receive in accordance with the provisions of the Act, such officer so offending shall be guilty of an offence and liable on conviction to a fine not exceeding \$500 or to imprisonment for 2 years; and if any person shall offer, give or promise to give any such fee, perquisite or reward, such person shall for every offence be liable to a fine not exceeding \$500 or to imprisonment for 2 years.
- (2) If any officer makes any collusive seizure, or delivers up or makes any agreement to deliver up or not to seize any aircraft, ship, carriage or goods liable to forfeiture, or demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, or conspires or connives with any person to commit an offence against the customs laws for the purpose of seizing any aircraft, ship, carriage or goods, and obtaining any reward for such seizure or otherwise, every such officer shall commit an offence and shall be liable to a fine not exceeding \$500 or to imprisonment for 2 years, and every person who gives or offers or gives or promises to give or procures to be given, any bribe, recompense or reward to, or shall make any collusive agreement with such officer to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any provisions of the customs laws may be evaded, shall commit an offence and shall be liable to a fine not exceeding \$500 or to imprisonment for 2 years.

### **214 Offering goods for sale under pretence that they are smuggled.**

If any person offers for sale any goods under pretence that the same are prohibited, or have been unloaded and removed or delivered without payment of duties, all such goods (although not prohibited or liable to any duties) shall be forfeited.

### **215 Deficiency and excess in excisable stock.**

- (1) If any manufacturer shall not produce to any officer on his request any excisable goods manufactured by him and not warehoused, delivered or used in accordance with the provisions of this Act, he shall immediately



pay to the Collector the duties on such goods not so produced, save and except in respect of any deficiency thereof which is proved to be due to evaporation, accidental leakage or other unavoidable cause; and in addition to paying the duties on such goods not produced as aforesaid the manufacturer shall be guilty of an offence and liable to a fine of treble the value of such goods or \$200, whichever shall be the greater.

- (2) If at any time the quantity of excisable goods found in a factory or private warehouse shall be greater than the quantity which ought, according to the books of the manufacturer or warehouse keeper to be therein, all such quantity in excess shall be forfeited and the manufacturer or warehouse keeper as the case may be, shall incur a penalty equal to the value of the goods found in excess, unless he shall explain the same to the satisfaction of the Collector.

## **216 General provisions as to forfeiture.**

Subject to the provisions of sections 193 and 194, all aircraft, ships and carriages, together with all animals and things made use of in the importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods, or any goods liable to forfeiture under the customs laws shall be forfeited; and all aircraft, ships, carriages and goods together with all animals and things liable to forfeiture, and all persons liable to be detained for any offence under the customs laws, or under any law whereby officers are authorised to make seizures or detentions, shall or may be seized or detained in any place by any person duly employed for the prevention of smuggling, or by any person having authority from the Controller to seize or detain the same, and all aircraft, ships, carriages and goods together with all animals and things so seized, shall forthwith be delivered into the care of the Collector; and the forfeiture of any aircraft, ship, carriage, animal or thing shall be deemed to include the tackle, apparel and furniture thereof, and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof.

## **217 Procedure on seizure.**

- (1) Where any seizure is made of any goods forfeited under the provisions of the customs laws or any law enabling officers to make seizures, and the goods seized are not in the possession of the offender, master or person in charge of the vessel, aircraft or vehicle, or owner of the goods, or the seizure has not been made in the presence of the offender, master or owner as aforesaid, the seizing officer shall give notice in writing to the master or owner as aforesaid, if known to him, by delivering the notice to him personally, or by sending such notice by post to his usual place of abode, or his business premises, if known, or in the case of a body

corporate, at their registered or principal office. When the address is unknown the notice of seizure is to be by public notice.

- (2) All seizures lawfully made under the customs laws or any other law shall be deemed to be taken and condemned and may be sold or otherwise disposed of in such manner as the Controller may direct, unless the person from whom the seizure has been made, or the master or owner as aforesaid or some person by them duly authorised, gives notice to the Controller within one calendar month from the date of the seizure that he claims the goods, whereupon proceedings shall be taken for the forfeiture and condemnation thereof:

Provided that animals or perishable goods may be sold forthwith by public auction and the surplus proceeds of such sale shall be paid in to the general revenue of the Kingdom.

- (3) Where any proceedings are taken for forfeiture and condemnation, the court may, except in the case of goods subject to any prohibition or restriction, order delivery of the goods seized to the claimant on security being given for the payment to the Collector of the duty paid value thereof in case of condemnation.

## **218 Disposal of seizure.**

All seizures whatsoever which have been made and condemned under the customs laws, or any other Act by which seizures are authorised to be made by an officer, shall be disposed of in such manner as the Controller may direct.

## **219 Restoration of seizure, etc., and remission of penalties.**

Subject to the approval of the Controller (which approval may be signified by general directions to the Collector), the Collector may mitigate or remit any penalty or restore anything seized under the customs laws at any time prior to the commencement of proceedings in any court against any person for an offence against the customs laws or for the condemnation of any seizure.

## **220 Penalties.**

Where by reason of the commission of an offence under this Act the payment of any duty has or might have been evaded the penalty imposed by the court upon the conviction of any person for that offence, unless any other penalty is specifically provided, shall be not less than treble the amount of duty payable unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to impose any greater penalty otherwise permitted to be imposed in respect of such offence.

**221 Liability for acts of servants.**

- (1) A manufacturer, warehouse keeper and a holder of a licence under this Act or any regulation made thereunder shall be responsible, as well as the actual offender, for any offence under this Act or any regulations made thereunder, committed by any person in his employ or acting with his expressed or implied permission in his behalf, as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished by imprisonment except in default of payment of fines.

- (2) The provisions of this section shall be in addition to, and not in derogation of, the provisions of this or any other law.

**222 Ships' agents.**

Where under the customs laws any special procedure is prescribed in regard to ships of not less than 100 tonnes net tonnage, and where the owner of any such ship is not resident in the Kingdom, it shall be the duty of the master or owner of such ship to appoint an agent in the Kingdom for the purpose of performing any act which may under the customs laws be performed by the agent of the master or owner of such ship, and if the master or owner of such ship shall fail to appoint an agent as aforesaid, and until such agent be appointed or if such agent shall not give security when so required to the satisfaction of the Collector for the due observance of the customs laws, then such ship shall be subject to the requirements of the customs laws applicable to ships of less than 100 tonnes net tonnage, and on failure or omission to perform any such requirements, the owner or master shall be liable in respect of such failure or omission to all penalties that might be imposed upon them or either of them under the customs laws as if such ship were a ship of less than 100 tonnes net tonnage.

**223 Form of document.**

Every document submitted to the Controller or his officers for the purposes of the customs laws shall be in such form as may be prescribed, if any, and shall contain the particulars required by such form or indicated therein.

**224 Production of documents.**

- (1) The importer, exporter, or any person concerned in the importation or exportation of any goods or in the manufacture of any excisable goods shall, on the request of any officer made at any time within three years of the date of importation or exportation, as the case may be or of the date of

delivery to the proper officer of an entry for such goods, if the same have been entered, produce for the inspection of such officer the invoices, books of account, and any other documents of whatever nature relating to such goods which the officer shall require and shall answer such questions and make and subscribe such declarations regarding the weight, measure, strength, value, cost, selling price, origin and destination of such goods, and the name of the place whence or where any imported goods were consigned or transferred from one aircraft or ship to another, as shall be put to him by the officer, and shall produce such evidence as the officer shall consider necessary, in support of any information so furnished, and if the importer or exporter or manufacturer or other person concerned as aforesaid shall without reasonable cause neglect or refuse to carry out any of the provisions of this section, he shall be guilty of an offence and liable to a fine not exceeding \$200, and the Collector may, on such neglect or refusal, refuse entry or delivery or prevent shipment if the goods have not been entered or delivered or shipped or may allow entry, delivery or shipment upon such terms and conditions, and including a deposit of such sum, pending the production of the proper documents and declaration as he shall see fit to impose.

- (2) The deposit made in accordance with subsection (1) of this section shall be forfeited unless within 4 months of the time of deposit, or such further period as the Collector may allow, the person making the deposit shall produce the required documents or declaration to the Collector.

## **225 Copies of documents to be submitted if required.**

Where any person is required to submit any report, entry, declaration or other form for the purpose of the customs laws, the Collector may require such person to submit as many copies thereof as he may deem necessary, and where the Collector shall require invoices or certificates of origin, or both, to be produced for any goods imported or exported, he may require such invoices or certificates of origin, or both, to be submitted in duplicate, and may retain the duplicates, or if such invoices or certificates of origin, both, are not submitted in duplicate, he may retain the originals.

## **226 Translation.**

Where any document required for the purpose of the customs laws contains any words not in the Tongan or English languages, the person required to produce such document shall produce therewith a correct translation thereof in Tongan or English as the Collector may require.

**227 Samples.**

Any officer may on the entry of any goods, or at any time afterwards, take samples of such goods for such purpose as the Collector may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Controller may direct.

**228 Examination and handling of goods.**

All goods subject to the customs laws shall be liable to such examination as the Collector may direct and the unloading, loading and removal of goods and bringing them to the proper place for examination and weighing, putting them onto or into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or put on board an exporting aircraft or ship, shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any goods either before or after entry thereof in such manner as the proper officer shall require to enable him to examine or take account of the same.

**229 Repacking etc., sampling of goods by owner.**

The Collector may direct what goods may be skipped in a customs area or warehouse, or bulked, sorted, lotted, packed and repacked there, and the manner thereof, and direct in what manner and subject to what conditions the owner of any goods may take samples thereof:

Provided that no goods may in any such building or place be repacked into packages of a size in which the same are prohibited to be imported or exported, unless provision therefore is made by law.

**230 Remission of duty on goods lost, destroyed or abandoned.**

If any goods are lost or destroyed by unavoidable accident before the same have been delivered out of the care of any officer, either on board an aircraft or ship, or in removing, loading, unloading, or receiving into a customs area or warehouse or factory, or in the customs area or warehouse or factory, or in course of delivery therefrom, the Collector upon proof that such goods have not been and will not be consumed in the Kingdom, may remit or return the duties due or paid thereon, and any goods which may be abandoned by the owner thereof as not worth the duty while in the charge of any officer, may be destroyed or otherwise disposed of as the Controller shall direct at the cost and charges of such owner, and the Controller may thereupon remit or return the duties due or paid thereon.

**231 Drawback on goods lost.**

Where it is proved that any goods after being duly put on board an aircraft or ship for exportation or use as stores have, either before or after exportation, been destroyed by accident on board any aircraft or ship, any drawback or allowance payable on the goods shall be payable in the same manner as if the goods have been actually exported or used as stores.

**232 Drawback on goods abandoned.**

Where it is proved that any goods after being duly put on board an aircraft or ship for exportation or use as stores have been materially damaged onboard such aircraft or ship, any drawback or allowance payable in respect of the goods shall, if they are, with the consent of the Collector discharged in the Kingdom and abandoned to the Crown, be payable as if the goods had been actually exported or used as stores.

**233 Modification of declaration.**

The Controller may modify the form of declaration required under section 40 in such manner as he may think necessary for adapting in to the provisions of sections 231 and 232.

**234 Authority to be produced by person acting for another.**

Whenever any person makes application to any officer to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application is made, and in default of the production of such authority may refuse to transact such business, and any document required by the customs laws to be signed by any particular person, if signed by any person authorised as aforesaid on behalf of the person required to sign the same, shall be deemed for all purposes to be signed by the person required to sign the same:

Provided that the Collector may in his discretion refuse to allow any such application as aforesaid.

**235 Witnessing of signatures.**

Where any document or declaration is required by the customs laws to be signed in the presence of the Collector, or any particular officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Collector or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been

signed in the presence of the Collector or the officer in whose presence it is required to be signed.

### **236 Master to attend before Collector if so required.**

Where under the customs laws the master or agent of any aircraft or ship is required to answer questions put to him by the Collector or any officer, and such aircraft or ship shall be within the Kingdom and shall not have left her final position, anchorage or berth preparatory or leaving the Kingdom it shall be lawful for the Collector or such officer to require the master to attend before him at the office of the Collector or such officer, and in such case the requirements of the customs laws shall not be deemed to have been fulfilled unless the master shall so attend when so required:

Provided that it shall be lawful for the master with the consent of the Collector or such officer, to depute a senior officer of such aircraft or ship to attend for the purpose of answering such questions, and in such case, any reply made to any questions aforesaid shall for the purpose of any proceedings brought under section 209 be deemed to have been made by the person required to answer such questions.

### **237 Time of importation, exportation, etc.**

- (1) The provisions of this section shall have effect for the purposes of this Act and of any other enactment relating to customs.
- (2) The time of importation of any goods shall be deemed to be —
  - (a) where the goods are brought by sea, the time when the ship carrying them comes within the limits of a port;
  - (b) where the goods are brought by air, the time when the aircraft carrying them lands in the Kingdom or the time when the goods are unloaded in the Kingdom, whichever is the earlier.
- (3) The time of exportation of any goods from the Kingdom shall be deemed to be, where the goods are exported by sea or air, the time when the goods are shipped for exportation.
- (4) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within or, as the case may be, leaves the limits of that port.

### **238 Special packages and coverings deemed goods.**

All packages and covering in which goods are imported or exported and which in the opinion of the Collector —

- (a) are not the usual or proper packages or coverings for such goods, or
- (b) are designed for separate use, other than as packages or coverings for the same or similar goods, subsequent to the importation or exportation, as the case may be, shall for all purposes of the customs laws be deemed to be separate articles except in cases where a contrary provision shall be made.

### **239 Power of arrest.**

In addition to any other power of arrest or detention conferred by the customs laws, any officer may arrest and detain any person whom he finds committing an offence, or is suspected on reasonable grounds of having committed an offence against the customs laws, and take him before a Court to be dealt with according to law.

### **240 Arrest after escape.**

If any person liable to arrest under the customs laws escapes from any officer attempting to arrest him, or if any officer is for any reason whatever unable or fails to arrest any such person, such person may afterwards be arrested and detained by any officer at any place in the Kingdom within 7 years from the time such offence was committed, and dealt with as aforesaid, as if he had been arrested at the time of committing such offence.

### **241 Sales under the customs laws.**

The Intoxicating Liquor Act shall not apply to sales under the customs laws when conducted by an officer, which officer is hereby authorised to conduct such sales.

### **242 Value of articles sold by auction.**

When the duty on goods sold at any customs sale shall be chargeable ad valorem, the value for duty of such goods shall be the price realised at the sale, or the value appraised by the proper officer, whichever is the greater.

### **243 Receipts for duties and other payments made on bills of entry.**

Any person requiring a receipt for duties payable under the customs laws or for any other monies which are brought to account in accordance with the directions of the Collector on a bill of entry may have the same upon furnishing the proper officer with an additional copy of the bill of entry; and such additional copy of



the bill of entry, after having been compared with the original entry and signed by the proper officer, shall be delivered as a receipt to the person requiring it.

#### **244 Legal protection of officers.**

Without prejudice to any protection afforded to the Controller or Collector or any officer by this or any other Act or law, no legal proceeding or claim shall be against the Controller or Collector or any officer for any act done in good faith and without gross negligence in the exercise of any power or performance of any duty conferred or posed upon him by or under this Act.

#### **245 Proof to be in the manner prescribed.**

Where under the provisions of this Act, any matter or thing is required to be proved or accounted for, or reasonable cause is required to be shown, such matter or thing shall be proved or accounted for, and such reasonable cause shall be shown in such manner, and in particular there shall be completed such forms and furnished such certificates and other evidence, as may be prescribed and subject to such provisions as may be prescribed, the laws and rules of evidence and procedure otherwise applicable shall apply.

## **PART XII. - LEGAL PROCEEDINGS**

#### **246 Jurisdiction of courts in customs proceedings.**

- (1) If before the delivery of any imported goods from customs control or any excisable goods for consumption or use within the Kingdom any dispute arises as to what duty, if any, is payable on such goods, the importer or manufacturer shall pay the amount demanded by the proper officer but may, within 3 months after the date of payment, apply to a Court for a declaration as to the amount of duty, if any, properly payable on such goods. If the court upon such application determines that a lesser or no amount of duty was properly payable the amount overpaid shall be repaid by the Collector with such interest as the court may determine.
- (2) Subject to the express provisions of the customs laws, provisions of any other Act to the contrary notwithstanding, any offence under the customs laws shall be prosecuted before a Court and any forfeiture and condemnation under such laws or any duty, rent, charge or fee may be used for, recovered or enforced, as the case may be, before a Magistrate's Court.

**247 Alternative prison sentence.**

Where any court has imposed a penalty for an offence against the customs laws, and such penalty is not paid, the court may, notwithstanding anything contained in any other law, order the defendant who is convicted of such offence, in default of payment of the penalty adjudged to be paid, to a term of imprisonment.

**248 Proceedings to be taken within 7 years.**

Proceedings under the customs laws may be commenced at any time within 7 years after the date of the offence.

**249 Limitation as to pleading.**

The fact that any duties of customs have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any proceedings under the customs laws.

**250 Place of offence.**

Every offence under the customs laws shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which it actually was committed or arose, or on any place on land where the offender or person prosecuted may be or be brought.

**251 Officer may prosecute.**

Any officer may prosecute and conduct any information or other proceeding under the customs laws in respect of any offence or penalty.

**252 Costs.**

In all proceedings under the customs laws the same rules as to costs shall be observed as in proceedings between private persons.

**253 Procedures regarding seizures.**

- (1) No claim or appearance shall be entered to any information or any other process or proceeding filed or exhibited or brought for the forfeiture of any animal, carriage, aircraft, ship or goods seized for any cause of forfeiture in any court unless such claim or appearance be made by or in the real name of the owner thereof, describing his place or residence and

occupation; and if such claimant shall reside in the Kingdom, oath shall be made by him before the court before which such information or other process or proceeding shall be exhibited or brought, that the said animal, carriage, aircraft, ship or goods were his property at the time of seizure; but if such person shall reside outside the Kingdom, then oath shall be made by the attorney by whom such claim or appearance shall be entered that he has full authority from such claimant to make or enter the same and that to the best of his knowledge and belief the same were at the time of seizure the bona fide property of the claimant; and on failure of making such proof of ownership such animal, carriage, aircraft, ship or goods shall be condemned, as if no claim or appearance has been made; and if such animal, carriage, aircraft, ship or goods shall at the time of seizure thereof be the bona fide property of any number of owners exceeding five, it shall not be necessary for more than two of them to enter such claim or appearance on the part of themselves and their co-owners, or to make such oath as aforesaid; and if such animal, carriage, aircraft, ship or goods shall be at the time of seizure the property of a corporation, such claim and appearance may be entered and oath made by the secretary or director of such corporation.

- (2) For the purpose of this section a corporation means a corporation registered in the Kingdom under the provisions of the Companies Act or registered or incorporated in the Kingdom under any Act providing for the registration or incorporation of companies.
- (3) In case any proceedings are commenced or brought to trial on account of the seizure of any animal, carriage, aircraft, ship or goods, or pursuant to any act done by any officer in the execution or intended execution of his duty under the customs laws, and such proceedings are dismissed, and it appears to the court before which the same shall have been tried that there was probable cause for such seizure or act the court shall certify on the record that there was such probable cause, and in such case the person who made such seizure or performed such act shall not be liable to any action, suit or prosecution on account of such seizure or act; and a copy of such certificate, verified by the signature of the officer of the court, shall at the request of the officer concerned be given to him, and the same shall for all purposes be sufficient evidence of such certificate, and in case any action suit or prosecution shall be commenced and brought to trial against any person on account of any seizure or act as aforesaid (whether any information be brought to trial in respect of the same or not, or, having been brought to trial, the court shall not have certified that there was a probable cause for such seizure or act), wherein a verdict shall be given against the defendant, if the court shall be satisfied that there was probable cause for such seizure or act, then the plaintiff shall recover any things seized or the value thereof without costs of suit; but no conviction shall be recorded against the defendant.

## PART XIII. - PROOF IN PROCEEDINGS

### 254 Onus of proof on defendant in certain cases.

In any prosecution under the customs laws, relating to smuggling the proof that the proper duties have been paid in respect of any goods, or that the same have been lawfully imported, delivered or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from aircraft or ship to another aircraft or ship shall lie on the defendant.

### 255 Averment in any proceedings under the customs laws.

The averment that the Collector has elected that any particular penalty should be sued for or recovered, or that any goods thrown overboard, staved or destroyed were thrown overboard, staved or destroyed to prevent seizure, or that any person is an officer, or that any person was employed for the prevention of smuggling, or that the offence was committed, or that any act was done within the limits of any port, or in the waters of the Kingdom, or over the Kingdom, or where the offence is committed in any port or place in the Kingdom, the naming of such port or place in any information or proceedings shall be deemed sufficient, unless the defendant in any such case shall prove the contrary.

### 256 Evidence of officers.

If upon any trial a question shall arise whether any person is an officer, his own evidence thereof shall be deemed sufficient prima facie proof thereof, and every such officer shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty.

### 257 Valuation of goods for penalty.

- (1) In all cases where any penalty the amount of which is to be determined by the value of any goods is sued for under the customs laws, such value shall, as regards proceedings in any court, be estimated and taken according to the rate and price for which goods of the like kind but of the best quality shall have been paid were sold at or about the same time of the offence, or according to the rate and price for which the like kind of goods were sold in bond at or about the time of the offence with the duties due thereon added to such rate or price in bond.
- (2) A certificate under the hand of the Collector of the value of such goods shall be accepted by the court as prima facie evidence of the value thereof.

**258 Admissibility of copies of documents and of marks on goods, containers, etc.**

- (1) In any prosecution for an offence under the customs laws and in any proceedings for the recovery or enforcement of any penalty under those laws, where direct oral evidence of a fact would be admissible any statement contained in any marking made or impressed upon or otherwise in or upon any goods or their wrappings or containers shall be admissible as evidence of that fact.
- (2) In case any book or document required by the customs laws be required to be used as evidence in any court as to the transactions to which it refers, copies thereof certified by an officer shall be admissible for that purpose without production of the original.

**259 Presumption relating to excisable goods.**

- (1) All excisable goods manufactured in the Kingdom shall be deemed to be goods manufactured for sale unless and until the contrary is proved.
- (2) All excisable goods found in a factory shall be deemed to have been manufactured in such factory unless and until the contrary is proved.
- (3) Where any spirits are found upon any premises upon which there is an unlicensed still, such spirits shall be deemed to have been distilled by the occupier of such premises unless and until the contrary is proved.

**260 Proof of order of HM the King, etc., or certificate of pharmacist or officer of court.**

- (1) If upon the trial of any issue touching any seizure, penalty or forfeiture, or other proceedings under the customs laws or incident thereto, it may be necessary to give proof of any direction issued by His Majesty in Council, Controller or Collector, the direction, or any letter or instructions referring thereto, shall be admitted and taken as sufficient evidence of directions, if any such document purports to be signed by any such functionary, or shall appear to have been officially printed or issued, unless the contrary be proved.
- (2) In any proceedings under the customs laws the production of a certificate purporting to be signed by a pharmacist shall be sufficient evidence of all matters stated therein unless the contrary be proved.
- (3) Condemnation by any court under the customs laws may be proved in any court, by the production of a certificate of such condemnation purporting to be signed by an officer of such court.

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## PART XIV. - MISCELLANEOUS

### **261 Discretionary power of Collector in special circumstances.**

The Collector may permit the entry, unloading, delivery, removal and loading of goods, and the report and clearance of aircraft and ships in such form and manner as he may direct to meet the exigencies of any case to which the customs laws may not be conveniently applicable.

### **262 Power to accept compensation for offences.**

Notwithstanding any other provisions of this Act the King in Council may, in any case it deems proper and in substitution for any proceedings in a court, accept on behalf of the Crown a sum of money be paid by way of compensation from any person reasonably suspected of a contravention of the Act or any regulations made thereunder:

Provided that such compensation shall be accepted only where the person reasonably suspected of such contravention has expressed his willingness in writing to the Controller that the contravention as aforesaid shall be so dealt with.

### **263 Commission aircraft or ships.**

The captain or other officer having charge of any aircraft or ship having commission from His Majesty or from any foreign state, having on board any goods other than the aircraft's or ship's stores laden at any port or place outside the Kingdom shall, on arrival at any port or place in the Kingdom, and before any part of such goods be taken out of such aircraft or ship, or when called upon to do so by any officer, deliver an account in writing under his hand to the best of his knowledge of the quality and quantity of every package or parcel of such goods, and of the marks and numbers thereon, and of the names of the respective consignors and consignees of the same, at shall make and subscribe a declaration at the foot of such account declaring to the truth thereof and shall also truly answer to the Collector or other proper officer such questions concerning such goods as shall be required of him, and on failure thereof such captain or other officer shall be guilty of an offence and liable to a fine not exceeding \$200; and all such aircraft and ships shall be liable to such searches as merchant aircraft and ships are liable to, and officers may freely enter and go on board all such aircraft and ships, and bring thence on shore into the King's warehouse or other secure place any goods found on board any such aircraft or ship as aforesaid, subject nevertheless to such regulations in respect of aircraft or ships of war belonging to His Majesty as shall from time to time be made in that respect by the King in Council.

**264 Collector may prescribe forms.**

Subject to the provisions of this Act and any regulations made thereunder, the Collector may from time to time direct what forms are required to be used for the purposes of the customs laws and any such forms so prescribed shall be published by notice one month before such forms shall be required to be used.

**265 Power to make regulations.**

The King in Council may make regulations for the further, better or more convenient effectuation of any of the provisions or purposes of the customs laws, and without derogation from the generality of the foregoing power may, in such regulations, subject to the provisions of the Act, provide for the following matters —

- (a) the delegation of his powers and duties by the Controller and Collector;
- (b) the powers and duties of officers;
- (c) the fees, rents and charges which shall be paid for anything done under this Act or any rules made thereunder or in respect of any matter referred to therein;
- (d) the payment of duties and fees and the time, place and manner in which duties and fees shall be paid;
- (e) the establishment and regulation of warehouses and in particular the extent of Government liability in relation to the warehouses it may operate;
- (f) the hours of attendance of officers;
- (g) the form of licences, stamps, labels, certificates, notices, permits and other documents to be issued under this Act or any regulations made thereunder, and all registers, stock books and other records to be kept and returns to be rendered thereunder;
- (h) the import, export, transport and reimportation of excisable goods;
- (i) the wholesale and retail sale of excisable goods including the licensing thereof;
- (j) the regulation and control of the manufacture, storage and supply of excisable goods including —
  - (i) the licensing, regulation, inspection, supervision, management and control of any places or premises for the manufacture, supply or storage of such goods and the fittings, implements and apparatus to be maintained therein; and
  - (ii) the bottling of foreign liquor;

- (k) the deposit, removal and storage of excisable goods in any warehouse, distiller, brewery, factory or other premises licensed under any regulations made under this Act (hereinafter in this section referred to as licensed premises).
  - (l) the records to be maintained by and the obligations and duties of the manufacturers, warehouse keepers and other occupiers of licensed premises;
  - (m) the condition in which excisable goods shall be sold;
  - (n) the seizure and destruction or other disposal of excisable goods unfit for use and the disposal of confiscated goods;
  - (o) the stationing of officers at factories, warehouses and other licensed premises;
  - (p) the facilities to be afforded to officers by manufacturers, warehouse keepers and other occupiers of licensed premises;
  - (q) the restriction by the Collector of the delivery for consumption or sale of excisable goods;
  - (r) the furnishing of information by manufacturers and the preservation of secrecy of information obtained under or in pursuance of this Act;
  - (s) the audit of accounts maintained by manufacturers, warehouse keepers and other occupiers of licensed premises;
  - (t) the extent to which any of the foregoing matters may be regulated, controlled and dealt with administratively by or under the directions of the Controller;
  - (u) anything which under this Act may be or is required to be prescribed.
- (2) There may be annexed to any breach of any regulations made under this section any penalty not exceeding \$500 or imprisonment not exceeding 2 years or both.

## **266 Existing ports warehouses, etc., to continue.**

All ports, warehouses, sufferance wharves and boarding stations, approved as such at the commencement of this Act shall continue to be ports, warehouses, sufferance wharves and boarding stations, and all duly appointed wharves shall be deemed to be approved places of loading and unloading until the appointment thereof is revoked or varied under this Act.



**267 Repeals**

The Customs Regulation Act 1978, and the Customs Duties Act, 1978 are hereby repealed.

**NOTE**

*The original and now much altered Schedules to this Act (Schedule I was substituted by Act 25/1999) has not been included in this database.*