



## SAMOA

### CUSTOMS ACT 1977

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## CUSTOMS ACT 1977

1977

No. 12

**AN ACT** to consolidate and amend the law making provision for the collection of duties of Customs and the importation and exportation of goods

*. [Assent date: 20 December 1977]*

*[Commencement date: 1 August 1977]*

### PART I PRELIMINARY

**1. Short title and commencement** - This Act may be cited as the Customs Act 1977 and shall come into operation on the 1st day of August 1977.

**2. Interpretation** - (1) In this Act, unless the context otherwise requires:

“Act” includes Ordinance;

“aerodrome” means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, and servicing of aircraft; and includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air;

“boat” means any vessel other than a ship;



“bulk cargo container” means an article of transport equipment, being a lift van, movable tank, or other similar structure:

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use; and
- (b) specially designed to facilitate the carriage of goods by 1 or more modes of transport, without immediate repacking; and
- (c) fitted with devices permitting its ready handling and its transfer from 1 mode of transport to another; and
- (d) so designed as to be easy to fill and empty; and
- (e) having an internal volume of 1 cubic metre (35.3 cubic feet) or more, and includes the normal accessories and equipment of the container, when imported with the container and used exclusively with it; but does not include any vehicle, or any ordinary packing case, crate, box, or other similar article used for packing;

“coastal ship” means a ship that plies or proceeds to sea on any voyage:

- (a) from any port in Samoa to any other port in Samoa; or
- (b) from any port in Samoa and returns to the same port, - and in neither case goes more than 75 miles from the coast of Samoa in the ordinary course of the voyage

**PROVIDED THAT** a ship shall not be deemed to be a coastal ship by reason only that, in the course of or as a preliminary to or on the completion of any other voyage, she proceeds on any voyage of a kind mentioned in paragraph (a) or paragraph (b) of this definition;

“collector” means any officer appointed as Collector of Customs at any port or other place; and includes the Comptroller of Customs; and also includes the Chief Officer of Customs at any port or other place, and any proper officer acting in place of the Collector either generally or in respect of any of his or her powers or functions, whether during any vacancy in the office of Collector or otherwise;

- “comptroller” means the Comptroller of Customs appointed pursuant to this Act and includes any officer lawfully acting in the place of the Comptroller, whether during any vacancy in the office of the Comptroller or otherwise;
- “Constitution” means the Constitution of Samoa;
- “controlling authority”, in relation to any wharf, Customs airport or examining place, or Customs containerbase, means the owner or occupier thereof or other person having the control thereof; and includes any Harbour or Port Authority or Board or other public authority having the control thereof;
- “Court” means the District Court in any proceeding concerning goods valued at not more than \$1,000 and in all other proceedings means the Supreme Court;
- “customs airport” means the aerodrome at Faleolo or any other aerodrome appointed as a Customs airport under this Act;
- “customs containerbase” means a place appointed under this Act for the reception, examination, or protection of goods subject to the control of the Customs and carried or to be carried in bulk cargo containers;
- “declaration” means a declaration made in accordance with the provisions of this Act in that behalf;
- “documents” include books and all other written or printed matter;
- “dutiable goods” means goods of a kind subject to duty on the import or export thereof or on their manufacture in a manufacturing warehouse or on the entry thereof for home consumption;
- “duty” means any duty payable on goods on the import or export thereof or on the entry thereof for home consumption, and includes duty payable under this Act on goods produced in a manufacturing warehouse;
- “examination station” means a place at a Customs airport appointed by the Minister as an examination station;
- “examining place” means a place appointed under this Act for the examination by the Customs of goods subject to the control of the Customs;
- “exporter” means and includes, in respect of any goods exported or intended for export, any person by or for

whom those goods are exported, or by or for whom they are shipped on board the exporting ship or aircraft, or who is or becomes the owner of them or entitled to the possession of them or to any interest in them, at any time while they are subject to the control of the Customs.

- “fine” means a fine recoverable on conviction;
- “forfeited goods” means any goods in respect of which a cause of forfeiture has arisen under the Customs Acts;
- “gazette” means the Samoa Gazette;
- “goods” means all kinds of movable personal property, including animals;
- “Government” means the Government of Samoa;
- “Head of State” means the Head of State acting on the advice of Cabinet;
- “holiday” means a day lawfully observed by the Customs as a public holiday in accordance with this Act;
- “imported” means any person by or for whom any goods are imported, and includes the consignee of any goods and any person who is or becomes the owner of or entitled to the possession of or beneficially interested in any goods on or at any time after the importation thereof and before the goods have ceased to be subject to the control of the Customs;
- “intent to defraud the revenue of Customs” means:
  - (a) an intent to evade or to enable any other person to evade payment of the duty or any part of the duty payable on any goods; or
  - (b) an intent to obtain or to enable any other person to obtain, in respect of any goods, any drawback or refund of duty not authorised by law or in excess of that which is authorised by law; or
  - (c) an intent to evade or to enable any other person to evade payment of any money payable to the Government under this Act;
- “manufacturing warehouse” means any place licensed as a manufacturing warehouse under this Act;
- “master” in relation to any ship, means the person (other than any person not belonging to the ship who has the lawful conduct thereof) in actual charge or command of any ship;

- “Minister” means the Minister for Revenue;
- “officer” or “Officer of Customs” means any person employed in the service of the Customs; and includes the Comptroller and the Collector of Customs;
- “owner” includes:
- (a) in respect of any ship or aircraft, any charterer of the ship or aircraft, and any person acting as agent for the owner or charterer;
  - (b) in respect of any goods, the importer or other person possessed of or beneficially interested in the goods;
- “package” includes every means by which goods for carriage may be cased, covered, enclosed, contained or packed; but does not include a bulk cargo container or pallet;
- “pallet”, except in the Customs Tariff, means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purposes of transportation, handling, or stacking with the aid of mechanical devices, but does not include a bulk cargo container; and, in relation to a pallet that is imported laden, does not include any goods laden thereon;
- “pilot in command” or “pilot” in relation to any aircraft, means the person in charge or command of the aircraft;
- “port” or “port of entry” means the port of Apia and any other port of entry appointed as such by the Minister under section 26, and, where it is not inconsistent with the context, includes a Customs airport;
- “prescribed” means prescribed by regulations in force under this Act; and, in relation to forms, includes forms prescribed by the Comptroller;
- “prohibited imports” means goods imported or landed in breach of any prohibition of importation contained in the Customs Act;
- “proper officer” in relation to any matter, means any officer acting or employed in that matter by the order or with the concurrence (whether precedent or subsequent) of the Minister or the Comptroller or in pursuance of any other lawful authority;
- “regulations” means regulations in force under this Act;

- “restricted goods” means goods the importation or exportation of which is prohibited by or under the Customs Acts, whether absolutely or subject to any exception or qualifications;
- “Revenue Board” means the National Revenue Board established pursuant to the Public Finance Management Act 2001;
- “Samoa” means the Independent State of Samoa;
- “seal” means to affix the seal of the Customs;
- “ship” means any kind of vessel used in navigation, not propelled by oars only;
- “shipment” includes loading into an aircraft; and “to ship” and cognate expressions have corresponding meanings;
- “ships' stores” include aircraft's stores;
- “smuggling” means importing, unshipping, landing, conveying or otherwise dealing with any goods with intent to defraud the revenue of Customs;
- “tariff” and “the customs tariff” means the Customs Tariff of Samoa as comprised in the Customs Tariff Act 1975, and includes all notes to the Tariff or to any part, section, division, group or item thereof, set out in that Act; and also includes any modification or amendment of the tariff or of the said notes that may hereafter be made;
- “tariff items” means the tariff items as appearing in the Tariff, or in any modification or amendment thereof that may hereafter be made;
- “territorial waters of Samoa” include any bay, gulf, harbour, port, river or other water included within the territorial limits of Samoa;
- “the Customs” means the Customs Department of the Government;
- “transit building” means a building or any part of a building for the reception, examination or protection of goods on their loading or unloading while subject to the control of the Customs;
- “uncustomed goods” means goods on which any duty has become due and payable and is unpaid;
- “vehicle” means any motor vehicle, cart, wagon, or other conveyance of any kind whatsoever for use on land;

“warehouse” means any building or other place licensed under this Act for the storage of dutiable goods entered to be warehoused, and includes a Government warehouse and a manufacturing warehouse; and “to warehouse” and cognate expressions have corresponding meanings. Any 2 or more buildings or places may, in the discretion of the Minister, be licensed as 1 warehouse.

“wharf” means a wharf, quay, jetty, or other landing place appointed as a wharf under this Act, and includes a sufferance wharf;

“wharf owner” means the owner or occupier of any wharf, or any person having the control thereof, and includes any Harbour or Port Board or local or public authority having the control of any wharf.

(2) Any reference in this Act to contravention of any provision of this Act, or of any regulation, licence, requirement, condition or direction thereunder, includes a reference to a failure to comply with that provision.

**3. “Customs Acts” defined** - (1) In this Act, unless the context otherwise requires, the term “Customs Acts” means and includes:

- (a) this Act;
- (b) the Quarantine (Biosecurity) Act 2005;
- (c) the Liquor Act 1971;
- (ca) *Repealed by section 100 of the Excise Tax (Domestic Administration) Act 1984, No. 18.*
- (d) the Customs Tariff Act 1975;
- (e) every Act amending or in substitution for any of the above-mentioned enactments;
- (f) every Act coming into force subsequent to this Act which is declared by Act to be a Customs Act; and
- (g) all orders, regulations and rules made under any such enactment by any competent authority.

(2) In its application to any other of the Customs Acts this Act shall be read subject to the provisions of that other Act.

(3) Subject to the provisions of subsection (2), the provisions of this Act shall, so far as applicable and with the necessary modifications, be deemed to be incorporated in and to form part

of every enactment declared by this or any other Act to be a Customs Act. In the application of this Act to any Customs Act as aforesaid references to this Act shall, where necessary, be read as references to that Customs Act.

**4. Importers** - When there are, in respect of any imported goods, more importers than one (in accordance with the definition of the term "importer" in this Act) all the provisions of this Act with reference to the importer of those goods shall, except where the context otherwise requires, apply severally and independently to each of those importers.

## **PART II ADMINISTRATION**

**5. Department and Minister of Customs** - (1) There shall continue to be a Department of State to be known as the Customs Department or the Customs.

(2) The Minister who is charged by the Prime Minister with the responsibility for the Customs Department and the administration of this Act, pursuant to Article 35 of the Constitution, shall be called the Minister of Customs.

(3) Subject to the control of the Minister, the Department shall be charged with the administration of this Act.

**6. Comptroller of Customs** - (1) There shall be a Comptroller of Customs, who, under the Minister, shall be the permanent head of the Customs, and shall have the chief control thereof.

(2) The officer who at the commencement of this Act holds office as the Collector of Customs is taken to have been duly appointed as the Comptroller of Customs under this Act.

**7. Collectors and other officers of Customs** - (1) There may be appointed at every port an officer to be called the Collector of Customs, who shall, subject to the Minister and the Comptroller, have the chief control and management at that port of all matters relating to the Customs Act.

(2) The Department of Customs shall include such other officers as are considered by the Public Service Commission to be necessary for the efficient administration of the Customs Acts.

(3) All persons in the service of the Customs at the commencement of this Act are taken to have been lawfully appointed to the like offices.

**8. Delegation of powers** - (1) The Minister may, either generally or particularly, by writing under his or her hand, delegate to the Comptroller or any other officer of Customs all or any of the powers (except this present power of delegation) exercisable by the Minister under the Customs Acts.

(2) The Comptroller may similarly delegate to any officer of Customs all or any of the powers (except this present power of delegation) exercisable by the Comptroller under the Customs Acts:

**PROVIDED THAT** the Comptroller shall not delegate any power delegated to him or her by the Minister without the consent of the Minister or any power delegated to him or her by the Public Service Commission without the consent of that Commission.

(3) Any delegation under this section may be made to a specified person or to persons of a specified class or to the holder of a specified office or class of offices.

(4) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Every such delegation, whether by the Minister or the Comptroller, is revocable at will, and no such delegation shall prevent the exercise of any power by the Minister or the Comptroller.

(6) Subject to any general or special directions given or conditions imposed by the Minister or the Comptroller, as the case may be, the officer to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this Act and not by delegation.

(7) Any such delegation shall, until revoked, continue in force according to its tenor, despite the fact that the Minister or the Comptroller by whom it was made, or the holder of an office to whom it was made, has ceased to hold office, and shall continue to have effect as if made by or to the successor in office of that Minister or Comptroller or holder as the case may be.



**9. Seal of the Customs** - The seal of the Customs shall be the Crest of Samoa, having the words "Samoa Customs" encircling the Crest.

**10. Customs flag** - The vessels employed in the service of the Customs shall be distinguished by such flag as shall be prescribed by regulations.

**11. Misconduct by officers of Customs** - If any officer of Customs accepts or agrees or offers to accept any fee, perquisite, gratuity, or reward, whether pecuniary or not, from any person on account of anything done or omitted by the officer in the execution of his or her office or otherwise howsoever in relation to the execution of his or her office, except such as he or she receives with the permission of the Minister or Comptroller, the officer shall be guilty of misconduct in office, and may be dismissed or otherwise dealt with accordingly in pursuance of the law relating to the Public Service.

**12. Holidays** - The days to be kept as public holidays by the Customs shall be the same days as are kept as public holidays in the Public Service, and such other days as are appointed by the Head of State to be kept as public holidays by the Customs, either generally or at any particular port or place.

**13. Working hours** - (1) The working hours of the Customs shall be as prescribed by regulations.

(2) Except when permitted by the Comptroller, and subject to such conditions as to supervision or otherwise as the Comptroller thinks fit, cargo or stores shall not on any holiday, or outside working hours, be discharged from, or received, loaded, or worked on:

- (a) any ship, except a coastal ship; or
- (b) any aircraft arriving at any aerodrome for the first time on any journey from any country outside Samoa, or while carrying goods shipped in that aircraft in any country outside Samoa and not yet delivered from the control of the Customs; or
- (c) any aircraft departing finally from any aerodrome for any country outside Samoa.

(3) If any provision of this section is contravened, the owner and the master of the ship or, as the case may be, the owner and the pilot in command of the aircraft, shall each be guilty of an offence and is severally liable to a fine not exceeding 10 penalty units.

**14. Regulations in respect of attendance of officers and charges** - (1) Without limiting the power to make regulations conferred by section 279, the Head of State may make regulations in respect of the attendance of officers of Customs, whether or not within the working hours of the Customs, at any place for the purpose of performing or supervising any act required or permitted by the Customs Acts, and in particular:

- (a) prescribing, except where otherwise provided in any of the Customs Acts, a rate or rates of charges for such attendance;
- (b) providing for the liability of any person to pay any actual and reasonable expenses incurred by any officer in respect of the attendance; and
- (c) prescribing the person or persons or class or classes of persons by whom such charges and expenses shall be paid, or authorising the Comptroller to determine the person or persons by whom they shall be paid.

(2) All charges and expenses payable under this section shall constitute a debt due to the Government.

(3) All charges and expenses paid under this section shall be receivable by the Comptroller and shall be paid into the Public Account.

### **PART III CONTROL OF THE CUSTOMS AND GENERALLY AS TO ENTRIES**

#### **Division 1 – Control of the Customs**

**15. When goods subject to control of the Customs** - Goods shall be subject to the control of the Customs, within the meaning of this Act as follows:

- (a) as to all goods imported, from the time of importation until delivery by the Customs for

- home consumption, or until exportation to any country outside Samoa, whichever first happens;
- (b) as to all goods under drawback, from the time of the claim for drawback until exportation to any country outside Samoa;
- (c) as to all goods for export, the exportation of which is subject to any condition or restriction under this or any other Act, from the time the goods are brought upon any wharf or are waterborne for export or are brought to any Customs airport or Customs container base for export, until their exportation to any country outside Samoa;
- (d) as to all goods on board any ship or aircraft, and loaded in any country outside Samoa, and as to ships' stores wherever loaded, at all times:
  - (i) while the ship is within the territorial limits of Samoa; or
  - (ii) while the aircraft is at any place in Samoa.
- (e) as to all goods produced in a manufacturing warehouse, from the time of the production thereof until delivery by the Customs for home consumption or until exportation to any country outside Samoa, whichever first happens.

**16. Delivery for home consumption** - (1) For the purposes of this Act, goods are taken to be delivered by the Customs for home consumption:

- (a) as soon as the proper officer gives to the owner of the goods notice of their unconditional delivery for home consumption; or
- (b) on the fulfillment of any conditions included in any notice of the delivery of goods for home consumption given by the proper officer to the owner.

(2) Notice of delivery under this section shall be given in the prescribed form or manner.

**17. No responsibility for safe custody of goods** - (1) Neither the Government, nor the Minister, nor any Officer of Customs, shall be responsible to any person for the safe custody of any goods subject to the control of the Customs, or shall be under any

liability in respect of the erroneous delivery of any goods from such control.

(2) This section shall not apply to goods warehoused in a Government warehouse.

### **Division 2 – General Provisions as to Entries**

**18. Making of entries** - (1) Every entry of goods under this Act shall be made by the delivery of the entry by the person making it to the Comptroller or other proper officer.

(2) Any person making any entry shall truly answer all questions asked by the Comptroller or other proper officer relating to the goods referred to in the entry.

(3) Every entry shall be in the prescribed form.

**19. Verification of entries** - The Comptroller may, if he or she thinks fit, require from any person making entry of any goods proof by declaration or the production of documents (in addition to any declaration or documents otherwise required by this Act or by regulations) of the correctness of the entry, and may refuse to deliver the goods or to pass the entry pending such proof.

**20. Erroneous entries** - (1) In this section the term “deficient duty” means the full duty on the goods which are comprised or ought to have been comprised in the entry less the amount of duty (if any) payable if computed in accordance with the entry as actually made and as if the goods had been entered for home consumption.

(2) Every person who makes any entry (whether for home consumption or otherwise) which is erroneous or defective in any particular manner commits an offence and is liable to a fine not exceeding 20 penalty units or 3 times the amount of any deficient duty, whichever sum is the greater.

(3) For the purposes of this section, every declaration, invoice, certificate or written statement required or authorised by or under this Act to be made or produced by the person making an entry shall be deemed to form part of that entry.

(4) For the purposes of this section, every amendment of an entry shall be deemed to form part of that entry, but not so as to relieve any person from any penalty incurred in respect of the entry before its amendment.

**21. Passing of entries** - (1) An entry shall be passed by the Comptroller or other proper officer signing the entry, and on the passing of the entry the goods are taken to be entered.

(2) Any entry so passed shall be warrant for dealing with the goods in accordance with the entry.

**22. Cancellation and amendment of entries by persons making them** - (1) With the permission of the Comptroller any entry may, after it has been made but not later than 1 day after it has been passed and while the goods still remain subject to the control of the Customs, be cancelled or amended by the person making it.

(2) When the Comptroller is satisfied that any entry has been made in error but in good faith, he or she may permit the entry to be cancelled or amended by the person who made it, at any time while the goods remain subject to the control of the Customs, or, subject to such conditions as the Minister may impose, at any time after delivery of the goods from such control.

(3) No cancellation or amendment of any entry by the person who made it shall take away or affect any penalty, forfeiture or criminal liability theretofore accrued or incurred in respect of the entry.

(4) The Comptroller may make a refund of duty in accordance with any such cancellation or amendment of an entry, which shall be charged on the Treasury Fund and be statutory expenditure and may be paid accordingly.

(5) The cancellation or amendment of any entry shall be made in the prescribed manner.

**23. Amendment of entries by officers** - (1) An officer, for the purpose of correcting any part of any entry, may amend that entry before it is passed.

(2) No such amendment shall take away or affect any penalty, forfeiture, or criminal liability theretofore accrued or incurred in respect of the entry.

**24. Goods to be dealt with according to entry** - (1) All goods in respect of which any entry has been made and passed shall forthwith be dealt with in accordance with the entry and with the provisions of this Act in respect of goods so entered.

(2) A person who is knowingly concerned in any contravention of this section commits an offence against this Act.

**PART IV**  
**IMPORTATION, EXPORTATION AND**  
**REMOVAL WITHIN SAMOA**

**Division 1 – Ports of Entry, Customs Airports**

**25. Declaring port of entry** - (1) It is declared that the port of Apia is a port of entry for the purposes of this Act.

(2) The limits of that port are a circle of 2 miles' radius from the main wharf existing thereat and shall include all harbour works, wharves, jetties, installations and buildings directly used in connection therewith, and also all areas of sea included within that circle.

**26. Other ports of entry** - (1) The Minister may, by order, appoint any other port, harbour, or place to be a port of entry for the purposes of this Act, and define the limits and determine the name of that port.

(2) The limits of any port of entry so declared may comprise a portion of the marginal or other waters of Samoa though not included within the territorial limits of Samoa.

(3) A port of entry may be so appointed for any specified limited purposes exclusively, or for all purposes with specified exceptions, or without any such limitation, and if any such limitation is so imposed the port shall be deemed a port of entry in respect of the purposes so authorised only.

(4) The Minister may, by order, declare that any port shall cease to be a port of entry for the purposes of this Act, or alter the limits or the name of any port, or impose any limitation upon the purposes for which any port shall be a port of entry, or remove or alter any such limitation.

**27. Boarding stations** - (1) The Comptroller may, by warrant under his or her hand and published in the Gazette and in a newspaper circulating in Samoa:

(a) appoint stations or places at which ships arriving at or departing from any port shall bring-to for the boarding or landing of officers of Customs; and

(b) appoint particular parts of any port at which ships laden with any particular cargo shall moor and discharge such cargo.

(2) any such appointment may be in like manner revoked.

**28. Wharves** - (1) The Comptroller may, by warrant under his or her hand and published in the Gazette and in a newspaper circulating in Samoa, appoint proper places within any port to be wharves for the loading and unloading of goods, and declare the limits of such wharves and fix the names thereof.

(2) The Comptroller may, in like manner, impose such restrictions as the Comptroller thinks fit with respect to the use of any such wharf; and so long as any such restrictions exist the wharf shall be deemed to be a wharf under this Act for such purposes only as are consistent with those restrictions.

(3) The Comptroller may, in like manner, declare that any wharf shall cease to be a wharf for the purposes of this Act, or may alter the limits or the name of the wharf, or alter or remove any restriction imposed upon its use.

**29. Sufferance wharves** - When the Comptroller is satisfied that for any particular purpose there is no suitable wharf available, the Comptroller may, in writing, appoint any place within a port as a sufferance wharf for that purpose, and permit its use for that purpose, subject to such conditions and restrictions and for such time as he or she thinks fit.

**30. Customs airports** - (1) It is declared that the Faleolo aerodrome is a Customs airport.

(2) Subject to the concurrence of the Minister of Civil Aviation and to such conditions as to security and otherwise as that Minister thinks fit, the Minister may, by warrant under the Minister's hand published in a newspaper circulating in Samoa, appoint any other aerodrome to be a Customs airport, and may in like manner and with the like concurrence revoke any such appointment.

**31. Examination stations at Customs airports** - (1) Subject to the concurrence of the Minister of Civil Aviation, the Minister may, by warrant under his or her hand published in a newspaper circulating in Samoa, appoint for the purposes of this Act a place

at any Customs airport to be an examination station for the loading and unloading of goods and for the embarking and disembarking of passengers.

(2) The Minister may, with the like concurrence and in like manner:

- (a) alter the limits of any examination station; or
- (b) impose such conditions and restrictions as the Minister thinks fit in respect of the use of any examination station; or
- (c) vary or revoke any such conditions or restrictions; or
- (d) revoke the appointment of any examination station.

(3) Any examination station which has any restrictions imposed pursuant to this section shall be an examination station under this Act for such purposes only as are consistent with those restrictions.

**32. Examining places** - The Minister may, by warrant under the Minister's hand, appoint at any port or Customs airport places for the examination by the Customs of goods subject to the control of the Customs; and any such appointment may be in like manner revoked.

**33. Customs containerbases** - (1) The Minister may by notice in a newspaper circulating in Samoa, appoint places, at any port or Customs airport, to be Customs containerbases for the reception, examination, or protection of goods that are subject to the control of the Customs and are carried or to be carried in bulk cargo containers.

(2) The Minister may in like manner impose such conditions and restrictions as the Minister thinks fit in respect of the use of any Customs containerbase, and vary or revoke any such conditions or restrictions.

(3) The Minister may by notice in writing to the controlling authority of any Customs containerbase revoke the appointment of the containerbase.

(4) Where an appointment is revoked under this section, the revocation shall take effect on such date as is specified in the notice of revocation or, if no date is so specified, from the time of the receipt by the controlling authority of the notice of revocation.



(5) Notice of the revocation of any such appointment shall be published by the Comptroller in a newspaper circulating in Samoa.

**34. Duties of controlling authorities** - (1) The controlling authority of every wharf, Customs airport or Customs containerbase shall provide and maintain at the wharf or airport, to the satisfaction of the Minister:

- (a) suitable office accommodation, at such place or places as the Minister may direct, for the exclusive use of officers of Customs employed at the wharf, airport, or containerbase; and
- (b) such suitable transit buildings or parts of buildings as the Minister may declare to be requisite in respect of the wharf, Customs airport, or Customs containerbase, together with suitable weighing appliances for use in those buildings or parts of buildings by officers of Customs.

(2) The controlling authority of every wharf, Customs airport or Customs containerbase shall store goods subject to the control of the Customs in such manner and in such place as the Comptroller or other proper officer of Customs may direct.

**35. Storage charges** - (1) Subject to the provisions of subsection (2) no charges shall be made by any controlling authority for the reception or storage of any goods in any transit building or on any wharf so long as the goods remain subject to the control of the Customs.

(2) Where goods remain subject to the control of the Customs for a longer period than 96 hours (exclusive of holidays) or such extended period as may be permitted by the Comptroller to enable examination weighing analysis, or testing for Customs purposes, after their reception into any transit building or on to any wharf, there shall be payable on those goods by the importer or exporter thereof such storage charges as the controlling authority determines by regulations made in that behalf.

**36. Security in respect of wharves and examining places** - (1) Before appointing any wharf, sufferance wharf, Customs containerbase or examining place under this Act, or as a condition of the continuance of any such appointment, the Minister shall

require the controlling authority or other person having the use of that wharf, containerbase, or place to give security to the satisfaction of the Minister for the payment of duty on all goods which are wrongfully removed by any person from that wharf, containerbase, or place.

(2) To the extent of that security the controlling authority or other person having the use of a wharf, sufferance wharf, Customs containerbase, or examining place duly appointed under this Act shall be liable for all duty payable on goods which the Comptroller is satisfied have been so wrongfully removed, in the same manner as if those goods had been imported by that controlling authority or other person and entered for home consumption, and he or she shall not be released from liability under this section by virtue of any other provision of any Customs Act or because a security previously given has been cancelled or for any other reason.

(3) All the provisions of this Act as to securities required by the Comptroller shall, so far as they are applicable, and with all necessary modifications, apply to securities under this section.

## **Division 2 – Arrival of Ships and Aircraft**

**37. Ships to come into port of entry only** - (1) The master of any ship except a coastal ship shall not, without the written permission of the Comptroller, cause or permit his or her ship to enter any place in Samoa other than a port of entry, unless driven there by accident, stress of weather, or other necessity.

(2) A master who acts in contravention of this section commits an offence and is liable to a fine not exceeding 50 penalty units.

**38. Aircraft to land at Customs airport only** - (1) Subject to section 39, the pilot in command of any aircraft shall not, without the permission of the Minister given with the concurrence of the Minister of Civil Aviation, cause or permit the aircraft to land at any place other than a Customs airport:

- (a) for the first time on any journey from any country outside Samoa; or
- (b) while it is carrying any goods brought in that aircraft from any country outside Samoa and not yet delivered from the control of the Customs.

(2) A person importing or concerned in importing any goods in any aircraft shall not bring the goods into Samoa at any place other than a Customs airport.

(3) Every person who acts in contravention of any provision of this section commits an offence and is liable to a fine not exceeding 50 penalty units.

**39. Aircraft landing at a place other than a Customs airport** - (1) Section 38 shall not apply in relation to any aircraft flying from any country outside Samoa if the aircraft is required under or by virtue of any enactment relating to air navigation, or is compelled by accident, stress of weather or other necessity, to land at a place other than a Customs airport.

(2) The pilot in command of any aircraft that is so required or compelled to land:

- (a) shall, unless the place of landing is an aerodrome, forthwith report to an officer of Customs or to a member of the Police;
- (b) shall, if the place of landing is an aerodrome, forthwith report the arrival of the aircraft and the place whence it came to the person in charge of the aerodrome;
- (c) shall not, without the consent of an officer of Customs, permit any goods carried in the aircraft to be unloaded from it, or any of the crew or passengers to depart from its vicinity; and
- (d) shall comply with any directions given by an officer of Customs in respect of any goods carried in the aircraft.

(3) No passenger or member of the crew of any aircraft that is so required or compelled to land shall leave the vicinity of the aircraft without the consent of an officer of Customs or member of the Police.

(4) Nothing in this section shall prohibit the departure of crew or passengers from the vicinity of an aircraft or the removal of goods from it if that departure or removal is necessary for reasons of health or safety, or for the preservation of life or property.

(5) The pilot in command of any aircraft to which this section applies shall not be held to have committed a breach of this section if the pilot proves that:

- (a) no officer of Customs or member of the Police was readily accessible; and
- (b) the pilot did not permit any goods to be unloaded from the aircraft or any passengers to depart from its vicinity; and
- (c) as soon as was practicable, the pilot resumed and completed the flight.

(6) Every person in charge of an aerodrome to whom a report is made under subsection (2)(b) shall forthwith report the arrival of the aircraft to an officer of Customs.

(7) Every person who acts in contravention of any of the provisions of this section commits an offence and is liable to a fine not exceeding 50 penalty units.

**40. Transshipment of goods** - (1) Except as permitted by the Comptroller, the master of any coastal ship or the pilot in command of any aircraft (other than an aircraft arriving on a journey from any country outside Samoa) shall not, at any place other than a port of entry or Customs airport, cause or permit any goods to be transhipped into his or her ship or aircraft from:

- (a) any ship except a coastal ship; or
- (b) any aircraft arriving on a journey from any country outside Samoa.

(2) This Part of this Act shall apply:

- (a) to any goods so transhipped otherwise than at a port of entry or Customs airport; and
- (b) to any ship or aircraft into which such goods are transhipped, as if the goods had been loaded into that ship or aircraft in a country outside Samoa.

(3) Every master or pilot in command who acts in contravention of subsection (1) commits an offence and is liable to a fine not exceeding 50 penalty units or 3 times the value of the imported goods, whichever is the greater, and the court shall order that the goods and any ship or aircraft used for their transshipment shall be forfeited to the State.

**41. Interference with cargo** - If at any time after any ship or aircraft carrying goods brought from any country outside Samoa arrives within the territorial limits of Samoa, and, before a report is made in accordance with section 46:

- (a) bulk is broken; or

- (b) any alteration is made in the stowage of any goods carried, so as to facilitate the unloading of any part thereof before due report has been made; or
- (c) any part of the goods is staved, destroyed, or thrown overboard, or any package is opened, and the matter is not explained to the satisfaction of the Comptroller, the master of the ship or pilot in command of the aircraft is guilty of an offence and is liable to a fine not exceeding 10 penalty units.

**42. Boarding of ships at sea** - (1) The master of every ship arriving within the territorial limits of Samoa shall bring the ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any other vessel in the service of the Government having hoisted the proper ensign and pendant, and shall by all reasonable means facilitate the boarding of the ship by the officers of Customs or by an officer of the vessel so approaching, hailing or signalling.

(2) If the master fails to comply with any provision of this section he or she commits an offence and is liable to a fine not exceeding 10 penalty units.

**43. Boarding of ships at boarding stations** - (1) The master of every ship arriving at any port from any country outside Samoa shall bring his or her ship to for boarding at the boarding station appointed for that port under this Act; and shall by all reasonable means facilitate the boarding of the ship by the officers of Customs.

(2) If a master fails to comply with any provision of this section he or she commits an offence and is liable to a fine not exceeding 10 penalty units.

**44. Stations of ships** - (1) The master of every ship, after the ship has been brought to at the boarding station and boarded by the officer, and after receiving permission from the proper officer of Customs, shall come up to the proper place of mooring or unloading as quickly as practicable without touching at any other place.

(2) After a ship has arrived at the proper place of mooring or unloading, it shall not, except by the authority of the Comptroller or by direction of the harbour or port authority, be removed therefrom before the discharge of the cargo intended to be discharged at that port.

(3) If any provision of this section is contravened, the master of the ship is guilty of an offence and is liable to a fine not exceeding 10 penalty units.

**45. Aircraft to be brought to examination station** - (1) The pilot in command of every aircraft arriving at a Customs airport:

- (a) for the first time on any journey from any country outside Samoa; or
- (b) while it is carrying goods brought in that aircraft from any country outside Samoa and not yet delivered from the control of the Customs, shall, on landing, forthwith take his or her aircraft to the examination station at the airport.

(2) The pilot shall not be held to have committed a breach of subsection (1) if the pilot satisfies the Comptroller that:

- (a) he or she was prevented, by circumstances over which he or she had no control, from so taking the aircraft to the examination station; and
- (b) after report had been duly made by him or her pursuant to section 46, all the goods carried in the aircraft were conveyed to the examining place at that airport.

(3) After an aircraft has arrived at the examination station it shall not, except by the authority of the Comptroller or by direction of the controlling authority of the Customs airport, be removed therefrom before the disembarkation of passengers and unloading of cargo intended for that airport has been completed.

(4) If any provision of subsection (1) or subsection (3) is contravened the pilot is guilty of an offence and is liable to a fine not exceeding 20 penalty units.

**46. Inward reports** - (1) This section shall apply to:

- (a) every ship, except a coastal ship; and
- (b) every aircraft arriving at a Customs airport:
  - (i) for the first time on any journey from any country outside Samoa; or

(ii) while it is carrying any goods brought in that aircraft from any country outside Samoa and not yet delivered from the control of the Customs.

(2) On the arrival at any port or Customs airport of any ship or aircraft to which this section applies, the master or owner of the ship, or, as the case may be, the pilot in command or owner of the aircraft, shall within such time or times as may be prescribed:

(a) deliver to the Comptroller or other proper officer an inward report in such form and manner, containing such particulars, verified by declaration, and with such supporting documents, as may be prescribed; and

(b) answer all questions asked by the Comptroller or other proper officer relating to the ship or aircraft and its passengers, crew, cargo, stores and voyage.

(3) If the master or owner or pilot, as the case may be, fails to comply with any provision of subsection (2) he or she commits an offence and is liable to a fine not exceeding 20 penalty units.

(4) If the inward report so delivered is false, misleading, or defective in any particular, or if any document so delivered is not genuine or is false or misleading, or if the answer to any question is false or misleading, the master or pilot and the owner shall each be guilty of an offence and shall be severally liable to a fine not exceeding 20 penalty units.

**47. Reports of wrecked ships and aircraft** - (1) When any ship or any aircraft carrying goods taken on board in any country outside Samoa and not yet delivered from the control of the Customs is lost or wrecked within the territorial limits of Samoa, the master or owner of the ship or, as the case may require, the pilot in command or owner of the aircraft, shall without unnecessary delay report the loss or wreck to the Collector at the port nearest to the place where the ship or aircraft was lost or wrecked, and shall comply, so far as it is possible for him or her to do so with the provisions of section 46(2)(a) and (b).

(2) If any of the provisions of this section are not complied with, the master or pilot and the owner shall each be guilty of an offence and shall be severally liable to a fine not exceeding 10 penalty units.

**DIVISION 3 – Importation**

**48. “Importation” defined** - (1) For all the purposes of this Act, goods shall, except where otherwise expressly provided, be deemed to be imported into Samoa if and so soon as in any manner whatever, whether lawfully or unlawfully, they are brought or come within the territorial limits of Samoa from any country outside Samoa.

(2) Goods whose destination is outside the territorial limits of Samoa, and ships' stores, shall not be deemed to have been so imported unless, while they are within those limits, they are removed from the ship or aircraft in which they arrived there, but if so removed they shall for all the purposes of this Act be deemed to have been imported so soon as they were brought within the territorial limits of Samoa as aforesaid.

**49. Prohibited imports** - (1) It shall not be lawful to import into Samoa any of the goods specified in the First Schedule hereto.

(2) Save in pursuance of a licence granted by the Minister, and subject to any conditions imposed by the Minister in granting a licence, it shall not be lawful to import into Samoa:

(a) *repealed by section 10 of the Arms Amendment Act 1978.*

(b) any used sack, used bag, used pack, used bale, or other similar used container, if such sack, bag, pack, bale or other container is substantially fabricated of jute, flax, sisal or similar material of vegetable origin.

(3) Subject to subsection (4), the Head of State may by order prohibit the importation into Samoa of:

(a) any specified goods;

(b) goods of any specified class or classes;

(c) all goods except goods of a specified class or specified classes; and

(d) all goods whatsoever (without specification of any such goods or of the class or classes to which they belong).

(4) The Head of State may exercise the powers conferred by subsection (3) if in the Head of State's opinion such exercise is necessary:



- (a) in the public interest; or
  - (b) for the protection of the revenue; or
  - (c) for the efficient administration of the Customs Acts; or
  - (d) for the prevention of fraud or deception, whether in relation to the Customs Acts or not; or
  - (e) for the prevention of any infectious disease within the meaning of the Health Ordinance 1959; or
  - (f) in respect of goods whose sale in Samoa would be an offence against the law.
- (5) Any prohibition imposed pursuant to this section:
- (a) may be general; or
  - (b) may be limited to the importation of goods from any specified place or by or from any specified person or class of persons; or
  - (c) may, whether general or limited, be absolute or conditional.
- (6) Any such conditional prohibition may allow the importation of goods:
- (a) under the authority of a licence, or a permit (whether granted before or after the importation of the goods), or a consent, to be granted by the Minister or by any other prescribed person upon or subject to such terms or conditions (if any), not inconsistent with the provisions of the prohibition, as may be imposed by the Minister or other person granting the licence, permit, or consent, or
  - (b) on or subject to any other prescribed conditions whatsoever.
- (7) All orders in force at the commencement of this Act prohibiting the importation of any goods into Samoa are deemed to have been made under this section, and shall continue in force accordingly until revoked.
- (8) A person commits an offence against this section who:
- (a) imports into Samoa or unships or lands in Samoa any goods whose importation is prohibited by this section or by any order made thereunder and in force at the time of importation; or
  - (b) commits any breach of, or fails in any respect to comply with, any term or condition on or subject

to which there has been granted, under any order made under this section, any licence, permit, or consent under the authority of which any goods are imported into Samoa; or

- (c) is knowingly concerned in any importation, unshipment, landing, breach, or non-compliance to which any provision of paragraph (a) or paragraph (b) applies; or
- (d) without lawful justification or excuse, removes from any wharf, Customs airport, Customs containerbase, or examining place any imported goods whose importation constitutes an offence against this section; or
- (e) is knowingly concerned in or connives at the removal from any wharf, Customs airport, Customs containerbase, or examining place of any goods whose importation constitutes an offence against this section.

(9) Where any goods are imported into Samoa under the authority of a licence or permit or consent granted under an order made under this section, and any person has knowingly made any false declaration or statement:

- (a) for the purpose of obtaining that licence, permit, or consent; or
- (b) as to compliance with any condition on or subject to which the licence, permit, or consent was granted, he or she commits an offence against this section.

(10) A person who commits an offence against this section is liable to a fine not exceeding 50 penalty units or twice the value of the goods to which the offence relates, whichever sum is the greater.

(11) Any goods in respect of which any offence against this section is committed shall be forfeited.

(12) No goods otherwise dutiable shall be exempt from duty because their importation is unlawful.

**50. Importation of brandy, whisky and rum** - (1) Except as provided in subsection (3), no brandy imported into Samoa shall be delivered from the control of the Customs unless the Comptroller is satisfied that:

- (a) it is wholly the distillate of the fermented juice of fresh grapes; and
  - (b) it has been matured by storage in wood for a period of not less than 3 years.
- (2) Except as provided in subsection (3), no whisky or rum imported into Samoa shall be delivered from the control of the Customs unless the Comptroller is satisfied that it has been matured by storage in wood for a period of not less than:
- (a) five years in the case of whisky; and
  - (b) two years in the case of rum.
- (3) Any brandy, whisky, or rum that does not conform to the requirements of this section may be delivered from the control of the Customs, by direction of the Comptroller, if he or she is satisfied that it is intended for scientific or industrial use or for such other purposes as he or she may permit.

**51. Goods not to be landed or dealt with without permission** - (1) Except as provided by this Act, no goods which are subject to the control of the Customs, and no goods which would become subject to that control if unshipped or landed, shall be unshipped or landed from any ship or aircraft to which this subsection applies, except pursuant to:

- (a) an entry made and passed in respect of those goods; or
- (b) a written permit granted by the Comptroller in respect thereof:

**PROVIDED THAT** if the landing of goods from any ship or aircraft is necessary for reasons of health or safety, or for the preservation of life or property, and if the permission of the Comptroller or other proper officer cannot readily be sought, the goods may be landed without such permission.

- (2) Subsection (1) shall apply to:
  - (a) every ship, except a coastal ship; and
  - (b) every aircraft arriving at a Customs airport while carrying any goods brought in that aircraft from any country outside Samoa.
- (3) Subsection (1) shall not apply to any pallet that has a value of less than \$20 and is imported laden.
- (4) A person who acts in contravention of any provision of this section commits an offence and is liable to a fine not

exceeding 50 penalty units, and the goods in respect of which the offence is committed shall be forfeited.

**52. Comptroller's permits** - (1) Goods unshipped, landed, or removed under a Comptroller's permit shall be dealt with in accordance with the permit and with any directions given by the Comptroller.

(2) This Act shall apply to such goods in the same manner as if they had not been unshipped, landed or removed, and for this purpose they shall be deemed constructively to have remained upon or in the ship, aircraft, wharf, Customs airport or examining place from which they were so unshipped, landed or removed.

(3) Any permit issued for the unshipment, landing, or removal of bulk cargo containers to the controlling authority of a Customs containerbase or an examining place shall relate to such containers generally.

(4) A permit for the unshipment, landing, or removal of pallets may relate to pallets generally, or to pallets imported in any particular ship or aircraft, or to any specified class of pallets, or to pallets imported in specified circumstances.

(5) Any permit may be granted subject to such conditions and restrictions as the Collector thinks fit.

(6) Subject to the succeeding provisions of this section, if in the case of a permit granted to the controlling authority of a Customs containerbase or an examining place pursuant to subsection (4) the Collector has reasonable cause to believe that the controlling authority has committed a breach of any provision of this Act or of any regulations thereunder or of any condition or restriction imposed under this Act or such regulations, he or she may, by notice in writing to the controlling authority, revoke the permit, or suspend it for any period specified in the notice.

(7) Where a permit is revoked or suspended under this section, the revocation or suspension shall take effect on such date as is specified in the notice of revocation or suspension or, if no date is so specified, from the time of the receipt by the controlling authority of the notice of revocation or suspension.

(8) If such goods are at any time dealt with by any person contrary to the terms of the permit or to the directions of the Comptroller, they shall be deemed for all the purposes of this Act to have been unlawfully unshipped, landed or removed by that person as if the permit had not been granted.

**53. Method of unshipment** - (1) All goods on any ship which are subject to the control of the Customs, or which would become subject to that control if unshipped or landed, shall, if unshipped, be either:

- (a) landed at a wharf directly, or after direct conveyance to a wharf by water within the limits of the port;  
or
- (b) transhipped directly, or after direct conveyance by water within the limits of the port, to the ship into which they are to be transhipped for export removal.

(2) All goods on any aircraft, being goods brought by that aircraft from any country outside Samoa, shall, if unshipped, be either:

- (a) landed directly at an examination station or, if the aircraft does not come to an examination station, conveyed directly from the aircraft to the examining place at the Customs airport; or
- (b) transhipped directly, or by direct conveyance within a Customs airport, to the aircraft into which the goods are to be transhipped for export or removal.

(3) A person who is knowingly concerned in any dealing with goods in contravention of this section commits an offence and is liable to a fine not exceeding 20 penalty units.

**54. Removal of goods from wharf, airport, etc.** - (1) Except as provided by this Act, no goods that are subject to the control of the Customs shall be removed from any wharf, Customs airport, Customs containerbase, or examining place except:

- (a) with the permission of the proper officer of Customs after entry has been made and passed in respect thereof; or
- (b) in pursuance of a written permit granted by the Collector in respect thereof.

(2) Subsection (1) shall not apply to any pallet that has a value of less than \$20 and is imported laden.

(3) A person who acts in contravention of any provision of this section commits an offence and is liable to a fine not

exceeding 50 penalty units, and the goods in respect of which the offence is committed shall be forfeited.

**55. Kinds of entry of imported goods** - Except as provided in section 56 or section 57 all imported goods, when they have arrived at their port of discharge, or with the consent of the Comptroller at any time before their arrival, shall be there entered by the importer:

- (a) for home consumption; or
- (b) for warehousing; or
- (c) for export; or
- (d) for removal.

**56. Passenger's effects exempt from entry** - Goods being the personal baggage or household or other effects belonging to and accompanying passengers in any ship or aircraft, and not being dutiable goods imported for the purpose of sale or exchange or as trade samples, may, subject to any prescribed conditions, be imported or exported without entry.

**57. Certain goods exempt from entry** - The following goods may, subject to any prescribed conditions, be imported or exported without entry:

- (a) such bulk cargo containers, and such wagons, trolleys, or wheeled pallets specially designed for the handling of bulk cargo containers, as may be prescribed;
- (b) any pallet which has a value of less than \$20 and is imported laden:

**PROVIDED THAT** in any case where the Collector is satisfied that the pallet is imported for sale or re-use in Samoa he or she may require that entry be made;

- (c) any pallet which has a value of less than \$20 and is imported unladen, and any pallet (whether imported laden or unladen) which has a value of \$20 or more, being in either case a pallet which is imported temporarily and in respect of which a Collector's permit for removal is granted under section 54;
- (d) such other goods or classes of goods as may be prescribed.

**58. When entry to be made** - (1) Subject to section 60, entries shall be made of all goods unshipped or to be unshipped at any port, or removed to any port, within such respective times after the arrival of the goods at that port as may be prescribed, or within such further time (if any) as the Comptroller may see fit to allow, but so that, if the goods are placed in quarantine, at least 7 days shall be allowed for entry after their release from quarantine.

(2) If default is made in the entry of any goods pursuant to this section, the Comptroller may cause the goods to be removed to a warehouse, and if the goods are not claimed and entries passed therefor within 1 month after such removal, duty shall thereupon become due and payable on the goods as if entered for home consumption, and the goods may be sold by the Comptroller.

(3) If any goods in respect of which default has been so made are, in the opinion of the Comptroller, of a perishable nature, they may be sold at any time the Comptroller thinks fit, either before or after warehousing.

**59. Vessels or aircraft imported otherwise than as cargo** -

(1) Despite anything in this Act, entries shall be made in respect of such ships and other vessels, and in respect of such aircraft, being ships, vessels and aircraft imported into Samoa otherwise than as cargo, as the Minister may determine by notice in the Gazette.

(2) For the purpose of making entries in respect of any ship or vessel or aircraft imported into Samoa otherwise than as cargo, and for all other purposes of the Customs Acts, every such ship, vessel or aircraft shall be deemed to have been imported as cargo and to have been unshipped as such on its arrival.

**60. Production of licence or permit for restricted goods** -

Where under this Act or any other Act, or under any regulations or order made under this Act or any other Act, the importation of any goods, or of goods of any class or kind, is prohibited except under the authority of a licence or permit, the Comptroller or other proper officer may if he or she thinks fit refuse to accept an entry for those goods, or for any goods of that class or kind, until a licence or permit for their importation is produced to him or her.

**61. Sight entries** - (1) If the importer cannot immediately supply the full particulars for making an entry, and makes by

himself or herself or his or her agent a declaration to that effect before the Comptroller or other proper officer, he or she may make a sight entry in the prescribed form.

(2) A sight entry, on being passed by the Comptroller, shall be warrant for the landing and examination of the goods by the importer.

(3) The importer of the goods included in a sight entry shall, within 7 days after the passing of that entry, or within such further time as is allowed by the Comptroller, make complete entry thereof; and if he or she makes default in so doing the goods may be dealt with by the Comptroller as if no sight entry had been made.

(4) A complete entry of the goods included in a sight entry shall be made in the same manner as if the sight entry had not been made.

**62. Delivery of goods on sight entry -** (1) The Comptroller may, if the Comptroller thinks fit, deliver goods from the control of the Customs for home consumption in pursuance of a sight entry but only on receiving such security as he or she thinks sufficient to cover the full amount of duty.

(2) Complete entry of the goods for home consumption shall thereafter be made by the importer within such time as the Comptroller appoints; and if the importer makes default in making such entry he or she commits an offence and is liable to a fine not exceeding 20 penalty units.

(3) Goods so delivered on a sight entry shall, on such delivery, be deemed to have been entered for home consumption.

**63. Entry of imported goods for home consumption -** Except as provided in section 164, when any imported goods have been entered for home consumption the importer shall forthwith pay to the Comptroller or other proper officer the duties (if any) payable thereon.

**64. Importer may be required to furnish samples and illustrations -** The importer of any goods shall furnish free of charge, for the use of the Customs, such samples or such illustrations, drawings or plans relative to the goods as may be required by the Comptroller for purposes of analysis, classification or record.



**DIVISION 4 – Removal within Samoa and Exportation**

**65. Removal of imported goods within Samoa -** (1) No imported goods subject to the control of the Customs shall be placed on any ship, boat, lighter, or other conveyance for removal within Samoa until entry for removal has been duly made and passed therefor in the prescribed form and manner.

(2) When any imported goods have been entered for removal the importer shall forthwith remove them to another port of entry in accordance with the entry, without payment of duty in the first instance.

(3) The Comptroller may require from the importer security for the due removal of the goods in accordance with the entry, and for the payment of the duty thereon.

(4) When the goods so removed have arrived at their port of destination, or with the consent of the Comptroller at any time before their arrival, they shall be there entered for home consumption, warehousing, export or further removal, in the same manner as if no former entry has been made therefor, and all the provisions of this Act shall apply accordingly.

(5) When any goods so entered for removal to another port arrive at that port they shall be forthwith brought to a wharf or an examining place or a Customs containerbase (as the case may require) appointed at that port for the examination of goods subject to the control of the Customs.

(6) If any goods are dealt with in contravention of subsection (1), they shall be forfeited; and any person so dealing with them commits an offence and is liable to a fine not exceeding 20 penalty units.

**66. Export of goods subject to control of Customs -** (1) No goods subject to the control of the Customs shall be placed on board any ship, boat, lighter, or other vessel or loaded into any aircraft or packed into any bulk cargo container in a Customs containerbase, to be shipped for export until entry has been duly made and passed therefor in the prescribed form and manner:

**PROVIDED THAT**, where the Collector is satisfied in respect of any goods that their exportation is not prohibited by any Order made under section 73 of this Act, he or she may permit such entry to be made within 6 days after the goods have been so shipped.

(2) When any imported goods have been entered for export the importer shall forthwith export them to a country outside Samoa in accordance with the entry and with the provisions of this Act relating to the exportation of goods, and, except as provided in section 164, no duty shall be payable thereon.

(3) If any goods are dealt with in contravention of subsection (1), they shall be forfeited; and any person so dealing with them commits an offence and is liable to a fine not exceeding 20 penalty units.

**67. Entry for export of goods not subject to control of Customs** - (1) When goods not subject to the control of the Customs are shipped for export, entry thereof for export shall be made, in the prescribed form and manner, before shipment or within 6 days after shipment, or within such further time as may be prescribed.

(2) If entry is not made in accordance with this section, the exporter and every person knowingly concerned in the exportation or intended exportation of the goods commits an offence against this Act.

**68. Method of shipment** - (1) Goods subject to the control of the Customs for export or removal within Samoa shall be brought to the ship, aircraft or vehicle in which they are to be exported or removed by the most direct means reasonably available.

(2) Every person who deals with or is knowingly concerned in dealing with goods in contravention of this section commits an offence and is liable to a fine not exceeding 20 penalty units.

**69. Goods not shipped according to entry** - (1) If any goods entered for export or removal within Samoa are not shipped according to the entry, the person making the entry shall immediately give to the Comptroller notice of the failure to ship and, as required by the Comptroller, cancel or amend the entry.

(2) A person commits an offence against this Act who fails to comply with any provision of this section.

**70. Information and securities in respect of exported goods** - (1) When any goods have been entered for export the Comptroller may require the person making the entry to produce all documents relating to the goods, and, if the goods are subject

to the control of the Customs, to give security that they will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Comptroller.

(2) If required by the Comptroller, a certificate in the prescribed form, to be given by such person as may be prescribed, shall be produced by the exporter in proof of the due landing, according to the export entry, of any goods which at the time of shipment were subject to the control of the Customs.

(3) The Comptroller may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce any certificate so required of the landing of any such goods previously exported by him or her, or to account for such goods to the satisfaction of the Comptroller.

**71. Exported goods not to be relanded** - (1) No goods shipped for export shall be unshipped or landed, except in a country outside Samoa, without the permission of the Comptroller or some other proper officer of Customs.

(2) If any goods which at the time of shipment were subject to the control of the Customs are unshipped or landed in breach of this section, they shall be forfeited.

(3) If any goods are unshipped or landed in contravention of this section, the master and owner of the ship, or the pilot in command and owner of the aircraft, as the case may be, and every person knowingly concerned in such unshipment or landing, shall be severally liable to a fine not exceeding 20 penalty units.

**72. Time of exportation** - For the purposes of this Act the time of exportation of goods shall be deemed to be the time at which the exporting ship leaves the limits of her or his last port of call in Samoa, or at which the exporting aircraft departs from the last Customs airport at which it landed immediately before proceeding to a country outside Samoa.

**73. Prohibited exports** - (1) The Head of State may, by Order, prohibit the exportation of any goods:

- (a) being arms, explosives, or military or naval stores, or being goods which, in the Head of State's opinion, may, if exported, be used as or in the

- manufacture of arms, explosives, or military or naval stores, or for any purpose of war; or
- (b) being goods the prohibition of the exportation of which is, in the Head of State's opinion, necessary for the preservation of the flora or fauna of Samoa; or
  - (c) being goods which have not been prepared or manufactured in accordance with or do not conform to any conditions as to purity, soundness or freedom from disease imposed by any law of Samoa; or
  - (d) being goods the exportation of which would, in the Head of State's opinion, be a source of danger to life or property at sea or in the air; or
  - (e) being goods the prohibition of the exportation of which is, in the Head of State's opinion, necessary in the public interest.
- (2) The powers conferred on the Head of State by subsection (1) of this section extend to authorise the prohibition of the exportation of:
- (a) any specified goods;
  - (b) goods of any specified class or classes;
  - (c) all goods except goods of a specified class or specified classes; and
  - (d) all goods whatsoever (without specification of such goods or of the class or classes to which they belong).
- (3) Any prohibition imposed pursuant to this section:
- (a) may be general; or
  - (b) may be limited to the exportation of goods to any specified place or by or to any specified person or class of persons; or
  - (c) may, whether general or limited, be absolute or conditional.
- (4) Any such conditional prohibition may allow the exportation of goods:
- (a) under the authority of a licence, permit or consent to be granted by the Minister or by any other prescribed person on or subject to such terms or conditions (if any), not inconsistent with the provisions of the prohibition, as may be imposed

by the Minister or person granting the licence, permit or consent; or

(b) on or subject to any other prescribed conditions whatsoever.

(5) All orders and notices in force at the commencement of this Act prohibiting the exportation of any goods, are taken to have been made under this section, and shall continue in force accordingly until revoked.

(6) Every person commits an offence against this section who:

(a) exports, or ships, with intent to export, or conspires with any other person (whether that other person is in Samoa or not) to export, any goods from Samoa, contrary to the terms of any prohibitions in force with respect thereto; or

(b) commits any breach of, or fails in any respect to comply with, any term or condition on or subject to which there has been granted, under any Order made under this section, any licence, permit, or consent; or

(c) knowingly makes any false declaration or statement for the purpose of obtaining any such licence, permit, or consent; or

(d) is knowingly concerned in any exportation, shipment, breach, or non-compliance to which paragraph (a) or paragraph (b) applies.

(7) All goods shipped on board any ship or aircraft for the purpose of being exported contrary to the terms of any such prohibition in force with respect thereto, and all goods waterborne for the purpose of being so shipped and exported, shall be forfeited.

(8) No such prohibition shall apply to goods which are already loaded into the exporting ship or aircraft at the time when the prohibition comes into force.

(9) Any prohibition under this section of the exportation of any goods shall, unless otherwise specified, extend and apply to the shipment of such goods for use as ships' stores.

(10) Any person who commits an offence against this section is liable to a fine not exceeding 50 penalty units or 3 times the value of the goods to which the offence relates, whichever is the greater.

**Division 5 – Departure of Ships and Aircraft**

**74. Clearance of ships and aircraft** - (1) Unless he or she has received from the Comptroller a certificate of clearance in the prescribed form:

- (a) the master of any ship, except a coastal ship, shall not depart with his or her ship from any port; and
- (b) the pilot in command of any aircraft shall not depart with his or her aircraft from any Customs airport for any country outside Samoa.

(2) If any provision of this section is contravened, the master and the owner of the ship, or, as the case may be, the pilot in command and the owner of the aircraft, shall each be guilty of an offence and shall be severally liable to a fine not exceeding 50 penalty units.

(3) If the master of any ship or the pilot in command of any aircraft attempts or threatens to commit an offence against this section, the Comptroller or other proper officer may (in addition to any power of seizure and detention under Part XIII for any offence so committed) seize and detain the ship or aircraft until a certificate of clearance has been obtained, and section 266 (relating to the offence of taking away ships or aircraft seized) shall apply in the same manner as if the ship or aircraft had been seized under Part XIII.

**75. Reports outwards** - (1) Before any certificate of clearance is granted to the master of any ship or the pilot in command of any aircraft, the master or pilot shall:

- (a) deliver to the Comptroller or other proper officer a report outwards in such form and manner, containing such particulars verified by declaration, and with such supporting documents, as may be prescribed; and
- (b) answer all questions asked by the Comptroller or other proper officer relating to the ship or aircraft and passengers, crew, cargo, stores, and intended voyage or journey; and
- (c) produce such other documents as may be required by the Comptroller or other proper officer relating to the ship or aircraft and her or his cargo.

(2) If the report so delivered is false, misleading, or defective in any particular, or if the answer to any such question is false or misleading, or if any document so delivered or produced is not genuine or is false or misleading, the master or pilot commits an offence and is liable to a fine not exceeding 20 penalty units.

**76. Entitlement to clearance** - (1) Subject to the provisions of this and of any other Act, any ship or aircraft shall be entitled to a certificate of clearance when:

- (a) not less than 24 hours have elapsed after application for the clearance has been made to the Comptroller; and
- (b) all inward cargo and stores of the ship or aircraft have been duly accounted for and all the other requirements of the law in regard to the ship or aircraft and her or his inward and outward cargo and stores have been duly complied with.

(2) Nothing in this section shall prevent the Comptroller, if he or she thinks fit, from granting the certificate at any time after application therefor if he or she is satisfied that the provisions of subsection (1)(b) have been duly complied with.

**77. Boarding of outward ships and aircraft** - (1) The master of every ship departing from any port shall, if required to do so by the proper officer, bring his or her ship to at the boarding station appointed for the port, and by all reasonable means facilitate boarding by officers of Customs.

(2) The pilot in command of every aircraft departing from a Customs airport for any country outside Samoa shall, if so required by the Comptroller or other officer, bring the aircraft to the examination station and by all reasonable means facilitate boarding by officers of Customs.

(3) The master of any ship or pilot in command of any aircraft shall not depart with the ship or aircraft from any port or Customs airport with any officer of Customs on board in the discharge of his or her duty, without the consent of that officer.

(4) If the master or pilot acts in contravention of any provision of this section he or she commits an offence and is liable to a fine not exceeding 10 penalty units.

**78. Production of clearance** - (1) The master of every ship and the pilot in command of every aircraft to whom a certificate of clearance has been granted shall, on demand by an officer of Customs, produce the certificate for examination by the officer and answer any questions the officer may put concerning the ship or aircraft and its passengers, crew, cargo, stores, and intended voyage of journey.

(2) If the master or pilot acts in contravention of any provision of this section he or she commits an offence against this Act.

**79. Departure to be from port of entry or Customs airport only** - (1) Except with the prior permission of the Minister, no ship shall:

- (a) depart for any country outside Samoa from any place in Samoa other than a port of entry, save after being driven there by accident, stress of weather, or other necessity; or
- (b) having cleared from any place in Samoa for any country outside Samoa, go to any place in Samoa other than a port of entry, unless driven there by accident, stress of weather, or other necessity.

(2) Except with the prior permission of the Minister, given with the concurrence of the Minister of Civil Aviation, no aircraft shall:

- (a) depart from any place in Samoa, other than a Customs airport, for any country outside Samoa; or
- (b) having obtained a certificate of clearance at any Customs airport in Samoa, land at any place in Samoa other than a Customs airport.

(3) Nothing in subsection (2)(b) shall apply in relation to any aircraft flying to any country outside Samoa if the aircraft is required under or by virtue of any enactment relating to air navigation, or is compelled by accident, stress of weather, or other necessity, to land at a place other than a Customs airport. Where any such aircraft is so required or compelled to land, the provisions of subsections (2) to (6) of section 39 shall apply.

(4) If any provision of this section, or of subsections (2) to (5) of section 39 (as applied by this section), is contravened, the master and the owner of the ship or, as the case may be, the pilot in command and the owner of the aircraft are each guilty of an



offence and are severally liable to a fine not exceeding 20 penalty units.

**Division 6 – Stores for Ships and Aircraft**

**80. Stores exempt from duty** - (1) Subject to any prescribed restrictions, such an allowance of stores as the Comptroller thinks adequate for the passengers and crew and the service of every ship or aircraft about to depart (whether directly or otherwise) for any country outside Samoa may be shipped free of duty on entry for export under section 55 or from any warehouse or under drawback of duty.

(2) Such stores shall be shipped pursuant only to an order of the Comptroller on request made in the prescribed form and manner by the master or owner of the ship or the pilot in command or owner of the aircraft.

(3) On the issue of any such order in respect of warehoused goods, the stores therein mentioned shall be forthwith shipped in pursuance of the order in the same manner as if they had been entered for export, and all the provisions of this Act as to warehoused goods entered or shipped for export, so far as they are applicable, shall apply thereto accordingly.

(4) On the issue of any such order in respect of goods to be shipped under drawback, the goods shall be forthwith entered in the prescribed form and manner for shipment as ships' stores under drawback, and, save so far as is otherwise prescribed, all the provisions of this Act relating to drawbacks, so far as they are applicable, shall apply thereto accordingly as if the goods were for export and as if the master or owner of the ship or the pilot in command or owner of the aircraft, as the case may be, was the exporter.

(5) Without limiting the power to make regulations conferred by section 279, regulations may be made under that section:

- (a) determining what classes of goods are, or are not, to be deemed stores within the meaning of this section;
- (b) extending the provisions of this section, subject to such restrictions and conditions as are deemed necessary, to ships departing from Samoa and returning thereto without going to countries outside Samoa.

**81. Stores subject to duty** - (1) If any ship or aircraft not being entitled to receive stores free of duty under section 80 leaves any port of entry or Customs airport having on board dutiable stores shipped under the authority of that section or loaded elsewhere than in Samoa, duty shall be payable on those stores as if imported and entered for home consumption so far as they are consumed at any place, or in the course of any voyage or journey between any 2 places, within the territorial limits of Samoa at any time before the ship or aircraft becomes entitled under section 80 to receive stores free of duty.

(2) Entries shall be made and passed and duty paid on such stores in the prescribed manner and at the prescribed time.

(3) The owner and master of the ship or the owner and pilot in command of the aircraft, as the case may be, shall be deemed to be the importers of such stores.

(4) Any ship or aircraft to which this section relates shall not be entitled to a certificate of clearance at any port of Customs airport until duty under this section has been paid.

## **PART V WAREHOUSES**

### **Division 1 – Licensed Warehouses**

**82. Licensing of warehouses** - (1) Any place of security for the deposit, keeping, and securing of dutiable goods without payment of duty thereon may be licensed under this Act:

- (a) as a warehouse for the warehousing of dutiable goods generally;
  - (b) as a warehouse for the warehousing of such class or classes of dutiable goods as may be specified in the licence; or
  - (c) as a manufacturing warehouse in which dutiable goods may be warehoused for use in such manufacture or processing of goods as is permitted by this Act or by regulations to be carried on in manufacturing warehouses.
- (2) Any 2 or more places of security may be licensed as 1 warehouse.
- (3) Any such warehouse may be situated in any port or outside the limits of any port.

**83. Application for licence** - (1) A person who desires to obtain a licence for a warehouse shall make application therefor to the Comptroller.

(2) The application shall be made by the occupier of the premises to which it relates.

**84. Security for warehouse** - (1) Before any licence for a warehouse is granted, the applicant therefor shall, if the Comptroller so requires, give such security as the Comptroller approves, and in such sum as he or she requires, for the payment of all duties which may become payable by the licensee under this Act in respect of any goods warehoused in that warehouse.

(2) The Comptroller may at any time require specified security to be given by any such licensee in substitution for any security theretofore given by him or her, and may cancel the last mentioned security accordingly.

(3) If any licensee fails or refuses to give any security required under this section, his or her licence may be cancelled by the Minister by notice published in a newspaper circulating in Samoa.

**85. Grant of licence** - On receipt through the Comptroller of an application from the occupier of any warehouse, the Minister, in the Minister's discretion, may grant to the occupier a licence for the warehouse, subject to section 84 and to such conditions as the Minister may direct, or may refuse the application.

**86. Harbour, etc., authorities may hold licences** - Despite anything in any Act to the contrary, any harbour, port, airport, or public authority having the control or management of any harbour, port, or airport may receive and hold a licence under this Act in respect of any warehouse in the occupation of that authority, and shall as the licensee thereof be subject to the same provisions, obligations, and liabilities as any other licensee under this Act.

**87. Licence fees** - (1) There shall be payable by the licensee of a warehouse an annual licence fee.

(2) The annual licence fee shall consist of:

- (a) a sum computed on the basis of the cubic contents of the warehouse or otherwise in accordance with the scales set out in the Second Schedule; and

- (b) in the case of a warehouse which, in the opinion of the Minister, on account of its distance from the Customhouse or for any other reason, requires supervision involving unusual expenditure, an additional sum to be determined by the Minister, not exceeding in any case \$1000 a year; and
  - (c) in the case of any warehouse, if the Minister so determines, an additional sum, to be fixed by the Minister, sufficient to cover the reasonable expenses incurred by the supervising officer in travelling between his or her office or station and the warehouse.
- (3) The measurement of the cubic contents of any warehouse shall be in accordance with the regulations.
- (4) Every such licence fee shall be due and payable in advance on the 5th day of January in each year.
- (5) On the first grant of a licence a proportionate part of the proper annual licence fee, for the period lapsing between the time at which the licence takes effect and the 5th day of January next succeeding, shall be due and payable by the licensee.
- (6) On the cancellation, termination or surrender of any licence, the licensee shall be entitled to a refund or remission of a proportionate part of the licence fee for the current year of the licence, calculated from the date of such cancellation, termination or surrender to the end of that year. Any such refund shall be charged on the Treasury Fund and be statutory expenditure, and may be paid accordingly.

**88. Termination of licence** - A licence for a warehouse shall be terminable by the Minister by not less than 3 months' notice in writing to the licensee.

**89. Cancellation of licence** - Any licence for a warehouse may be cancelled by the Minister at any time by notice published in a newspaper circulating in Samoa:

- (a) if any licence fee payable in respect of the warehouse is in arrear and unpaid for 1 month after the due date thereof; or
- (b) if the licensee is convicted of any offence against the Customs Acts; or

- (c) if the warehouse becomes, in the opinion of the Minister, unfit for the purpose for which it was licensed; or
- (d) if the licensee becomes bankrupt or insolvent; or
- (e) if the warehouse ceases to be in the occupation of the licensee.

**90. Transfer of licence** - The licence for a warehouse may be transferred by the licensee, with the consent of the Minister, but not otherwise, to any successor of the licensee in the occupation of the warehouse.

**91. Surrender of licence** - A licence for a warehouse may be surrendered at any time by the licensee by 1 month's notice in writing to the Comptroller.

**92. Closing of warehouse** - On the termination, cancellation or surrender of the licence for any warehouse, or on any warehouse otherwise ceasing to be licensed under this Act, the warehouse shall be closed, and all goods therein which are subject to the control of the Customs shall be removed to some other warehouse by the owner of the goods, or be exported or entered for home consumption, or be otherwise dealt with as the Comptroller may permit.

**93. Restrictions on use of manufacturing warehouses** - The use of a manufacturing warehouse for the purpose of manufacture shall be subject to such conditions, restrictions or exceptions as are prescribed by regulations or by the licence for that warehouse or by the directions of the Comptroller.

**94. Structural alterations of warehouse** - (1) No structural additions to or structural alterations of any warehouse and no new means of access or egress into or out of any warehouse shall be made without the written permission of the Comptroller.

(2) If any provision of this section is contravened the licensee commits an offence and is liable to a fine not exceeding 20 penalty units.

## **Division 2 – Warehousing of Goods**

**95. Entry for warehousing** - When any imported goods have been entered for warehousing the importer shall forthwith warehouse them in accordance with the entry, without payment of duty in the first instance, except where otherwise provided in this Act.

**96. Account of warehoused goods** - (1) Upon the entry of any goods to be warehoused, the proper officer shall take an account of the goods in such manner and at such time and place as may be prescribed.

(2) Except where otherwise provided in this Act, the account so taken shall be that upon which all duties payable on those goods shall be ascertained and paid.

**97. Receipt for warehoused goods** - When any goods entered for warehousing have been duly deposited in the warehouse the licensee shall sign a receipt for them in the prescribed form.

**98. Removal of goods to warehouse by Comptroller** - If any goods entered to be warehoused are not forthwith warehoused accordingly by the importer, the Comptroller may remove them to a warehouse.

**99. Packing of warehoused goods** - Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported, except goods repacked or skipped on a wharf with the permission of the Comptroller.

**100. Repacking of warehoused goods** - (1) The Comptroller may, as prescribed by regulations, permit the importer to sort, bottle, pack or repack goods in any warehouse.

(2) In every such case a fresh account of the goods so dealt with shall be taken by the proper officer, and shall be substituted for the original account.

**101. Duties of licensee** - (1) The licensee of every warehouse shall:

- (a) stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times;

- (b) provide sufficient lights and just scales and weights for the use of the officers of Customs; and
- (c) provide all labour and materials requisite for the storing, examining, packing, marking, cooperating, weighing and taking stock of the warehoused goods whenever the Comptroller may desire.

(2) Every licensee who fails to comply with any provision of this section commits an offence and is liable to a fine not exceeding 1 penalty unit for every day during which the offence continues.

**102. Access of officers of Customs to warehouse** - The Comptroller and other proper officers shall at all hours of the day and night have access to every part of any warehouse and power to examine the goods therein, and may for that purpose break open the warehouse or any premises necessary to be passed through for obtaining access thereto.

**103. Restriction on right of warehousing** - Without limiting the power to make regulations conferred by section 279, regulations may be made under that section:

- (a) prescribing, in respect of any class of goods, the minimum quantity which may be entered for warehousing or cleared from a warehouse; and
- (b) prohibiting or imposing restrictions or conditions on the warehousing of dangerous goods or of goods or classes of goods in respect of which any such prohibition, restriction or condition is deemed necessary for any reason.

**104. Sale of goods on which warehouse dues in arrear** - If the warehouse dues on any warehoused goods are in arrear for 6 months or more, the goods may be sold by the Comptroller; but in the case of a licensed warehouse this power of sale shall not be exercised except at the request of the licensee.

**105. Goods not to be removed without permission** - (1) Except as provided by this Act, no goods which are subject to the control of the Customs shall be removed from any warehouse except:

(a) with the permission of the proper officer of Customs after entry has been made and passed in respect thereof; or

(b) in pursuance of a written permit granted by the Comptroller in respect thereof.

(2) Every person who acts in contravention of this section commits an offence and is liable to a fine not exceeding 10 penalty units or 3 times the value of the goods in respect of which the offence is committed, whichever sum is the greater.

(3) Any goods removed in contravention of this section shall be forfeited.

**106. Temporary removal of warehoused goods - (1)**

Subject to any regulations, the Comptroller may permit the taking of warehoused goods out of the warehouse without payment of duty for any temporary purpose, for such convenient time and in such suitable quantities as the Comptroller may approve, if sufficient security is taken for the return of the goods and payment of duty thereon.

(2) So long as any goods so removed remain subject to the control of the Customs they shall be deemed to be constructively warehoused in the warehouse from which they were so removed, and all the provisions of this Act shall continue to apply thereto accordingly.

**107. Liability of licensee for duty on missing goods - (1)**

In this section the term "licensee" includes any person who was the licensee of the warehouse at any time between the warehousing of the goods and the payment of the duties thereon, and all such persons shall be jointly and severally liable accordingly.

(2) If any dutiable goods are moved from a warehouse by any person without the authority of the proper officer of Customs, or, if any dutiable goods, after being warehoused, are not produced by the licensee to the Comptroller or other proper officer on demand made at the warehouse, and are not accounted for as having been lawfully delivered from the warehouse, duty shall thereupon become due and payable on those goods as if entered for home consumption.

(3) The duty shall constitute a debt due to the Government by the licensee and the importer, who shall be jointly and severally



liable therefor, subject, however, to the provisions of this Act as to refunds and remissions of duty.

### **Division 3 – Clearance of Warehoused Goods**

**108. Kinds of entry of warehoused goods** - Warehoused goods may at any time be entered by the importer in the prescribed manner:

- (a) for home consumption; or
- (b) for export; or
- (c) for removal for warehousing elsewhere.

**109. Entry for home consumption** - When entry for home consumption has been made in respect of any warehoused goods the person making the entry shall forthwith pay to the Comptroller or other proper officer the duties, if any, payable thereon.

**110. Entry for export** - When any warehoused goods have been entered for export the person making the entry shall forthwith export the goods to a country outside Samoa in accordance with the entry and with the provisions of this Act relating to the exportation of goods.

**111. Entry for removal** - (1) When any warehoused goods have been entered for removal for warehousing at any other warehouse (either at the same or any other port or place) they shall forthwith be removed in accordance with the entry, subject to such conditions as may be prescribed, and with such security for their transmission and for the payment of the duty thereon as the Comptroller requires.

(2) On the arrival of the goods at the port or place of destination they shall be entered and warehoused in accordance with the entry for removal in the same manner and subject to the same provisions, so far as they are applicable, as in the case of the entry and warehousing of goods on the first importation thereof.

(3) Despite anything in section 65(5), warehoused goods so removed may, with the permission of the Collector, be placed directly in a warehouse on their arrival at the port or place of destination.

**112. Constructive warehousing** - If, after any goods have been entered for warehousing either on importation or removal, and before they have been actually warehoused, they are entered for home consumption, exportation or removal, they shall be considered as constructively warehoused and may be delivered for home consumption, exportation or removal as if actually warehoused.

**113. Re-warehousing** - (1) When any goods have remained warehoused for 3 years (whether in the same or in different warehouses) the owner of them shall thereupon either:

- (a) enter them for home consumption; or
- (b) enter them for export; or
- (c) rewarehouse them.

(2) No goods shall be rewarehoused without the permission of the Comptroller or other proper officer.

(3) Rewarehousing shall be effected as follows:

- (a) an application for rewarehousing shall be made by the owner to the Comptroller;
- (b) the goods shall be examined by the Customs at the expense of the applicant;
- (c) duty shall, subject to the provisions of this Act as to remission of duty, be paid on any goods found deficient;
- (d) a rewarehousing entry shall be made in the prescribed form for the goods according to the result of the examination; and
- (e) on the passing of the entry a fresh account shall be substituted for the last account, and this shall complete the rewarehousing.

(4) When any goods have been rewarehoused this section shall thereafter apply to them as if they had been then warehoused for the first time.

(5) If in respect of any goods the owner acts in contravention of any provision of this section, duty shall forthwith become due and payable on those goods as if entered for home consumption, and they may be sold by the Comptroller.

(6) In the application of this section to goods already warehoused at the commencement of this Act, the period during which they have been warehoused before the commencement of this Act shall be included in computing the period of 3 years.

#### **Division 4 – Government Warehouses**

**114. Government warehouses** - (1) The Minister may, by notice in the Gazette, declare any building or other place in the occupation of the Government and lawfully available for such use to be a Government warehouse for the purposes of this Act.

(2) The Minister may in like manner declare that any Government warehouse shall no longer continue to be such.

**115. Charges in Government warehouses** - Charges shall be made and payable in respect of goods warehoused in any Government warehouse according to the prescribed scale.

**116. Duration of warehousing in Government warehouses** - If any goods warehoused in a Government warehouse are not lawfully removed within 12 months or such other period after warehousing may be prescribed, duty shall become due and payable thereon as if entered for home consumption, and the goods may be sold by the Comptroller.

**117. Application of provisions as to licensed warehouses** - Government warehouses shall be wholly under the control of the Customs, and shall be specially available for the examination of goods and the storage of seized and unclaimed goods; but otherwise all the provisions of this Act relating to warehouses, so far as they are practicable, shall apply to Government warehouses.

#### **Division 5 – Special Provisions as to Manufacturing Warehouses**

**118. Licensing of manufacturing warehouses** - The Minister may license any building or part of a building (whether situated in a port of entry or elsewhere) as a manufacturing warehouse under this Act in which warehoused goods under the control of the Customs may be utilised in the manufacture of any article in which spirit is a necessary ingredient, or in the manufacture of any other goods which are permitted by regulations under this Act to be produced in a manufacturing warehouse.

**119. Provisions as to licensed warehouses to be applicable** - Save so far as in this Act expressly provided, all the provisions

of this Act relating to warehouses shall apply to manufacturing warehouses.

**120. Penalties for wrongful use of manufacturing warehouse** - If the licensee of any manufacturing warehouse acts in contravention of any provision of any regulation made in relation thereto, or of any provision of his or her licence or of the directions of the Comptroller, he or she commits an offence and is liable to a fine not exceeding 20 penalty units.

## **PART VI DUTIES**

### **Division 1 – Import Duties**

**121. Imposition of import duties** - Subject to the other provisions of this Act, Customs import duties shall be levied, collected and paid in accordance with the Customs Tariff, on all goods imported into Samoa or entered therein for home consumption after the commencement of this Act.

### **Division 2 – Duties of Excise**

**122. Imposition of duties on goods produced in manufacturing warehouses** - (1) In respect of all goods manufactured in a manufacturing warehouse there shall be levied, collected, and paid the same duties, if any, as if the goods had been imported goods.

(2) When the duty applicable to any goods pursuant to subsection (1) is an *ad valorem* duty, the value of goods for the purposes of such duty shall be determined in the prescribed manner.

(3) This section shall apply to all goods entered for home consumption after the commencement of this Act, although manufactured before its commencement.

### **Division 3 – Valuation of Goods**

**123. Value for duty** - (1) The means for which the value of goods is to be determined for the purposes of the Customs Tariff shall be prescribed by regulations.

(2) The normal price of any 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; and
- (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 Samoa.

(3) Despite anything in subsection (1), where for the purposes of any entry the value of any goods for purposes of duty is required to be shown or declared, that amount shall be shown or declared, if it is not a whole number of tala, at the nearest tala, and, if it is a number of tala and 50 sene exactly, at the tala next below the amount.

(4) If it is proved to the satisfaction of the Collector that any drawback of import duty or excise duty has been paid or allowed on any parts, materials or ingredients used in making any goods or that any import duty or excise duty has been actually paid on the goods in the country from which they were exported or would have been payable on them in the country if they had been there entered for home consumption instead of being exported therefrom, the amount of that duty or drawback shall be deducted from the value of the goods for purposes of duty as determined in accordance with the foregoing provisions of this section.

**124. “Invoice” defined** - In this Act the term “invoice” means in relation to any imported goods, the original invoices, bills of lading, bills of parcels, policies of insurance, letters and other documents showing the value of the goods at the place at which they were purchased, together with the freight, insurance and other charges on the goods.

**125. Production of invoice and declaration** - (1) On the first entry (other than an entry for removal) of any goods, the importer or the importer’s agent shall produce to the Comptroller or other proper officer the invoice (as defined in section 124) for those goods, and make, and deliver to the Comptroller or other proper officer, a declaration in the prescribed form verifying that invoice,

and setting out the true value for duty purposes of the goods and such other particulars as may be prescribed.

(2) Unless the Comptroller otherwise directs in relation to any class or classes of goods or transactions, the Comptroller or other proper officer shall retain the invoice so produced, or a legible copy thereof made by carbon or other duplicating process by or on behalf of the seller or consignor of the goods.

(3) If any failure to produce the invoice as required by this section is accounted for to the satisfaction of the Comptroller or other proper officer, proof of its contents by a copy or otherwise may be received in lieu of its production.

**126. Blank invoices** - If any person has in his or her possession, without reasonable excuse, any blank or partly blank invoice forms, capable of being filled up and used as an invoice in such manner as to be likely to deceive any officer of the Customs, he or she commits an offence and is liable to a fine not exceeding 20 penalty units.

**127. Valuation of goods by Comptroller** - (1) Subject to the provisions of this section, the amount of the invoice may be accepted by the Comptroller as sufficient proof of the value of the goods for purposes of duty, and the Comptroller may value the goods and assess the duty accordingly.

(2) If the importer satisfies the Comptroller that the value of the goods for purposes of duty is less than the value as shown by the invoice, the Comptroller shall value the goods at the lower sum accordingly, and shall assess the duty on that value.

(3) If the Comptroller has reason to suspect that the value of the goods for purpose of duty is higher than the amount of the invoice, the Comptroller may value the goods at such higher sum as the Comptroller thinks proper, and assess the duty accordingly.

(4) Every valuation made by the Comptroller under this Part (whether in accordance with the invoice or not) shall be taken to be correct, and duty shall be payable in accordance therewith, unless, on appeal to the Minister under section 128, or in proceedings taken under this Act in a Court of competent jurisdiction, a different amount is proved to be the correct value of the goods for the purpose of ad valorem duty.

**128. Appeal to Minister from valuation** - (1) From any valuation made by the Comptroller under this Part (whether in accordance with the invoice or not) the importer may, if he or she thinks fit, appeal to the Minister.

(2) Notice of appeal under this section shall be given in writing to the Comptroller within 14 days after the assessment of duty, or within such further time as may be allowed by the Comptroller, and while the goods still remain subject to the control of the Customs.

(3) On any such appeal the Minister shall, by himself or herself or his or her lawful delegate, after giving a reasonable opportunity to the appellant to be heard, determine the true value of the goods for purposes of duty, and the Minister's decision on all questions of fact shall be final, except in the case of fraud.

(4) The Minister may delegate the power of hearing and determining any such appeal to any person or persons, whether officers of the Customs or not, but otherwise all the provisions of this Act as to the delegation of powers by the Minister shall apply to any delegation under this section.

(5) On any such appeal the burden of proving the true value of the goods shall be upon the appellant.

(6) If any such appeal is unsuccessful, the reasonable costs incurred by the Customs in the appeal as fixed by the Minister or the Minister's delegate, in accordance with regulations (if any) made in that behalf, shall be added to the duty, and shall be paid by the appellant accordingly.

(7) If any such appeal is successful the reasonable costs incurred by the appellant in the appeal as fixed by the Minister or the Minister's delegate, in accordance with regulations (if any) made in that behalf, shall be refunded to the appellant, out of money appropriated by Parliament for that purpose.

(8) If no appeal is so made to the Minister, the other provisions of this Act as to the recovery and refund of duty shall apply as if no such right of appeal had existed.

**129. Invoices in foreign currency** - If the invoice shows the value of goods in any currency other than that in force in Samoa the value in Samoa currency shall be ascertained according to the rate of exchange fixed by the Head of State by notice published in the Gazette under section 4 of the Currency and Exchange Control Ordinance 1961, and if not so fixed then as declared by

the Minister. In any such case the Minister may fix the rate of exchange by reference to the current selling rate of the Bank of Samoa.

**130. Country of export where goods pass through intermediate country** - (1) Goods exported to Samoa from any country but passing through another country on their voyage to Samoa (whether transhipped in that other country or not) shall be valued for duty as if they were imported directly from the first-mentioned country.

(2) The determination of the Comptroller as to the true country of export in any such case shall in every Court or judicial proceeding be taken to be correct unless the contrary is proved.

**131.** *Repealed by section 5 of the Appropriation Act 1983.*

**132.** *Repealed by section 2 of the Customs Amendment Act 2010, No. 2.*

**133. Government's right of compulsory purchase** - (1) For the protection of the revenue against the undervaluation of goods subject to ad valorem duty, any goods of which entry is made may, at any time while they remain subject to the control of the Customs, be taken by the Government at a price equal to their declared value for duty purposes, with the addition of such charges for other matters incidental to their importation as the Comptroller thinks reasonable, and with the addition of any duties already paid thereon.

(2) The aforesaid right of taking goods shall be exercised only by the Minister, and the taking of the goods shall be deemed to have been effected as soon as a warrant for their taking has been signed by the Minister.

(3) On the signing of the warrant the goods shall become the property of the Government, and shall be sold by the Comptroller, and the proceeds of such sale shall be accounted for as Customs revenue.

(4) The price payable by the Government for the goods so taken shall be charged on the Treasury Fund and be statutory expenditure, and may be paid accordingly to the person making the entry.



(5) This section shall not be so construed as to restrict or take away any other powers possessed by the Customs in respect of the goods or any liability of the importer or any other person in respect of any offence committed in respect of the goods.

#### **Division 4 – Origin of Imported Goods**

**134. Provisions for determining country of origin -** (1) Without limiting the power to make regulations conferred by section 279, the Head of State may, by Order, make regulations prescribing:

- (a) the classes of goods that are deemed for the purposes of the Customs Acts to be the produce or manufacture of any country; and
- (b) the conditions to be fulfilled before any goods are deemed to be the produce or manufacture of any particular country.

(2) In respect of fish, whales, or other natural produce of the sea, or goods produced or manufactured wholly or partly therefrom at sea, anything done by or on board a ship belonging to any country shall be deemed for the purposes of this Act to have been done in that country, and any such produce of the sea or goods so produced or manufactured therefrom at sea, if brought direct to Samoa, shall be deemed to be imported into Samoa from that country.

(3) If any question arises as to the country to which any ship belongs for the purposes of subsection (2), the question shall be determined by the Minister, whose decision shall be final.

**135. Importer to state country of origin on entry -** On making entry of any goods the importer or the importer's agent shall state to the best of his or her knowledge, information, and belief the country of which the goods are the produce or manufacture, and shall satisfy the Collector of the truth of such statement, by declaration or otherwise, in the prescribed form.

**136. Conditions precedent to entry of goods at preferential rates -** (1) Despite anything in section 121 or section 122 or elsewhere in the Customs Acts, the duty (if any) payable under the Customs Tariff shall be paid on all goods imported into

Samoa or entered therein for home consumption unless the following provisions of this section are complied with.

(2) Where it is claimed in respect of any goods that they are entitled under this Act or any other Act or authority to be entered free of duty or at any rate of duty lower than that set forth in the Customs Tariff in respect of such goods, they shall not be so entered unless, in verification of such claim, there is produced to the Collector, in addition to an invoice of the goods, a certificate of origin thereof in the prescribed form, signed by the supplier or consignor.

(3) No such invoice as is referred to in subsection (2) shall relate to any goods other than those to which the certificate mentioned therein refers.

(4) The certificate referred to in subsection (2) in respect of any goods shall be produced to the Collector at the time of making entry for those goods, or within such period thereafter as the Collector may allow.

(5) An extension of time under subsection (4) shall be granted on such conditions as to security for payment of duty, or as to payment of penalties, or otherwise, as may be prescribed, and on such further conditions (if any) as the Minister may in any case direct.

(6) In the case of goods sent by post or by airfreight or in such other cases (if any) as may be prescribed, or with the consent of the Minister in any other case, the Collector may dispense with any certificate required by this section if evidence, satisfactory to the Collector, is produced that the goods, if entered free of duty or at any rate of duty lower than that set forth in the Customs Tariff in respect of such goods, are entitled to be so entered pursuant to this Act.

### **137. Goods subject to forfeiture in case of false declaration**

- If the Collector has reason to believe that any goods referred to in any statement, declaration, invoice, or certificate under section 135 or section 136 are not the produce or manufacture of the country mentioned in the statement, declaration, invoice or certificate, the Collector may detain them for examination; and if the statement, declaration, invoice, or certificate is false the goods shall be forfeited.

## **Division 5 – Assessment and Recovery of Duty**

**138. Duty on imported goods a Government debt -** (1) The duty on any imported goods shall, immediately on their importation, constitute a debt owing to the Government.

(2) Such debt shall be owing by the importer of the goods, and, if there are several importers (whether at or at any time after the time of importation), then jointly and severally by all of them.

(3) Subject to any special provisions made by this Act in that behalf, such debt shall become due and payable so soon as entry of the goods for home consumption has been made, or the goods have been wrongfully landed or otherwise wrongfully dealt with without having been entered for home consumption, or any other offence against this Act has been committed in respect of them.

(4) Such debt shall be recoverable by action at the suit of the Comptroller, on behalf of the Government.

(5) The right to recover duty as a debt due to the Government shall not be affected by the fact that the goods have ceased to be subject to the control of the Customs, or that a bond or other security has been given for the payment of duty, or that no proper assessment of duty has been made in due course under this Act, or that a deficient assessment of duty has been made.

**139. Duty on goods produced in manufacturing warehouse a Government debt -** (1) The duty on any goods manufactured in a manufacturing warehouse shall immediately on their manufacture, constitute a debt owing to the Government.

(2) Such debt shall be owing by the person who is the licensee of the warehouse at the time when the goods are manufactured, and by a person who thereafter becomes the licensee of that warehouse or the owner of the goods at any time before the duty has been fully paid; and all such persons shall be jointly and severally liable for the duty.

(3) Section 138(3), (4) and (5) shall extend and apply to the duty referred to in this section.

**140. Duty a charge on goods -** (1) The duty on any goods shall constitute a charge on those goods until fully paid.

(2) If any duty so charged on any goods is due and unpaid, the Comptroller may take possession of the goods, and sell the same or any part thereof in satisfaction or part satisfaction of the charge.

**141. Delivery of goods subject to duty** - (1) Except as otherwise provided in this Act, or in such cases as may be approved by the Comptroller, and subject to such securities as the Comptroller may require, no person shall be entitled to obtain delivery of any goods from the control of Customs until the sum demanded by the Comptroller or other proper officer of Customs by way of duty on goods has been paid in full.

(2) No action or other proceeding shall be instituted against the Government or the Minister or any officer of Customs in respect of the detention of any such goods during any period before the payment of the full sum so demanded.

(3) In any case where the Minister considers that undue hardship would result from the payment of duty as required by this section, the Minister may, subject to such conditions as the Minister may think fit to impose, direct the Comptroller to deliver the goods from Customs control and to accept payment of duty by installments over a specified period.

**142. Payment of duty by 1 person not to affect liability of other persons** - The liability of any person under any provision of this Act for the payment of duty on any goods shall not be extinguished or affected by the payment of the duty by any other person who may be liable for it under any other provision, whether or not the duty so paid has been refunded.

**143. Incidence of altered duties** - (1) In this section the term "alteration of the law" includes any variation which in any manner takes place at any time or periodically in the liability of goods to duty or in the rate of duty to which they are liable.

(2) In the case of any alteration in the law relating to the liability of any goods to duty or the rate of duty to which any goods are liable, such liability or rate shall, except where otherwise expressly provided, be determined:

(a) in the case of goods warehoused or goods produced in a manufacturing warehouse (whether before or after such alteration in the law) by the law in force at the time when the goods are entered for home consumption.

(b) in the case of all other goods, by the law in force at the time of importation or by the law in force at the time at which the goods are thereafter entered

for home consumption, whichever is the more favorable to the importer.

**144. Effect of alteration of duties on agreements of sale -**

(1) If, after any agreement is made, whether in Samoa or elsewhere, for the sale of goods, any alteration takes place in the law relating to the liability of the goods to duty or in the rate or amount of duty, then, in the absence of express written provision to the contrary, the agreement shall be deemed to be modified as follows:

- (a) if the alteration is a new or increased duty, the seller, after payment thereof, may add to the agreed price the difference between the amount of duty that he or she would have paid had the alteration not been made and the amount of duty actually paid;
- (b) if the alteration is a reduction of duty, the buyer may deduct from the agreed price the difference between the amount of duty which the seller would have paid had the alteration not been made and the amount of duty actually paid;
- (c) if the alteration is the abolition of duty, the buyer may deduct from the agreed price the duty which the seller would have paid had the alteration not been made.

(2) When any such alteration of duties takes place so as to operate retrospectively from any date this section shall also apply retrospectively in like manner as from the same date.

(3) Any money paid by a buyer to a seller in excess of the amount payable under this section may be recovered from the seller as money paid by mistake, whether the error was 1 of fact or law.

(4) This section shall extend and apply to any alteration of the Customs Tariff by authority of the Head of State or by any other lawful authority.

**145. Assessment of duty in particular cases -** (1) When duties are imposed according to a specified quantity, weight, size or value, the duties shall be charged proportionately on any greater or smaller quantity, weight, size or value.

(2) Whenever goods are imported in packages purporting or reputed to be of a size, weight or quantity greater than their actual size, weight or quantity, duty shall be assessed and payable according to such first-mentioned, size, weight and quantity.

(3) Subject to the provisions of the Customs Tariff, for the purposes of assessing duty on spirits:

(a) the strength of any spirits shall be ascertained in the prescribed manner; and

(b) if on entry for home consumption it is so ascertained that the strength of any spirits has increased or diminished by natural process of change while they were subject to the control of the Customs, duty shall be payable in accordance with the strength as so increased or diminished.

**146. Alteration of goods** - In such cases and under such conditions and restrictions as may be permitted by the Comptroller, imported goods may be so altered as to fall under another heading of the Customs Tariff, and the liability of such goods to duty shall be determined accordingly, and a refund or remission of duty shall be made or allowed as the case may require, and a refund if required shall be charged on the Treasury Fund and be statutory expenditure.

**147. Minimum duty collectable** - Without limiting the power to make regulations conferred by section 279, regulations made under that section may prescribe the minimum amount of duty that need be collected on any goods; and any goods on which the duty if assessed under this Act would be less than the minimum so prescribed may, if the Comptroller thinks fit, be admitted free of duty.

**148. Essences and other preparations** - (1) Duty shall be charged on all essences, condensations, concentrations or preparations of dutiable goods according to the quantity or equivalent of dutiable goods into which such essences, condensations, concentrations or preparations can be converted pursuant to a standard to be prescribed.

(2) In default of any such prescription, or so far as it does not extend, duty shall be chargeable as if this section was not in force.

**149. Reimportation of products of Samoa or duty paid samples** - Goods being the produce or manufacture of Samoa, or samples of duty-paid goods sent out of Samoa, may, in such cases and subject to such conditions as may be prescribed, be reimported or brought back to Samoa without payment of duty.

**150. Reimportation of goods temporarily exported** - In such cases, and under such conditions as may be prescribed, goods temporarily exported from Samoa for the purpose of repair or for any other prescribed purpose may, on reimportation into Samoa at any time within 5 years after the exportation thereof, be admitted either free of duty or at such duty as is determined by the Minister, not exceeding the duty which would be payable thereon if imported for the first time.

**151. Duty on goods of Government** - This Act shall bind the Government.

**152. Power of Head of State to suspend excise duties on goods supplied to certain organisations and their members** -

(1) The Head of State may, by order, suspend any excise duty in respect of any goods or classes of goods manufactured in Samoa and:

- (a) supplied solely for the use of such organisations, expeditions or other bodies as may be approved by the Minister and as may be established or temporarily based in Samoa consequent on any agreement or arrangement entered into by or on behalf of the Government with the Government of any other country or with any international or Commonwealth organisation or agency; or
- (b) supplied solely for the use of persons temporarily resident in Samoa for the purpose of serving as members of any such approved organisation, expedition or other body.

(2) In respect of any goods or class of goods to which any order made for the purposes of this section relates, the Comptroller may at any time impose such conditions as he or she thinks fit.

**153. Samples of goods under control of Customs** - Small samples of the bulk of any goods subject to the control of the Customs may, subject to such conditions as may be prescribed, be delivered free of duty.

**154. Duties on wrecked goods** - (1) Subject to the provisions of any law in force relating to shipping and seamen or the control of harbours or ports or the territorial waters of Samoa, all goods derelict, flotsam, or jetsam, or landed, saved, or coming ashore from any wreck, shall be chargeable with duty as if imported in the ordinary course, and entry thereof shall be forthwith made at the nearest port by the owner or person entitled thereto or having possession thereof; and all the provisions of this Act, so far as they are applicable, shall apply accordingly.

(2) If default is made in making such entry, duty shall become due and payable in the same manner as if the goods had been entered for home consumption.

**155. Liability of owners of ships or aircraft for duty on missing goods** - (1) If any cargo or ship's stores are smuggled into or unlawfully landed in Samoa from any ship or aircraft, being within the territorial limits of Samoa or elsewhere, the owner and master of the ship or the owner and the pilot in command of the aircraft, as the case may be, shall (in addition to the liability of any other person) be jointly and severally liable for the payment of the duty on such cargo or stores, as if imported by them and entered for home consumption.

(2) The Comptroller may demand from the owner or master of any ship, or the owner or pilot in command of any aircraft, at any port payment of any sum which he or she believes or suspects to be owing under subsection (1).

(3) So long as any sum so demanded by the Comptroller remains unpaid, the ship or aircraft shall not be entitled to a certificate of clearance.

(4) In all proceedings for the recovery of duty under this section, or for a refund of duty paid under this section, the sum so demanded by the Comptroller shall be presumed to be due and payable until the contrary is proved.

## **Division 6 – Refunds and Remissions of Duty**



**156. Proceedings for refund of duty paid in error -** (1) At any time within 1 year after the payment of any sum by way of duty the person by whom payment was so made may institute proceedings against the Comptroller for a refund of such duty or of any part thereof, on the ground that the duty was not lawfully chargeable or was charged in excess, and whether the error alleged is one of fact or of law.

(2) Nothing in this section shall be so construed as to entitle any person to take proceedings for a refund of duty on any ground on which the determination of the Comptroller, or the Minister, is made final by this Act.

**157. Comptroller may refund duty paid in error -** (1) If it is held in such proceedings, or if the Comptroller is otherwise satisfied on application made within 3 years of payment of any duty, that duty has been paid in error, whether of law or fact, a refund of that duty shall be charged on the Treasury Fund and be statutory expenditure, and may be paid accordingly.

(2) If in any case, after any agreement is made, whether in Samoa or elsewhere, for the sale of goods, the Comptroller has authority to make a refund, in respect of such goods, the Comptroller may, before making the refund, require the production of evidence to his or her satisfaction that the importer has remitted to the buyer of the goods the amount of the refund.

(3) This section shall extend and apply to duties paid in error, before the commencement of this Act.

**158. Comptroller may refund duty on forfeited goods -** (1) When any duty has been paid on any goods that are condemned or deemed to be condemned under Part XII, the Comptroller in his or her discretion may pay to any person appearing to the Comptroller to be entitled thereto a sum equal to the amount of that duty:

(a) at any time within 3 years after seizure of the goods;

or

(b) at any later time, on an application made within such 3 years:

**PROVIDED THAT** such sum shall not exceed the amount that would be available for payment of duty under section 198(e).

(2) This section shall extend and apply to duty paid before or after the passing of this Act.

**159. Refund or remission of duty on damaged and faulty goods** - Whenever the Comptroller is satisfied that imported goods:

- (a) have been damaged or have deteriorated in condition before importation; or
- (b) are found, either before delivery from the control of the Customs or within such period after such delivery as may be prescribed, to be of faulty manufacture; or
- (c) have been damaged or have deteriorated in condition after importation and while still subject to the control of the Customs without the wilful act or the negligence of the importer or of the licensee of any warehouse in which they have been warehoused or of any servant of the importer or licensee, the importer shall be entitled to a remission or refund of duty on those goods to such extent and subject to such conditions and exceptions as may be prescribed, and any such refund shall be charged on the Treasury Fund and be statutory expenditure.

**160. Remission of duty on warehoused goods diminished in value** - (1) When any imported goods have been warehoused for not less than 2 years and the Comptroller is satisfied that, while so warehoused, they have diminished in value otherwise than by reason of damage or deterioration in condition, the Comptroller may, in such case and to such extent as may be prescribed, allow to the importer a remission of duty on those goods:

**PROVIDED THAT**, with the approval of the Minister in any case, the Comptroller may allow a remission of duty under this section in respect of any warehoused goods, despite that they have been warehoused for less than 2 years.

(2) In the application of this section to goods already warehoused at the commencement of this Act, the period during which they have been warehoused before the commencement of this Act shall be included in computing the period of 2 years.

**161. Remission or refund of duty on goods destroyed, pillaged or lost** - (1) If the Comptroller is satisfied that any

goods, at any time after their importation and while still subject to the control of the Customs, have been destroyed, pillaged or lost without the wilful act or the negligence of the importer or the licensee of any warehouse in which they have been warehoused or of any servant of the importer or licensee, the importer shall, subject to any prescribed exceptions, restrictions or conditions, be entitled to a remission or refund of the duty on the goods, and any such refund shall be charged on the Treasury Fund and be statutory expenditure.

(2) Except where an importer is entitled to a remission or refund of duty under subsection (1), duty on all goods destroyed, pillaged or lost after importation and while still subject to the control of the Customs shall be due and payable by the importer as if the goods had been entered by him or her for home consumption on their importation.

(3) When any goods have diminished in quantity or weight they shall, to the extent of that diminution, be deemed to have been lost within the meaning of this section.

(4) All goods specified in the inward report or manifest of any ship or aircraft or in any invoice produced in relation to any entry shall be presumed to have been actually imported unless the contrary is proved.

**162. Remission or refund of duty on goods produced in manufacturing warehouse** - Sections 159, 160 and 161 shall extend and apply, with all necessary modifications, to goods manufactured in a manufacturing warehouse, as if the manufacture of those goods were their importation, and as if the licensee of the warehouse or the owner of the goods were the importer of the goods so manufactured.

**163. Remission of duty on goods not worth the duty** - The Comptroller may cause any dutiable goods which are subject to the control of the Customs and which are not, in the opinion of the Comptroller, worth the duty payable on them to be destroyed or otherwise dealt with as the Minister directs, and may remit the duty.

**163A. Exemption from duty** – (1) Subject to subsections (2) and (3), exemption from duty may be granted for approved goods imported into Samoa in respect of a qualifying project.

(2) Exemption from duty may only be granted in accordance with criteria prescribed in regulations.

(3) Exemption from duty may be granted in whole or in part in such circumstances and subject to such conditions and restrictions as are prescribed, being circumstances and conditions and restrictions that relate to goods generally or to goods included in a class of goods.

(4) Regulations made under subsections (2) and (3) may provide for the forfeiture of goods to the Government and for the creation of offences punishable by a fine of up to 500 penalty units or imprisonment for 1 year, or both.

(5) In this section, unless the context otherwise requires:

“approved goods” means goods used in relation to a qualifying project where the goods have been approved for the purposes of this section by the Chief Executive Officer of the Ministry of Finance in accordance with criteria prescribed in regulations;

“qualifying project” means a hotel or other development approved by the Minister of Finance, acting on the advice of Cabinet in accordance with criteria prescribed in regulations.

**164. Duty on goods temporarily imported** - (1) In such cases and on such conditions as may be prescribed, the duty payable on any goods may be secured by way of deposit of money or, in such cases as may be approved by the Comptroller, by such other security as is provided for in this Act, and the Comptroller may on receipt of such security deliver the goods from the control of the Customs.

(2) Subject to subsection (3) and to such conditions as may be prescribed, the deposit so made shall be charged on the Treasury Fund and be statutory expenditure and be returned to the person by whom it was made, or, as the case may require, the security shall be released, if:

(a) the goods, being goods imported to be used temporarily in Samoa for industrial or commercial purposes, are exported within such period as the Minister may in any particular case determine; or

(b) the goods, not being goods to which paragraph (a) applies, are exported:

- (i) within the prescribed period, not exceeding 12 months from the date of their landing; or
  - (ii) in cases where the Comptroller is satisfied that the importer is prevented by force majeure from exporting the goods within the prescribed period, then within such extended period as the Comptroller may permit; or
  - (c) the Comptroller is satisfied that the goods have been accidentally destroyed at any time within the period so determined, prescribed or extended.
- (3) Where in any case to which subsection (2) applies:
- (a) goods imported to be used temporarily in Samoa for industrial or commercial purposes are exported within the period determined by the Minister as aforesaid; or
  - (b) any other goods being goods on which, in the opinion of the Minister, duty should be paid, are exported within the prescribed period or within such extended period as aforesaid; or
  - (c) the Comptroller is satisfied that any such goods have been accidentally destroyed within the period so determined or, as the case may be, such prescribed or extended period as aforesaid, duty shall be paid in respect thereof on the amount by which the value of the goods for duty, as assessed by the Comptroller, at the time of their exportation or destruction is less than their value for duty, as ascertained in accordance with the Customs Acts, at the time of their importation.
- (4) Where the Comptroller is satisfied that any goods have been shipped for export, or where any goods have been packed, for export, into a bulk cargo container in a Customs container base and the container has been secured to the satisfaction of the Comptroller, he or she may for the purposes of this section, if he or she thinks fit, treat them as having been exported.
- (5) If at the expiry of the period so determined, prescribed or extended any security has not been dealt with in accordance with subsection (2):
- (a) any duty so secured by way of deposit of money shall be dealt with as Customs revenue; and

- (b) any duty otherwise secured under this section shall be paid to the Comptroller by the importer within 14 days after the expiry of that period, and on such payment the security shall be released.

**165. Recovery of duty refunded in error** - All money refunded by the Customs in error, whether of fact or law, shall be recoverable by action at the suit of the Comptroller on behalf of the Government at any time within 3 years after the date of its payment, or without limit of time if the refund has been obtained by fraud.

### **Division 7 – Drawbacks**

**166. Drawbacks of duty on goods exported** - (1) Drawbacks of duty on goods imported into Samoa or produced in any manufacturing warehouse (whether before or after the commencement of this Act) may be allowed:

- (a) on the export of the goods; or
- (b) in respect of such imported or manufactured goods as are wrought into or attached to exported goods; or
- (c) in respect of such imported or manufactured goods, except fuel or plant equipment, as are consumed in the manufacture or production of exported goods.

(2) Drawbacks under this section shall be allowed in such cases, to such amount, on such conditions, and with such restrictions as may be prescribed.

(3) Where the Comptroller is satisfied that any goods have been shipped for export, or where any goods have been packed, for export, into a bulk cargo container in a Customs containerbase and the container has been secured to the satisfaction of the Comptroller, he or she may for the purposes of this section, if he or she thinks fit, treat them as having been exported.

(4) Any drawback so allowed shall be charged on the Treasury Fund and be statutory expenditure.

**166A.** *Repealed by the Customs Amendment Act 2007.*

**167. Entry for exportation under drawback** - (1) Before any goods are shipped or waterborne to be shipped for exportation under drawback the exporter shall:

- (a) make entry therefor in the prescribed form and manner; and
- (b) produce the goods for examination by the Customs.

(2) The making of any such entry shall be deemed to be the making of a claim for drawback, and the goods shall forthwith become subject to the control of the Customs accordingly.

(3) If any goods are shipped or waterborne to be shipped for exportation before entry has been duly made and passed under this section, the right of drawback on those goods shall be forfeited

**168. Reimportation of goods exported under drawback** -

(1) Except in such cases and under and subject to such restrictions and conditions as may be prescribed, no goods shipped for export under drawback shall at any time thereafter be reimported into Samoa.

(2) If any goods are reimported in contravention of this section, they shall be forfeited, and the importer on any person knowingly concerned in any such reimportation commits an offence and is liable to a fine not exceeding 2 penalty units.

**PART VII  
METHYLATED SPIRIT**

**169. Interpretation** - In this Part of this Act:

“methylated spirit” means any spirit which is mixed with methyl alcohol or with wood naphtha, or to which any other substance has been added which has the like effect as methyl alcohol or wood naphtha, in rendering spirit unsuitable for human consumption; and includes any spirit from which methyl alcohol, wood naphtha, or such other substance has been unlawfully removed; and also includes all spirit, whether imported or made in Samoa, which has been entered for home consumption as methylated spirit;

“to purify”, in relation to methylated spirit, means:

- (a) to deodorise, rectify or distil it, either wholly or partially;

- (b) to abstract from it, either wholly or partially, any substance which has been added to it for the purpose of methylating it; or
- (c) to add to it any substance for the purpose of disguising its odor or taste, or any substance whereby it may be rendered fit for use as a toilet preparation, perfume, food or drink, or as an ingredient in any toilet preparation, perfume, food or drink.

**170. Wrongful use of methylated spirit** - Except so far as is otherwise provided by regulations, a person commits an offence against this Part who:

- (a) uses methylated spirit as an ingredient in any perfume, toilet preparation, flavouring essence or tincture, or in any medicine, whether for internal or external application; or
- (b) sells any such article knowing it to contain methylated spirit.

**171. Purifying methylated spirit** - A person commits an offence against this Part who:

- (a) purifies or attempt to purify; or
- (b) is in any way concerned in purifying or attempting to purify, any methylated spirit for any purpose whatever.

**172. Selling purified methylated spirit** - A person commits an offence against this Part who knowingly sells or has in his or her possession any methylated spirit which has been purified in breach of this Act.

**173. Purchase of samples** - If any officer of Customs applies to purchase in any ship, store, factory or place any spirit or any compound which he or she thinks may contain spirit and offers a reasonable price for the quantity he or she requires and selects, not being a greater quantity than is reasonably requisite for the purpose of analysis, and the owner or the person having the custody of the spirit or compound refuses to sell it to that officer, or refuses to permit him or her to examine the contents of any



vessel for the purpose of such selection, such owner or person commits an offence against this Part.

**174. Method of dealing with samples** - Where pursuant to section 173 any officer purchases any spirit, or any compound which the officer thinks may contain spirit, the officer shall, forthwith after the purchase has been completed, inform the owner or the person having the custody of the goods of his or her intention to have the sample so purchased analysed, and shall offer to divide the sample into 3 parts, each to be then and there marked and sealed; and shall, if so required, so divide the sample, mark and seal the parts, and deliver 1 part to the owner or the person having the custody of the goods.

**175. Comptroller may refuse delivery of methylated spirit** - The Comptroller may refuse to permit the delivery from the control of the Customs of any spirit entered as methylated spirit, if it does not in his or her opinion conform to the standard for spirit methylated within Samoa; or may require any spirit so entered to be subjected, before delivery, to such further methylation as he or she deems necessary, in default of which the spirit shall be forfeited if not exported within such time as he or she directs.

**176. Penalties** - A person who commits any offence against this Part is liable to a fine not exceeding 20 penalty units; and all methylated spirit found in his or her possession, and all vessels, utensils, apparatus, implements and materials found in his or her possession, which have been used or are intended for use in breach of this Part, shall be forfeited.

**177. Regulations as to methylated spirit** - (1) Without limiting the power to make regulations conferred by section 279, the Head of State may make regulations for all or any of the following purposes:

- (a) regulating the methylation of spirit and the supply, storage, removal, sale, delivery, receipt, use and exportation of methylated spirit;
- (b) prescribing the spirit that may be used and the substances that may be mixed therewith, for methylation;

- (c) regulating the storage and removal of substances to be used in methylating spirit;
  - (d) prescribing the manner in which account is to be kept of the manufacture, purchase, sale and use or other disposal, of methylated spirit;
  - (e) requiring persons desiring to use methylated spirit for any special purpose to give security that such spirit shall be used for that purpose only.
- (2) Different regulations may be made under this section in respect of different classes of methylated spirit or different kinds of methylated spirit of any class.

### **PART VIII POWERS OF OFFICERS OF CUSTOMS**

**178. Examination of goods under control of Customs -** Any officer may examine, weigh, analyse and test, or cause to be examined, weighed, analysed or tested, any goods subject to the control of the Customs, or any goods that he or she has reasonable cause to suspect are subject to the control of Customs and may for this purpose open or cause to be opened any packages in which such goods are contained, or suspected by the officer to be contained, and all expenses so incurred by the Customs shall be a debt due to Government from the importer or the exporter or the owner of the goods, as the case may be, and shall be recoverable in the same manner as duty under this Act.

**179. Examination of goods no longer under control of Customs -** (1) After any goods have ceased to be subject to the control of the Customs Comptroller, if the Comptroller has reason to suspect that any offence has been committed against the Customs Acts in respect of those goods, may, by warrant under the seal of the Customs, require any person who has or is supposed to have possession or control of those goods to produce them for inspection by the officers of Customs.

(2) Any officer may thereupon exercise in respect of the goods all the powers conferred by section 178 in respect of goods subject to the control of the Customs.

(3) If any person fails or refuses to produce any goods in accordance with such a warrant, or obstructs an officer in the exercise of his or her powers under this section, the person

commits an offence and is liable to a fine not exceeding 20 penalty units, unless the person proves that he or she had not possession or control of the goods or that he or she was otherwise unable to comply with the warrant.

**180. Boarding of ships and aircraft** - (1) At any time while any ship or aircraft is within the territorial limits of Samoa any officer may board it.

(2) The Comptroller may station officers in any ship at any time while it is within the limits of any port, and the master shall provide suitable accommodation below decks and suitable and sufficient food for those officers, and also means of safe access to and egress from the ship in accordance with the requirements of any such officer.

(3) If the master fails to comply with any of the provisions of subsection (2), the master and the owner of the ship are each guilty of an offence and are severally liable to a fine not exceeding 10 penalty units for every day during which such default has continued.

**181. Searching of ships and aircraft** - (1) Any officer may search any ship or aircraft within the territorial limits of Samoa.

(2) In the exercise of this power of search an officer may, by force if need be, enter every part of the ship or aircraft, and open any package, locker or other place, and examine all goods found on the ship or aircraft.

**182. Boarding and searching Government ships and aircraft** - The powers conferred on officers by sections 180 and 181 shall extend to any ship or aircraft in the service of the Government.

**183. Firing on ships** - The commander or officer in charge of any Government ship, having hoisted and carrying the proper ensign and pendant or the Customs flag, may, within the territorial limits of Samoa, chase any ship which does not immediately bring-to when signalled or required so to do, and may, after having fired a gun as a signal, fire at or into the ship to compel her or him to bring-to.

**184. Securing goods on ships and aircraft** - (1) While any ship or aircraft is within the territorial limits of Samoa, any officer may secure any goods which are on board that ship or aircraft and subject to the control of the Customs:

- (a) by fastening hatchways or other openings into the hold, and by locking up, sealing or marking the goods, or otherwise as may be thought necessary; or
- (b) by the removal of the goods to a Government warehouse or other place of security.

(2) If any fastening, lock, mark or seal so placed by an officer upon any goods or upon any door, hatchway, opening or place on any ship or aircraft is, except with the authority of an officer, opened, altered, broken or erased by any person at any time while the ship or aircraft is at any place or in the course of any voyage of journey between any 2 places, within the territorial limits of Samoa, the person so acting and the owner and master of the ship or, as the case may be, the owner and pilot in command of the aircraft, are each guilty of an offence and are severally liable to a fine not exceeding 50 penalty units.

**185. Patrolling sea coast and inspecting aerodromes** - Any officer and any person acting in his or her aid may at any time and using such means of transport (if any) as the officer or, as the case may be, the person considers appropriate:

- (a) patrol upon and pass freely along and over any part of the seashore or on the shores or banks of any port, bay, harbour, lake, river, or other waters, or over any part of the land, including any Customs containerbase, examining places, wharves, and transit building thereon, immediately adjoining the seashore or such shores or banks, and on any structures extending from the seashore or such shores or banks; and
- (b) enter and inspect any aerodrome and all examining places, examining stations, and transit buildings and goods therein, and may remain in any such area to carry out investigations and to exercise surveillance for the purposes of the detection of offences against this Act and for these purposes may use any visual aids.

**186. Mooring vessels of Customs** - The officer in charge of any boat or other vessel employed in the service of the Customs may haul the boat or vessel upon any part of the seashore or of the shores or banks or any port, bay, harbour, lake, river or other waters, or upon any part of the land immediately adjoining such seashore or such shores or banks as aforesaid, and may moor the boat or vessel thereon.

**187. Questioning persons** - (1) An officer may question any person who is on board any ship, boat or aircraft, or who has within 48 hours landed from or got out of any ship, boat or aircraft, as to whether he or she has or within the said period of 48 hours has had in his or her possession any dutiable, restricted, uncustomed or forfeited goods.

(2) A person who, on being so questioned, refuses or fails to answer any question so put to him or her, or to answer any such question in writing if so required by the officer, or answers any such question incorrectly, commits an offence and is liable to a fine not exceeding 20 penalty units.

(3) Any dutiable, restricted or uncustomed goods found in the possession of any such person shall be forfeited if, on being so questioned, the person has denied or failed to disclose the possession thereof.

(4) It is a defence to a charge under this section of answering any such question incorrectly to prove that the accused did not know, and had no reason to know, that the goods were in his or her possession.

**188. Searching persons and examining goods carried by them** - (1) If any officer of Customs or member of the Police has reasonable cause to suspect that any person has unlawfully secreted about his or her person any dutiable, restricted, uncustomed or forfeited goods, he or she may detain and search the person so suspected, and examine any goods found so secreted, and for that purpose open any package found so secreted.

(2) A person so detained may, before being searched, demand to be taken before a District Court Judge, a Faamasino Fesoasoani or the Comptroller.

(3) The District Court Judge, Faamasino Fesoasoani or Comptroller may order the person so detained to be searched, or may discharge the person without search.

(4) A woman or girl may be detained as aforesaid but shall not be searched except by a female searcher appointed by the Comptroller, either generally or for the particular case.

(5) No person shall be searched under this section unless he or she has been first informed of the right to be taken before a District Court Judge, a Faamasino Fesoasoani or the Comptroller as aforesaid.

(6) If any officer of Customs or member of the Police has reasonable cause to suspect that any person is unlawfully carrying, otherwise than by secreting about his or her person, any dutiable, restricted, uncustomed or forfeited goods, he or she may detain the person so suspected and examine any goods carried by the person and may for that purpose open any package carried by the person.

**189. Searching vehicles or boats** - If any officer of customs or member of the Police has reasonable cause to suspect that any dutiable, uncustomed, restricted or forfeited goods are contained in any vehicle or boat, he or she may stop and search it.

**190. Customs warrants** - (1) The Minister may grant a Customs warrant in the form in the Sixth Schedule under the seal of the Customs to any officer.

(2) Any such warrant, unless sooner revoked by the Minister, shall remain in force so long as the person to whom it has been so granted remains an officer of Customs, whether in the same capacity or not.

**191. Entry and search under Customs warrant** - (1) Subject to subsection (2), any officer having with him or her a Customs warrant granted under this Act may at any time in the day or night and on any day of the week enter into, by force if need be and search any house premises or place in which the officer has reasonable cause to suspect that there are any uncustomed goods or any goods subject to the control of the Customs, or any goods unlawfully imported or any forfeited goods, or any goods in respect of which any offence has been committed against the Customs Acts, or any books or other

documents relating to any such goods, or any books or other documents containing information that may lead to the recovery of any penalty or other money under the Customs Acts, and may on any such entry break open and search any boxes, receptacles, packages or places in which any such goods, books or documents may be or may be supposed to be.

(2) On each occasion on which any officer proposes to use a warrant for the purpose of this section the officer shall first obtain the permission of the Comptroller, who shall not grant permission unless the Comptroller is satisfied that such reasonable cause exists.

(3) An officer so acting under a Customs warrant may take with him or her and have the assistance of any member of the Police and such other assistants as the officer thinks necessary.

(4) An officer so acting under a Customs warrant shall show the warrant on demand to the occupier of the house, premises or place which the officer so enters or proposes to enter.

(5) No officer or other person lawfully so entering in pursuance of any such Customs warrant shall be deemed to be a trespasser by relation by reason of any act done by him or her after entry.

(6) When any entry has been so made, any officer of Customs may make copies of or extracts from any such books or documents as aforesaid; and in all Courts and in all proceedings such copies or extracts, if certified by an officer under the seal of the Customs, shall be received as evidence instead of the originals.

(7) Every person who obstructs an officer of Customs or member of the Police or other authorised person in the exercise of any right of search or other right under this section or a Customs warrant commits an offence and is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 months, or to both.

**192. Use of aids by Customs officer** - (1) In exercising any power of search conferred by this Act, any officer of Customs or any member of the Police may have with him or her and use for the purposes of searching, any dog, or any mechanical, electrical, or electronic device.

(2) Nothing in this section shall apply to a search carried out on residential premises except pursuant to a warrant under section 191.

**193. Requisition to produce documents** - (1) Whenever the Comptroller has reasonable cause to suspect that goods have been unlawfully imported, exported, undervalued, entered or otherwise unlawfully dealt with by any person contrary to the Customs Acts, or that it is intended by any person so unlawfully to import, export, undervalue, enter or otherwise deal with any goods, or whenever any goods have been seized as forfeited under the Customs Acts, the Comptroller may by order under his or her hand and the seal of the Customs require that person or any person whom the Comptroller suspects to be or to have been the owner or importer of those goods immediately to produce and deliver to the Comptroller or to any specified officer of Customs all invoices, bills, accounts and statements of those goods, and of all goods imported by the same person within 3 years next before the date of the order, and also immediately to produce for the inspection of the Comptroller or any specified officer of Customs, and allow him or her to make copies of or extracts from, all books of account, invoice books or other books or records in which any entry or memorandum appears or may be supposed to appear respecting the purchase, importation, exportation, cost or value of or payment for the said goods or any other goods so imported within the said period of 3 years.

(2) The Comptroller may, by order under his or her hand and the seal of the Customs, require any person to produce for inspection by the Comptroller or by any specified officer of Customs all or any receipts records or other documents relative to any goods with reference to which any question has arisen under the Customs Acts; and to allow the Comptroller or other officer as aforesaid to make copies of or extracts from any such receipts, records or documents; and to appear before the Comptroller, or other specified officer as aforesaid, and to answer all questions put concerning any such goods, or such receipts, records or documents as aforesaid.

(3) An order under this section may be directed to any corporation or local or public authority, or to any member, officer or servant of any such corporation or local or public authority.



(4) Any person who fails or refuses to comply with any order made under this section commits an offence and is liable to a fine not exceeding 50 penalty units.

**194. Documents in foreign language** - When any document in a foreign language other than English is presented to any officer for any purpose connected with the Customs Acts the Comptroller may demand to be supplied with an English translation of it, to be made at the expense of the person producing the document by such person as the Comptroller may approve, or verified in such manner as the Comptroller may require, and until the translation is produced the Comptroller or other proper officer may refuse to do any act in relation to the purposes for which the document was produced.

**195. Impounding documents** - The Comptroller may impound or retain any document presented in connection with any entry or required to be produced under this Act; but the person otherwise entitled to the document shall instead be entitled to a copy certified as correct by the Comptroller under the seal of the Customs, and the copy so certified shall be received in all Courts of evidence instead of the original.

**196. Taking samples** - Samples of any goods subject to the control of the Customs may, for any purpose deemed necessary, be taken, used and disposed of by any officer of Customs in the prescribed manner.

**197. Permitting examination of goods** - Subject to any regulation, the Comptroller may permit any person to measure, count, weigh, gauge, test or examine any goods subject to the control of the Customs.

**198. Mode of exercising of sale** - Whenever the Comptroller is empowered by this Act to sell any goods the following provisions shall apply, except so far as different provision is made by this Act in any particular case:

- (a) the goods shall be sold by auction or tender, after such public notice as may be prescribed, or if no such notice is prescribed, after reasonable public notice;

- (b) the price shall be paid in cash on the acceptance of the bidding or tender;
- (c) no bidding or tender shall be necessarily accepted, and the goods may be re-offered until sold at a price satisfactory to the Comptroller;
- (d) the Comptroller or any officer of Customs authorised by the Comptroller may act as an auctioneer in the sale of the goods without being licensed in that behalf.
- (e) the proceeds of the sale shall be applied in the following manner and order or priority:
  - (i) in the payment of the expenses of the sale;
  - (ii) in the payment of the duty, as if the goods had been entered for home consumption;
  - (iii) in payment of warehouse and other charges;
  - (iv) in payment of any freight due on the goods, if written notice claiming such freight has been given to the Comptroller; and
- (f) the residue of the said proceeds shall be paid to the person entitled thereto.

**199. Duty payable on goods sold by Comptroller - (1)**

When any dutiable goods are sold by the Comptroller under the authority of this Act, duty shall be payable thereon by the purchaser in the same manner as if they had been entered by the purchaser for home consumption, and the duty so paid shall be deemed to be part of the proceeds of the sale.

(2) When the duty on any such goods is ad valorem the Comptroller may, if he or she thinks fit, and subject to any regulations, accept as their value, for the purpose of assessing the duty, the price at which they are so sold, or any less sum, instead of their value for duty purposes as otherwise determined in accordance with this Act.

**200. Sale of forfeited goods -** Sections 198 and 199, so far as they are applicable, shall apply to the sale of forfeited goods or other forfeited articles.

**201. Payments by Comptroller out of revenue in his or her hands - (1)** Subject to the Customs Acts and any regulations made under any of them, the amount of any deposit returnable

under any of those Acts shall be charged on any revenue received under any of those Acts and in the Comptroller's hands and be statutory expenditure, and may be paid accordingly.

(2) This section shall extend and apply to any such money payable under any enactment repealed.

**202. Expenses of removal and storage of goods by officers of Customs** - (1) All expenses lawfully incurred by the Customs under this Act in the removal or storage of goods subject to the control of the Customs shall constitute a debt due to the Government by the importer or exporter of the goods as the case may be, and shall be a charge on the goods and recoverable in the same manner as duty under this Act.

(2) In the case of storage of goods in a Government warehouse, the said expenses shall include storage charges at the prescribed rate.

**203. Reasonable and probable cause** - No person is liable for any arrest, seizure, detention or sale under the Customs Acts unless it is proved that there was no reasonable or probable cause therefor.

**PART VIIIA  
BORDER PROTECTION MEASURES FROM  
COPYRIGHT AND TRADEMARK GOODS**

**203A. Interpretation** – In this Part, unless the context otherwise requires:

“claimant” means a person giving notice under section 203B;

“copyright material” means material that is the subject of copyright;

“Court” means the Supreme Court of Samoa;

“infringing sign”, in relation to a trademark, means a sign that is:

- (a) identical to a trade mark in which respect notice has been given under section 203B and is used on or in physical relation to goods that are identical with goods in respect of which the trade mark is registered; or

- (b) similar to such a trade mark and is used on or in physical relation to goods that are identical with or similar to goods in respect of which the trade mark is registered, if such use would be likely to deceive or confuse.
- “infringement proceedings” means proceedings brought under section 26 of the Copyright Act 1998 or section 21 of the Trade Marks Act 1972;
- “registered trade mark” has the same meaning as in section 2 of the Trade Marks Act 1972;
- “trade mark” has the same meaning as in section 2 of the Trade Marks 1972.

**203B. Notice requesting suspension of customs clearance of goods may be given to Comptroller** – A person may give written notice to the Comptroller that:

- (a) claims that he or she is the copyright owner of copyright material specified in the notice or is the owner of a trade mark that is registered in respect of goods specified in the notice, as the case may be ; and
- (b) requests the Comptroller to suspend the customs clearance procedure of any goods that the Comptroller has reasonable grounds to suspect are goods that infringe the owner’s copyright of copying material; or are goods, on or in physical relation to which an infringing sign is used, that , or at any time come into the control of Customs.

**203C. Contents of notice** – A notice under section 203B must be in writing, specify the time period for which the notice is to be in force and be accompanied by the following:

- (a) prima facie evidence that the claimant is the owner of the copyright in copyright material or the owner of a registered trade mark;
- (b) a sufficiently detailed description of the copyright material or registered trade mark;
- (c) the prescribed fee (if any); and
- (d) any other documents that may be prescribed.

**203D. Comptroller must accept or decline notice** - (1) The Comptroller must, in relation to any notice given under section 203B:

- (a) either -
    - (i) accept the notice if the claimant and the notice given by the claimant comply with the requirements of this section and any regulations that may be prescribed; or
    - (ii) decline the notice if the claimant or the notice given by the claimant does not comply with the requirements of this section and any regulations that may be prescribed; and
  - (b) within a reasonable period of receiving the notice, advise the claimant whether the notice has been accepted or declined.
- (2) The Comptroller may require the claimant to provide further information before deciding whether to accept or decline the notice.

**203E. Duration of notice** – A notice accepted under section 203D remains in force for the period specified in the notice unless:

- (a) it is revoked by the claimant by notice in writing; or
- (b) the Comptroller revokes the notice; or
- (c) the Court orders, in infringement proceedings, that the notice be revoked

**203F. Power to suspend customs clearance procedure** – If the Comptroller accepts the notice under section 203D and the notice has not been revoked, the Comptroller has reasonable grounds to suspect are goods with which an infringing sign are being imported.

**203G. Security** - The Comptroller may refuse to suspend the customs procedure in relation to the goods unless:

- (a) the claimant has deposited with the Comptroller, at the time notice is given under section 203B, a sum of money that, in the opinion of the Comptroller, is sufficient to reimburse Customs for the reasonable expenses it is likely to incur as

- a result of the suspension of the customs clearance procedure; or
- (b) the claimant has given security, to the satisfaction of the Comptroller, for the reimbursement of Customs for those expenses.

**203H. Notification** - The Comptroller must give to the claimant and the importer a written notification of the suspension as soon as possible after the Comptroller has suspended customs clearance of any goods.

**203I. Inspection and examination of good** - (1) The Comptroller must allow the claimant and the importer to examine the goods for which clearance is suspended and to remove samples for examination, testing and analysis for the purposes of conducting infringement proceedings.

(2) This section does not affect any rule of law or enactment relating to the protection of confidential information.

**203J. Detention and release of goods** - (1) Goods for which the Comptroller has suspended customs clearance must be taken to such secure place as the Comptroller directs and detained until:

- (a) the Comptroller revokes the notice as a result of a review; or
- (b) the Comptroller is served with an order made by the Court that the goods be released; or
- (c) any infringement proceedings are abandoned; or
- (d) 10 working days have elapsed since notification was given under section 203H and the Comptroller has not been served with a notice of infringement proceedings.

(2) On the occurrence of any matters specified in subsection (1), the goods must be released to the importer or to such other person as the Court may order.

(3) The Comptroller may, in any particular case, extend the period referred to in subsection (1)(d) to 20 working days if the Comptroller considers it appropriate to do so in all the circumstances.

**203K. Forfeiture of goods by consent** - (1) Subject to subsection (2), the importer may, by written notice to the

comptroller, consent to the detained goods being forfeited to the Comptroller.

(2) If the importer gives notice under this section, before any infringement proceedings have been filed, the goods are forfeited to the Comptroller and must be disposed of as the Comptroller directs.

**203L. Destruction of goods in relation to trade marks - (1)**

If, in proceedings under the Trade Marks Act 1972, the Court decides that any goods infringe an owner's rights in relation to a registered trade mark, the Court may make an order that the goods be destroyed or disposed of outside the channels of commerce in such a manner so as to avoid harm to the owner of the registered trade mark.

(2) In considering whether to make an order for destruction or disposal, the Court must consider the rights of interested third parties.

(3) The following are not permitted:

- (a) re-exporting the goods in the unaltered state;
- (b) other than in exceptional cases, simply removing the trade marks which have been affixed to counterfeit goods without authorisation;
- (c) placing the goods under a different customs procedures.

**203M. Review of Comptroller's decision - (1)**

The Comptroller must on request of the claimant or the importer review the Comptroller's decision under section 203D.

(2) The Comptroller may modify, revoke or confirm the notice.

**203N. Small quantity of imports excluded** – This Part does not apply to small quantities of goods of a non-commercial nature contained in a passenger's personal luggage or sent in small consignments.

**203O. Protection of persons acting under this Part -**

The Comptroller or any customs officer or agent exercising a function or power under this Part or regulations made this Part shall not incur any civil or criminal liability for any act or omission done honestly and without negligence.

**203P. Compensation for wrongful detention** - On application by the importer, the Court may order the claimant to pay the importer appropriate compensation for any inquiry caused to the importer through the wrong detention of goods because of the failure of the claimant to file infringement proceedings.

**203Q. Regulations** - The Head of State, acting on the advice of Cabinet, may make regulations:

- (a) providing the forms of notices required under this Part;
- (b) providing for the times at which, and the manner in which, notices are to be given;
- (c) providing for the giving of information and evidence to the Comptroller; and
- (d) prescribing fees required under this Part.

## **PART IX SECURITIES**

**204. Securities for payment of duty and compliance with Act** - (1) The Comptroller shall have the right to require and take securities for payment of duty and generally for compliance with this Act and for the protection of the revenue of Customs, and pending the giving of the required security he or she may refuse to pass any entry or to do any other act in the execution of his or her office in relation to any matter in respect of which the security is required.

(2) Any security under this Act may, as required by the Comptroller, be by bond (with or without sureties), or guarantee to the Government, or by a deposit of cash, or by all or any of those methods, to the satisfaction of the Comptroller.

(3) Any such security may be given either in relation to any particular transaction, or generally with respect to any class of transactions or to all transactions, and for such period and amount as the Comptroller thinks fit, and under such conditions as to forfeiture, penalty or otherwise as the Minister may direct.

(4) Any bond or other security entered into or given under this Act by a person under the age of 21 years (otherwise than as a surety or guarantor) shall have the same force, effect and validity as if that person had been of full age.



(5) Without limiting the power to make regulations conferred by section 279, regulations made under that section may prescribe forms of bonds, guarantees and other securities; and any security may be either in the prescribed form or to the like effect, or in such other form as the Comptroller in any particular case approves.

**205. New securities may be required** - If at any time the Comptroller is dissatisfied with the sufficiency of any security, the Comptroller may require a new security in its place, or in addition; and if the new security is not given he or she may refuse to pass any entry or to do any other act in the execution of his or her office in relation to any matter in respect of which the new security is required.

## **PART X AGENTS AND CARRIERS**

### **Division 1 – Customs Agents**

**206. Who may act as agent** - (1) No person shall act as agent for any other person in the report, entry or clearance of ships, aircraft or goods, or otherwise for the purposes of the Customs Acts in relation to ships, aircraft or goods, unless the person so acting is either:

- (a) a servant or clerk in the exclusive employment of that other person; or
- (b) a Customs agent duly licensed under this Act; or
- (c) a servant or clerk in the exclusive employment of a licensed Customs agent, and approved as such by the Comptroller in accordance with regulations.

(2) If the Comptroller is satisfied on reasonable grounds that any servant or clerk is, whether by reason of bad character, misbehaviour or incompetence, not a fit person to act as agent for that other person for any of the purposes of the Customs Acts, the Comptroller may refuse to permit that servant or agent so to act.

(3) Any person who acts as an agent in contravention of the provisions of this section, or who acts as an agent for any other person in any matter relating to the Customs Acts without being authorised by that other person so to act, commits an offence against this Act.

**207. Licensing of Customs agents** - Without limiting the power to make regulations conferred by section 279, the Head of State may make regulations:

- (a) providing for the granting of Customs agents' licences or of different classes of such licences;
- (b) prescribing the minimum qualifications required by applicants for such licences after the commencement of this Act, or, where applicants or licensees are bodies corporate, by their servants or clerks in respect of whom approval is sought under the regulations after the commencement of this Act;
- (c) providing for the revocation of any such licences or class of licences;
- (d) prescribing conditions, whether as to security or otherwise, of the grant or continuance of such licences or of any such class of licences; and
- (e) prescribing any annual or other fees to be payable in respect of any such licences or class of licences.

**208. Written authority of agents** - Any officer of Customs may require any person acting as or holding himself or herself out as the agent of any other person in any matter relating to the Customs Acts to produce a written authority from his or her principal, and if such an authority is not produced, the officer may refuse to recognise the agency.

**209. Liability of principal for acts of agent** - (1) A declaration made or other act done by an agent in the name of his or her agency in relation to the report, entry or clearance of ships, aircraft or goods, or otherwise in relation to the Customs Acts, shall be deemed to have been made or done by his or her principal also, and the principal is liable accordingly to all penalties imposed by the Customs Acts.

(2) For the purposes of this section the knowledge and intent of the agent shall be imputed to the principal in addition to his or her own.

(3) This section shall apply whether the appointment of the agent was made in accordance with this Act or not.

(4) For the purposes of this section the agent of an agent is taken to be also the agent of the principal.

**210. Liability of agents** - When any person acts or assumes to act as the agent of any other person in relation to the entry of goods, or in relation to any other purposes or provisions of the Customs Acts, the person is liable to the same penalties as if he or she were the principal for whom the person so acts or assumes to act.

### **Division 2 – Customs Carriers**

**211. Conveyance of goods subject to control of the Customs** - (1) No person except a licensed Customs carrier shall convey any goods subject to the control of the Customs.

(2) Nothing in this section shall apply to:

- (a) the conveyance of goods in any ship that is not a coastal ship, or in any aircraft that is in the course of any journey to or from any country outside Samoa; or
- (b) the carriage of goods by the servants of any harbour, port, or public authority having the control of any wharf or Customs airport.

(3) Every person who conveys or is concerned in conveying any goods subject to the control of the Customs contrary to the provisions of this section commits an offence against this Act.

**212. Licensing of Customs carriers** - Without limiting the power to make regulations conferred by section 279, the Head of State may make regulations providing for the licensing of persons as Customs carriers, and for the revocation of such licences, and prescribing annual or other fees payable by the licensees, and the conditions of the grant or continuance of any such licence, and the security to be given by the licensees.

## **PART XI MISCELLANEOUS OFFENCES**

### **Division 1 – Offences in Relation to Officers**

**213. Influencing or resisting officer of Customs** - A person who:

- (a) by threats or demands, attempts to influence or does influence any officer of Customs in the discharge of his or her duty; or
- (b) assaults, or by force resists, obstructs, intimidates or endeavours to intimidate any officer of Customs or any person acting in the officer's aid in the execution of his or her duties, commits an offence, and is liable to imprisonment for a term not exceeding 5 years.

**214. Obstructing Customs officer or interfering with Customs property** - A person who:

- (a) otherwise than by force, intentionally obstructs any Customs officer or authorised person acting in the execution of the officer's duties; or
- (b) intentionally interferes with any equipment, vehicle, craft, dog, communication system or other aid used by the Customs; or
- (c) does any act with intention of impairing the effectiveness of any equipment, vehicle, craft, dog, communication system or other aid used, or intended for use, by the Customs, is guilty of an offence upon conviction and is liable to imprisonment for term not exceeding 3 months or to a fine not exceeding 100 penalty units or both.

**215. Abusive or threatening language** - A person commits an offence against this Act who uses abusive, insulting, obscene or threatening language to an officer of Customs while in the execution of, or in relation to, his or her duties under the Customs Acts.

**216. Personation of officer of Customs** - A person who, not being an officer of Customs, by words, conduct, or demeanour pretends that he or she is an officer of Customs, or puts on or assumes the uniform, name, designation or description of an officer, commits an offence and is liable to a fine not exceeding 20 penalty units.

**Division 2 – Other Offences**

**217. Smuggling** - If any person smuggles any goods he or she commits an offence and is liable to a fine not exceeding 50 penalty units or 3 times the value of those goods, whichever sum is the greater, and the goods shall be forfeited.

**218. Defrauding the revenue of Customs** - If any person contravenes any provision of this Act, or does any other act, with intent to defraud the revenue of Customs:

- (a) by evading or enabling any other person to evade payment of duty or full duty on any goods; or
- (b) by obtaining or enabling any other person to obtain any money by way of drawback or refund of duty on any goods; or
- (c) in any other manner whatsoever in relation to any goods, or
- (d) conspires with any other person (whether that other person is in Samoa or not) so to defraud the revenue of Customs in relation to any goods, he or she commits an offence and is liable to a fine not exceeding 50 penalty units or 3 times the value of those goods, whichever sum is the greater, and the goods shall be forfeited.

**219. Erroneous drawbacks or refunds** - If any person obtains any drawback, refund or remission of duty by means of any erroneous or defective declaration or written statement, or by producing to any officer of Customs any declaration or other document of any kind whatsoever which is not genuine or which is in any respect erroneous or defective, he or she commits an offence and is liable to a fine not exceeding 50 penalty units or 3 times that amount of that drawback, refund or remission, whichever sum is the greater.

**220. Erroneous declarations** - A person who makes any declaration under this Act which is erroneous in any particular commits an offence and is liable to a fine not exceeding 20 penalty units.

**221. Wilfully false declarations** - A person who knowingly makes any false declaration under this Act commits an offence and is liable to imprisonment for a term not exceeding 2 years.

**222. Production of false documents** - A person who produces or delivers to an officer of Customs in the execution of his or her office any document as genuine which is not genuine, or any document as true which is in any respect erroneous, commits an offence and is liable to a fine not exceeding 20 penalty units.

**223. Interference with goods** - (1) So long as any imported goods or goods for export remain subject to the control of the Customs it shall not be lawful for any person, except with the permission of the proper officer of Customs, to make any alteration either in the condition of those goods or in the packages containing them, or to unpack or repack the goods or to remove them from any place in which an officer of Customs has directed that they shall be stored.

(2) A person who acts in contravention of this section commits an offence and is liable to a fine not exceeding 20 penalty units.

**224. Unauthorised entry into passenger processing areas** - A person who, without the permission of the proper officer of Customs, enters on or remains in any area set aside for the examination, for the purposes of this Act, of the personal baggage of passengers disembarking from or embarking on any ship or aircraft when such area is being used for such examination, commits an offence and is liable to a fine not exceeding 10 penalty units.

**225. Suffering ship or aircraft to be used for smuggling** - If the master or owner of any ship or the pilot in command or owner of any aircraft suffers his or her ship or aircraft to be used for the purpose of smuggling goods or for the unlawful importation, exportation or conveyance of goods, he or she commits an offence and is liable to the same penalty as if he or she had smuggled or unlawfully imported, exported or conveyed the same goods.

**226. Ships and aircraft adapted for smuggling** - If any ship or aircraft comes or is found within the territorial limits of Samoa having:

- (a) false bulkheads, bows, sides or bottoms, adapted for the purpose of concealing goods; or
- (b) any secret or disguised place adapted for the purpose of concealing goods; or
- (c) any hole, pipe or device adapted for the purpose of smuggling or unlawfully importing or exporting goods, the master and the owner in the case of a ship, or the owner in the case of an aircraft, commits an offence and are severally liable to a fine not exceeding 100 penalty units.

**227. Counterfeit seals or marks** - (1) A person commits an offence and is liable to a fine not exceeding 10 penalty units who, without reasonable excuse, has in his or her possession, or makes, or uses any counterfeit seal, stamp or mark in imitation of or colourably resembling any seal, stamp or mark used by the Customs for the purposes of the Customs Acts.

(2) A person convicted of an offence against this section shall, in addition to any fine imposed, forfeit to the Government, by virtue of the conviction, all articles in his or her possession in respect of which the offence was committed.

**228. Failure to comply with conditions of entry** - (1) When under any provision of this Act or of the Customs Tariff any goods are, if entered for a particular purpose or under any condition prescribed by the Minister, exempt from duty or liable to a lower rate of duty than if entered otherwise than for that purpose or under that condition, and any goods have been entered under that provision, a person commits an offence who knowingly:

- (a) uses those goods for any purpose other than that for which they have been so entered; or
- (b) fails to comply with any condition prescribed by the Minister in respect of the goods.

(2) If a person commits an offence under this section the person is liable to a fine not exceeding 3 times the amount of the duty or additional duty which would have been payable if the goods had been entered otherwise than under the provision under

which they were entered, or 10 penalty units, whichever sum is the greater, and the goods shall be forfeited.

(3) The Comptroller may at any time, if he or she thinks fit, accept from the owner of any goods so entered for a particular purpose or under any condition prescribed by the Minister the amount of duty or additional duty which would have been payable on them if they had been entered otherwise than for that purpose or under that condition, and thereafter this section shall cease to apply in respect of those goods.

**229. Possession or custody of uncustomed goods or prohibited imports** - A person who has in his or her possession or custody any uncustomed goods or any prohibited imports commits an offence and is liable to a fine not exceeding 20 penalty units, unless the person proves:

- (a) that he or she obtained possession or custody of them without knowledge that they were uncustomed goods or prohibited imports; or
- (b) that he or she obtained possession or custody of them with some other lawful justification.

**230. Possession of concealed goods** - A person found in possession of any dutiable or restricted goods concealed in any manner on any ship, boat or aircraft commits an offence and is liable to a fine not exceeding 20 penalty units.

**231. Failure to answer questions truly** - A person commits an offence and is liable to a fine not exceeding 20 penalty units who, when required under this Act to answer any question put to him or her, fails or refuses to answer it, or does not truly answer it.

**232. Liability of officers of body corporate** - If a body corporate commits an offence against this Act, every director, manager, secretary, or other similar officer of the body corporate, and every person purporting to act in any such capacity, shall also be guilty of that offence if the act or omission constituting the offence occurred with his or her knowledge and consent.

**233. Attempts** - Any attempts to commit an offence against this Act is an offence punishable in like manner and constituting



the like cause of forfeiture as if the offence so attempted had been actually committed.

### **Division 3 – General Provisions as to Offences**

**234. Information to be laid by Comptroller** – An information for any offence against this Act or the regulations shall be laid by the Comptroller.

**235. Limitation of action** - Despite anything to the contrary in any other enactment, any information for any offence against this Act or the regulations may be laid at any time within 3 years after the date of the offence.

**236. Value of goods for purpose of fine** - When the amount of any fine under this Act is to be determined by reference to the value of any goods, the value thereof shall be estimated according to the price for which goods of the like kind and of the best quality, on which the duties (if any) have been paid, are saleable in Samoa at the time of the offence.

**237. General Penalty** - A person who commits an offence against this Act for which no other penalty is provided is liable to a fine not exceeding 10 penalty units.

**238. Imprisonment for second offence** - A person who is convicted of an offence against this Act which is punishable by a fine only, and who has within 2 years before the conviction been convicted of the like offence or of any other offence against this Act may, if the convicting Court thinks fit, be sentenced to imprisonment for a period not exceeding 3 months, instead of or in addition to being sentenced to pay a fine.

**239. Court may order payment of money in respect of duty** - (1) In any proceedings for an offence under section 191 or section 193, if the Court is of opinion that the offence has been committed for the purpose of enabling the destruction or concealment of any evidence that would support a claim for duty or other money due to the Government under the Customs Acts, it may, in addition to any other penalty, order the offender to pay to

the Government such further sum in respect of that claim as it thinks fit.

(2) Any order for payment under this section may be enforced in the same manner as a fine.

(3) The recovery of any amount under this section in respect of a claim shall not be deemed to extinguish the claim, but shall be taken into account in determining the amount (if any) to be awarded in any subsequent proceedings that may be taken in respect of that claim.

**240. Penalties independent of forfeitures** - All penalties under this Act shall be in addition to and independent of any forfeiture, and all forfeitures under this Act shall, except where otherwise provided, be independent of any proceedings in respect of an offence.

**241. Comptroller may deal with petty offences** - (1) This section applies to any offence against this Act that is committed in relation to any goods:

- (a) whose value does not exceed 100 penalty units; and
- (b) on which any duty payable under the Tariff and this Act does not exceed 50 penalty units.

(2) If in any case to which this section applies any person admits in writing that he or she has committed the offence, and requests that the offence be dealt with summarily by the Comptroller, the Comptroller may, at any time before an information has been laid in respect of the offence, accept from that person such sum, not exceeding 10 penalty units or 3 times the amount of the duty avoided (whichever is the greater), as the Comptroller thinks just in the circumstances of the case, in full satisfaction of any fine to which that person would otherwise be liable under this Act.

(3) If the Comptroller accepts any sum pursuant to this section the offender shall not be liable to be prosecuted for the offence in respect of which the payment was made.

**242. Arrest of offenders** - (1) An officer of Customs or member of the Police who has reasonable cause to suspect that any person has committed any offence against this Act with intent to defraud the revenue of Customs may, at any time within 7 days

after the supposed date of the offence, arrest that person without warrant.

(2) The person so arrested shall not be tried for the offence except on an information laid by the Comptroller in accordance with this Act.

(3) Pending the laying of such an information the remanding Officer before whom the accused is produced pursuant to Article 6(4) of the Constitution, as substituted by section 2 of the Constitution Amendment Act 1965, may adjourn the matter for any period not exceeding 48 hours, and may either remand the accused in custody or release the accused on bail, and recognizance, with or without sureties, conditioned to appear at the time and place to which the matter has been so adjourned in the same manner, so far as may be, as if an information could have been and had been laid against the accused by the officer by whom the accused has been so arrested.

(4) If at the time to which the matter has been so adjourned no information for any offence against this Act has been laid by the Comptroller in accordance with this Act, the accused shall be discharged.

(5) The arrest or discharge of any person under this section shall not take away or in any manner affect the right of proceeding against that person for the recovery of a penalty for the offence for which he or she was so arrested, under section 234.

#### **Division 4 – Rewards**

**243. Rewards for seizures and convictions** - The Minister may order to be paid or distributed to or among any officers or other persons by or through whom any seizure is made or fine recovered under the Customs Acts, such rewards as the Minister thinks fit, and any sum so ordered to be paid or distributed shall be charged on the Treasury Fund and be statutory expenditure, and may be paid or distributed accordingly:

**PROVIDED THAT**, where any such seizure or fine results from an attempt to defraud the revenue of Customs, such rewards shall not exceed in the aggregate half the value as determined by the Minister, of the goods seized or as the case may be, half the amount of the fine.

**PART XII  
FORFEITURES**

**244. Application of this Part** - This Part shall apply to all forfeitures accruing either under this Act or under any other of the Customs Acts.

**245. Goods forfeited** - In addition to all other goods elsewhere declared by the Customs Acts to be forfeited, the following goods shall be forfeited to the Government:

- (a) all dutiable or restricted goods found on any ship, boat or aircraft being unlawfully in any place;
- (b) all dutiable or restricted goods found on any ship or aircraft after arrival in any port from any country outside Samoa, not being goods specified or referred to in the inward report, and not being baggage belonging to the crew or passengers, and not being accounted for to the satisfaction of the Comptroller;
- (c) all dutiable or restricted goods found concealed in any manner on a ship, boat or aircraft;
- (d) any package having in it goods not enumerated in the entry;
- (e) all dutiable or restricted goods found so packed as to be likely to deceive the officers of Customs; and
- (f) all uncustomed goods which are found in any place.

**246. Forfeiture of packages** - The forfeiture of any goods shall extend to the forfeiture of the case, covering or other enclosure not being a bulk cargo container, or pallet, in which the goods are contained at the time of seizure.

**247. Boats and vehicles and animals forfeited** - A boat, vehicle or animal used in smuggling goods, or in unlawfully conveying goods with intent to defraud the revenue of Customs, or in the importation or conveyance of prohibited imports or forfeited goods, shall be forfeited.

**248. Equipment of forfeited boats, vehicles and animals** - When any boat, vehicle, or animal has become liable to forfeiture

under the Customs Acts, whether by virtue of section 247 or otherwise, all equipment thereof shall also be liable to forfeiture.

**249. Forfeiture to relate back** - When it is provided by this Act or Customs Acts that any goods are forfeited, and the goods are seized in accordance with this Act or with the Act under which the forfeiture has accrued, the forfeiture shall for all purposes relate back to the date of the act or event from which the forfeiture accrued.

### **Division 1 – Seizure**

**250. Seizure of forfeited goods** - (1) An officer of Customs or member of the Police may seize any forfeited goods or any goods which he or she has reasonable and probable cause for suspecting to be forfeited.

(2) In any such case such force may be used as is reasonably necessary for effecting the seizure and securing the goods.

(3) All goods so seized shall be taken to a Government warehouse or to such other place of security as the Comptroller or other proper officer directs.

(4) No goods shall be so seized at any time except within 2 years after the cause of forfeiture has arisen.

**251. Where goods may be seized** - Goods may be seized as forfeited wherever found within the territorial limits of Samoa.

**252. Rescue of seized goods** - A person who, without the permission of the Comptroller or other proper officer of Customs, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or otherwise converts to his or her own use, any goods which have been seized as forfeited, at any time before they have been declared by competent authority to have been seized without due cause, shall be deemed to have stolen the goods as if they were the property of the Government, and shall be guilty of theft accordingly.

**253. Notice of seizure** - When any goods have been seized as forfeited the Comptroller shall, except when the goods are seized in the presence of some person having or claiming an interest

therein, give immediate notice of the seizure, in the prescribed form, to the importer or some other person known or believed to have an interest in the goods, either by delivering the notice personally or by letter addressed to him or her and delivered at or transmitted by post to that person's last known place of abode or business; but no seizure shall be invalidated or rendered illegal by any failure to give such notice.

### **Division 2 - Condemnation**

**254. Condemnation without suit** - (1) All goods seized as forfeited shall be deemed to be condemned, as if by suit and judgment of condemnation, unless within 1 month after the day of the seizure some person gives notice in the prescribed form to the Comptroller that the person, or someone on whose behalf he or she acts, is entitled to the goods or to an interest therein, and intends to dispute their forfeiture.

(2) The burden of proving in any proceedings that any such notice was duly given shall be on the person alleging it.

(3) Proceedings for the condemnation of any goods seized as forfeited may be commenced and prosecuted to judgment whether any such notice has been given or not.

**255. Condemnation by Court** - (1) Proceedings for the condemnation of any goods seized as forfeited may in any case be instituted in any Court having jurisdiction by information by the Attorney General.

(2) The procedure on any such information shall, subject to this Act, be in accordance with rules of Court to be made in that behalf, and in default of such rules or so far as they do not extend, then in accordance with the usual practice of the Court in civil proceedings at the suit of the Attorney General so far as applicable, or so far as not applicable, then in accordance with the directions of the Court or a Judge.

(3) On the filing of any such information in the Court by the Attorney General, the Court or a Judge as the case may be shall fix a time and place for the hearing of the information, and notice of the proceedings and of the time and place so fixed shall be served on or given to such persons and in such manner as the Court or a Judge thereof directs.

(4) A person claiming any interest in the goods to which the information relates may, at any time within 1 month after the filing of the information, or within such further time as the Court or a Judge as the case may be allows, file a statement of defence, and shall thereupon become a party to the proceedings.

(5) A statement of defence shall set out the interest claimed by the defendant in the goods to which the information relates, and shall be accompanied by an affidavit verifying the existence and nature of that interest.

(6) If no such statement of defence is duly filed by any person, judgment of condemnation of the goods to which the information relates shall be entered.

(7) On any such information costs may be awarded to or against the Attorney General or any other party to the proceedings.

(8) An appeal from the decision of a District Court Judge, whether to make an order of condemnation or to refuse to make such an order, and whether based on law or fact, shall lie to the Supreme Court at the suit of any party to the proceedings, irrespective of the value of the property in question, subject to compliance with subsection (9).

(9) Such an appeal shall be commenced by the serving of notice of motion of the appeal on every party to the proceedings directly affected by the appeal, the filing of a duplicate of the notice in the District Court, and the filing of another duplicate of the notice in the Supreme Court, all within 28 days from the time when the decision of the District Court Judge is given, irrespective of whether reasons for the decision or costs are given at a later date, and irrespective of whether any formal steps to sign, enter or otherwise perfect the decision are necessary or are afterwards taken.

**256. No other action competent while condemnation proceedings pending** - While any proceedings for condemnation are pending no action or other proceeding for the recovery of damages for the seizure or the detention of the things seized, or for the recovery of the possession of them, or for the recovery of money deposited instead thereof, or of the proceeds of their sale, shall be commenced, or, if already commenced, shall be continued, without the leave of the Attorney-General or a Judge of the Supreme Court.

**257. Conviction to operate as a condemnation of forfeited goods** - (1) Despite anything in the foregoing provisions of this Part relating to condemnation, but subject to subsection (2), when it is provided by this Act or by any other of the Customs Acts that on the commission of any offence any goods shall be forfeited, the conviction of any person of that offence shall have effect as a condemnation, without suit or judgment, of any goods:

(a) that have been seized in accordance with this Act or with the Act under which the forfeiture has accrued; and

(b) in respect of which the offence was committed.

(2) Subsection (1) shall not limit the right of any person, not being the convicted person or a person acting on his or her behalf, to claim that he or she is entitled to the goods or to an interest in them and to dispute their forfeiture pursuant to section 254.

### **Division 3 – Miscellaneous**

**258. Delivery of goods seized on deposit of value** - (1) When any goods have been seized as forfeited the Comptroller may, if the Comptroller thinks fit, at any time before their condemnation, deliver them to the owner or other person from whom they were seized, on the deposit with the Comptroller of a sum equal to their duty-paid value as determined by the Comptroller.

(2) The money so deposited shall be taken to be substituted for the goods so seized, and all the provisions of this Act with respect to condemnation, so far as they are applicable, shall extend and apply to that money accordingly, as if a claim thereto had been duly made under section 254 by the person depositing it.

**259. Sale of perishable articles seized** - (1) When any living creature or anything which, in the opinion of the Comptroller, is of a perishable nature has been seized as forfeited the Comptroller may, if the Comptroller thinks fit, sell the thing so seized before its condemnation.

(2) The net proceeds of such sale shall be deemed to be substituted for the thing so sold, and all the provisions of this Act with respect to notice of claim and condemnation shall apply to those proceeds accordingly.



**260. Disposal of forfeited goods** - All forfeited goods shall, on forfeiture, become the property of the Government, and shall be sold, destroyed or otherwise disposed of as in any case the Minister may direct.

**261. Waiver of forfeiture by Head of State** - When any forfeiture has accrued under the Customs Acts the Head of State may on such terms as the Head of State thinks fit, whether before or after seizure or condemnation, waive the forfeiture (whether in whole or in part), and direct the restoration of any property so seized.

**262. Application of forfeiture provisions** - All the provisions of this Act with respect to the forfeiture of goods shall extend and apply to any boat, vehicle or other thing forfeited under the Customs Acts.

**262A. Additional powers to recover duty** – (1) This section shall bind the government.

(2) Where any person has made default in the payment of duty, the Comptroller may by notice in writing require any person to deduct from any amount payable or to become payable to the person in default, such sum as may be specified in the notice, and to pay every sum so deducted to the Comptroller to the credit of the person in default within such time as may be specified in the notice.

(3) Where any notice under this section relates to any wages or salary, the sums required to be deducted therefrom shall be computed so as not to exceed a deduction each week greater than 5 % of the duty owed by the person in default at the date of the notice, or an amount equal to 20 % of the wages or salary, whichever is the less.

(4) A copy of every notice given under this section and the revocation of any such notice shall be given to the person in default by the Comptroller.

(5) When ever pursuant to a notice under this section any deduction is made from any amount payable to the person in default, he or she shall be entitled to receive from the debtor a statement in writing of the fact of the deduction and of the purpose for which it was made.

(6) The sum deducted from any amount pursuant to a notice under this section shall be deemed to be held in trust for the Government and, without prejudice to any other remedies against the debtor or any other person, shall be recoverable in the same manner in all respects as if it were a debt payable by the debtor.

(7) A person commits an offence and is liable on conviction to a fine not exceeding 200 penalty units who:

(a) fails to make any deduction required by a notice under this section to be made from any amount payable by him or her to a person in default; or

(b) fails after making any such deduction to pay the sum deducted to the Comptroller within the time specified in that behalf in the notice.

(8) Where any person has made default in the payment of duty, or in respect of any judgment therefore (including any costs, fees or expenses included in the judgment or otherwise payable to the Comptroller in respect thereof) the amount shall be a charge on all the real and personal property of that person, except so far as that may be precluded by Article 102 of the Constitution.

(9) A charge created by this section shall operate in the same manner as if it were a charge under section 64 of the Income Tax Act 1974 and the procedures provided for in that section shall be deemed to apply as if fully provided for hereunder (with necessary modifications).

(10) The rights referred to in subsection (9) shall be exercisable by the Comptroller in like manner to those of the Commissioner for Inland Revenue.

### **PART XIII**

#### **DETENTION OF SHIPS AND AIRCRAFT**

**263. Ships and aircraft liable to detention** - Any ship or aircraft is liable to detention in accordance with this Part when any offence has been committed for which the owner or master of the ship or the owner or pilot in command of the aircraft is liable as such to a penalty under this Act.

**264. Seizure of ships and aircraft** - (1) An officer of Customs may seize any ship or aircraft which is liable to detention under this Act or which he or she has reasonable and probable cause for suspecting to be so liable.

(2) Any such seizure may be made in the same manner as a seizure for forfeited goods.

(3) No ship or aircraft shall be so seized at any time except within 2 years after the act or event which rendered it liable to detention.

**265. Where ships and aircraft may be seized** - No ship or aircraft shall be so seized elsewhere than within the territorial limits of Samoa.

**266. Rescue of seized ships and aircraft** - (1) A person who, without the permission of the Comptroller or other proper officer of Customs, whether under any claim of right or not, and either secretly or openly, and whether with or without force or violence, takes away any ship or aircraft seized as being liable to detention, at any time before it has been declared by competent authority to have been seized without due cause, shall be deemed to have stolen the ship or aircraft as if it were the property of the Government, and shall be guilty of theft accordingly.

(2) For the purpose of this section the seizure of any ship or aircraft shall be deemed to be complete so soon as any officer of Customs has boarded the ship or aircraft and notified the master or the pilot in command or any other officer of the ship or aircraft that it is seized by the Customs, or so soon as any such officer of Customs has been resisted or obstructed in his or her endeavour to board the ship or aircraft for that purpose.

**267. Security to be given before release of seized ship or aircraft** - A ship or aircraft so seized may be detained by the Customs until security is given to the satisfaction of the Comptroller, in such sum as he or she thinks sufficient, by or on behalf of the owner or master of the ship, or the owner or pilot in command of the aircraft, or some person claiming an interest therein, for the payment of any penalties and costs which may theretofore have been imposed or may thereafter be imposed on the owner or master or pilot in respect of the offence by which the liability of the ship or aircraft to detention accrued.

**268. Avoidance of security** - If no such penalty is imposed on the owner or master of the ship or the owner or pilot in command of the aircraft either before or within 1 year after the date of the

seizure of the ship or aircraft, any such security shall become void, and the ship or aircraft, if no such security has been given, shall cease to be subject to detention.

**269. Enforcement of security** - If any such penalty is imposed upon the owner or master of the ship or the owner or pilot in command of the aircraft either before or within 1 year after the date of the seizure of the ship or aircraft, any security so given shall become available for the recovery of the amount of the penalty and of any costs awarded.

**270. Service of process** - For the purpose of recovering any such penalty, any summons or other process may be served on the owner or master of any ship or the owner or pilot in command of any aircraft so seized (whether the defendant is within Samoa or not) by leaving it or a copy of it on board the ship or aircraft; but nothing in this section shall preclude any other lawful method of service.

#### **PART XIV EVIDENCE**

**271. Incriminating questions and documents** - (1) In any civil proceedings in any Court under or in pursuance of any provision of the Customs Acts, whether for the recovery of any duty or tax or in relation to any forfeiture, or otherwise, no person, whether a party to the proceedings or not, shall be excused from answering any question put to him or her, by interrogatory or otherwise, or from producing or making discovery of any document, on the ground that the answer to the question or the production or discovery of the document may incriminate or tend to incriminate him or her.

(2) In any proceedings in any Court for an offence against any provision of the Customs Acts, a person called as a witness (including a person charged with the offence and called as a witness on his or her own application) shall not be excused from answering any question put to him or her touching the alleged offence, on the ground that the answer may incriminate or tend to incriminate him or her.

(3) A statement made, in any proceedings to which subsection (1) or subsection (2) applies, by any person (other than the person

charged with the offence in proceedings to which the said subsection (2) applies) in answer to any such question, or a document of which production or discovery is so made by him or her in any such civil proceedings, shall not, in any criminal proceedings, be admissible in evidence against him or her except on a charge of perjury in respect of his or her sworn testimony or on a charge of making a false statement on oath or on a charge of knowingly making a false declaration under section 221.

**272. Source of information need not be disclosed** - No officer of Customs or member of the Police and no witness for the Government in any prosecution for an offence against the Customs Acts, or in any proceedings relative to the seizure, detention or condemnation of ships, aircraft or goods under those Acts, shall be compellable to disclose the fact that he or she received any information, or its nature or source, or to produce or disclose the existence or nature of any reports made by or received by him or her in an official or confidential capacity.

**273. Burden of proof in proceedings under the Customs Acts** - (1) In any proceedings under the Customs Acts instituted by or on behalf of or against the Comptroller or the Government (other than a criminal prosecution in the Supreme Court) every allegation made on behalf of the Comptroller or the Government in any statement of claim, statement of defence, plea or information, and relating to the identity or nature of any goods, or to their value for ad valorem duty, or to the country or time of their exportation, or to the fact or time of their importation, or to their place of manufacture, production or origin, or to the payment of any duty on them, or to any act done or omitted with respect thereto by any person, shall be presumed to be true unless the contrary is proved.

(2) The said presumption shall not be excluded by the fact that evidence is produced on behalf of the Comptroller or the Government in support of any such allegation.

(3) For the purposes of this section a prosecution in the District Court for an offence against the Customs Acts shall be deemed to be a proceeding instituted on behalf of the Comptroller or the Government.

(4) For the purposes of this section, every proceeding instituted by or against the Comptroller or the Government in

which any question arises as to the rights, powers, obligations or liabilities of the Comptroller or the Government or any other person under the Customs Acts, shall be deemed to be a proceeding under those Acts.

(5) The provisions of this section shall extend and apply to proceedings in which the existence of an interest to defraud the revenue of Customs is in issue.

**274. Burden of proof of justification** - In all proceedings which are instituted against the Government, or against the Minister or an officer of Customs or member of the Police or any other person, for any seizure, arrest or other act done in pursuance of the Customs Acts, and in which the existence of reasonable or probable cause or of any other justification for such act is in issue, the burden of proving the want of reasonable or probable cause or the absence of such justification shall be on the plaintiff.

**275. Presumption of authenticity of documents** - All documents purporting to be signed by or on behalf of the Minister or Comptroller, or to be sealed with the seal of the Customs, shall in all Courts and in all proceedings under the Customs Acts be deemed to have been so signed or sealed with due authority, unless the contrary is proved.

**276. What evidence receivable** - In any action or other proceeding under the Customs Acts, whether civil or criminal (other than a criminal prosecution in the Supreme Court), the Court may, in proof of any fact in issue, admit and accept as sufficient such evidence as it thinks fit, whether such evidence is legally admissible in other proceedings or not.

**277. Declarations under this Act** - (1) A declaration required or authorised by this Act shall be made in the prescribed form.

(2) Where by any such form it is indicated that the declaration shall be made before any person, then it may be made before the Comptroller or other officer of Customs or before any person authorised by or under the Oaths, Affidavits and Declarations Act 1963 to take declarations, or before any such other person as may be prescribed.

## PART XV

**MISCELLANEOUS**

**278. Application of Customs Acts to goods passing through Post Office** - (1) In this section the term "postal packet" means any letter, parcel, packet or other article whatever received or transmitted by or through the Post Office.

(2) Subject to this section and to any regulations, the provisions of the Customs Acts shall apply to postal packets and to goods contained therein in the same manner as to any other goods.

(3) Without limiting the power to make regulations conferred by section 279, the Head of State may make regulations for all or any of the following purposes:

- (a) modifying any provisions of the Customs Acts in their application to postal packets or to goods contained therein, or exempting such postal packets or goods from the application of any provisions of the Customs Acts, but not so as to affect the liability of any goods to duty or the rate of any duty, or the law as to prohibited imports or exports;
- (b) securing, in respect of such packets of goods, the observance of the Customs Acts and the payment of duty;
- (c) enabling any officers of the Post Office to exercise or perform for the purposes of the Customs Acts all or any of the powers or duties of the importer or exporter, or of an officer of Customs, in respect of such packets or goods;
- (d) authorising the destruction or other mode of disposition of postal packets or goods therein on which duty is not paid within such time as may be prescribed;
- (e) providing that any separate postal packets and any goods therein, whether addressed to the same or to different persons, may be treated for the purposes of the Customs Acts as a single package consigned to a single person, and that duty shall be payable thereon accordingly;

- (f) prescribing the persons who shall be deemed for the purposes of the Customs Acts to be the importers or exporters of such postal packets or goods.

**279. General power to make regulations** - The Head of State may make regulations under this Act for all or any of the following purposes:

- (a) prescribing the nature, size and material of the packages in which imported goods or goods for export or for removal within Samoa are to be packed;
- (b) prescribing the maximum weight or quantity of imported goods or goods for export or for removal within Samoa that may be contained in any 1package;
- (c) prescribing the conditions of preparation or manufacture for export of any articles used for food or drink by humans or used in the manufacture of articles so used;
- (d) prescribing the conditions as to purity, soundness and freedom from disease to be conformed to by goods for export;
- (e) prescribing the manner in which goods shall be weighed or measured for the purposes of the Customs Acts and the allowances or deductions that may be permitted in such weighing or measuring;
- (f) modifying any provisions of the Customs Acts in their application to goods (not being goods passing through the Post Office) that are imported into Samoa or exported from Samoa by means of aircraft, but not so as to affect the liability of any goods to duty or the rate of any duty or the law as to prohibited imports or exports;
- (g) prescribing forms for the purposes of this Act;
- (ga) prescribing fees and charges for services provided by officers of Customs and the methods of assessment and payment of such fees and charges;



- (h) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of the Customs Acts and for the due administration thereof;
- (i) prescribing fees to be paid in respect of the exercise of any power or function under this Act or consistent with this Act, including application fees applicable to requests made for the exercise of any such power or functions.

**280. Penalties imposed by regulations** - Any regulations made by the Head of State under this Act may prescribe fines, not exceeding 10 penalty units, for the breach of any such regulations.

**281. General provisions as to validity of orders and regulations** - Without limiting the Acts Interpretation Act 1974, no order or regulation under this Act shall be invalid because it leaves any matter to the discretion of the Minister or of any other person, or because it authorises the Minister or any other person to give any consent or to issue any licence, permit or other instrument on or subject to conditions to be imposed or approved by the Minister.

**282. Repeal and savings** - (1) The enactments specified in the Third Schedule are repealed.

(2) All the New Zealand enactments specified in the Fourth Schedule which are parts of the law of Samoa are repealed as parts of that law.

(3) The New Zealand enactments specified in the Fifth Schedule are revoked and repealed as part of the law of Samoa.

(4) Unless the context otherwise requires, every reference in any enactment or document in force prior to the commencement of this Act to the Collector of Customs shall be read as a reference to the Comptroller of Customs, and every reference to the Collector shall be read as a reference to the Comptroller.

(5) Without limiting the Acts Interpretation Act 1974, where under the authority of any enactment repealed, or under the authority of any regulation made under any such enactment, any appointment or any act of authority or any other thing whatsoever has been made or done by the Governor General of New Zealand or the High Commissioner or the Head of State or the Minister or

the Comptroller or any other person, and that appointment, act of authority, or thing is subsisting or in force at the commencement of this Act and could have been made or done under any substantially corresponding provision of this Act (in this subsection referred to as the corresponding provision) by any person other than the one specified in the said enactment or regulation, or in any manner other than that so specified, it shall continue and have effect as if it had been made or done under the corresponding provision by the person or in the manner specified in the corresponding provision, and as if the corresponding provision had been in force when it was made or done.

(6) The Customs Regulations 1959 (NZ) shall, so far as they are not inconsistent with the provisions of this Act, continue in force as if made under this Act.

**283. Limitation of actions** – No statute of limitation shall bar or affect any action or remedy for the recovery of duty under this Act.

## **SCHEDULES**

### **FIRST SCHEDULE (Section 49)**

#### **PROHIBITED IMPORTS**

Every article the sale of which in Samoa would be an offence against any enactment relating to the sale of food or drugs.

All indecent documents within the meaning of the Indecent Publications Ordinance 1960.

False or counterfeit money or bank notes, cheque forms or promissory note forms the importation of which is not approved by the Minister. Any money not being of the established standard in weight or fineness.

### **SECOND SCHEDULE (Section 87)**

#### **PART I**

Annual licence fees for warehouses licensed for the warehousing of dutiable goods other than oils in vessels capable of containing 100 gallons or more:

<b>CUBIC CONTENTS OF WAREHOUSE</b>	<b>ANNUAL FEE</b>
Less than 200 tons	\$1000
More than 200 tons and less than 300 tons	\$1250
More than 300 tons and less than 400 tons	\$1500
More than 400 tons and less than 500 tons	\$1750
More than 500 tons and less than 600 tons	\$2000
More than 600 tons and less than 700 tons	\$2250
More than 700 tons and less than 800 tons	\$2500
More than 800 tons and less than 900 tons	\$2750
More than 900 tons and less than 1000 tons	\$3000
More than 1000 tons	\$3250

**PART II**

Annual licence fees for warehouses licensed for the warehousing of oils in vessels capable of containing 100 gallons or more:

<b>CUBIC CONTENTS OF WAREHOUSE</b>	<b>ANNUAL FEE</b>
Less than 200 tons	\$1000
More than 200 tons and less than 300 tons	\$1250
More than 300 tons and less than 400 tons	\$1500
More than 400 tons and less than 500 tons	\$1750
More than 500 tons and less than 600 tons	\$2000
More than 600 tons and less than 700 tons	\$2250
More than 700 tons and less than 800 tons	\$2500
More than 800 tons and less than 900 tons	\$2750

More than 900 tons and less than 1000 tons	\$3000
More than 1,000 tons	\$3250

1. When any warehouse requires the entire services of an officer or officers of Customs, the annual licence fee for that warehouse shall, in lieu of the above amounts, be \$1000 for each officer so required, and all questions as to the number of officers required and the time for which their services are required shall be determined by the Comptroller, whose determination shall be final.
2. When any warehouse is used for the storage of goods during a portion only of the year, or the services of an officer of Customs are required at that warehouse during a portion only of the year, the Comptroller may remit or refund a proportionate part of the licence fee otherwise payable, calculated in respect of the period during which the warehouse is not used or the services of that officer are not required.

### **THIRD SCHEDULE**

**(Section 282(1))**

#### **ENACTMENTS REPEALED**

- 1920 - No.7: The Importation of Infected Goods Ordinance 1920.
- 1959 - No.12: The Samoa Customs Ordinance 1959.
- 1964 - No.20: The Samoa Customs Order Amendment Act 1964
- 1965 - No.6: The Samoa Customs Order Amendment Act 1965.
- 1968 - No. 8: The Samoa Customs Order Amendment Act 1968
- 1972 - No.5: The Samoa Customs Order Amendment Act 1972.

### **FOURTH SCHEDULE**

**(Section 282(2))**

#### **NEW ZEALAND ENACTMENTS REPEALED AS PART OF THE LAW OF SAMOA**

- 1908 - No.46: The Distillation Act 1908. (1957 Reprint, Vol. 4,

p.157).

- 1908 - No.122: The Monopoly Prevention Act 1908: Section 10 and subsection (1) of section 12. (1957 Reprint Vol.10 pp. 334, 335).
- 1908 - No.190: The Timber Export Act 1908. (1957 Reprint, Vol. 15, p.589).
- 1908 - No.192: The Tobacco Act 1908 (1957 Reprint Vol. 15, p.609).
- 1910 - No.4: The Phosphorus Matches Act 1910: Section 3. (1957 Reprint, Vol. 11, p.771).
- 1910 - No.12: The Tobacco Amendment Act 1910. (1957 Reprint Vol.15, p.627).
- 1913 - No.63: The Customs Act 1913. (1957 Reprint Vol.3 p.552).
- 1914 - No.21: The Customs Amendment Act 1914. (1957 Reprint, Vol.3 p.663.)
- 1915 - No.39: The Finance Act 1915. (1957 Reprint, Vol. 5, p.1).
- 1917 - No.9: The Finance Act 1917: Sections 50 and 51 (1957 Reprint, Vol.5, p.39; Vol.15, pp.627, 628).
- 1920 - No. 83: The Finance Act 1920: Section 50. (1957 Reprint, Vol.3, pp.650, 664; Vol.5, p.48).
- 1921 - No.16: The Samoa Act 1921: Subsection (4) of section 45.
- 1921 - No.19: The Customs Amendment Act 1921. (1957 Reprint, Vol.3, p.665).
- 1921 - No.25: The Finance Act 1921 (No.2.) (1957 Reprint, Vol.5, p.49; Vol.15, p.628).
- 1921-22 No.72: The Finance Act 1921-22: Section 18. (1957 Reprint, Vol. 5, p.51; Vol.3 p.680).
- 1922 - No.14: The Customs Amendment Act 1922. (1957 Reprint, Vol.3 p.680).
- 1923 - No.15: The Customs Amendment Act 1923, (1957 Reprint, Vol.3 p.681).

- 1927 - No.26: The Customs Amendment Act 1927. (1957 Reprint, Vol.3 p.682).
- 1930 - No.5: The Customs Amendment Act 1930: Parts I and III. (1957 Reprint, Vol.3, pp.684, 711; Vol. 15, p.629).
- 1931 - No.30: The Customs Amendment Act 1931: Parts I and III. (1957 Reprint, Vol.3 pp.691, 712; Vol.15, p.630).
- 1932-33 No.35: The Customs Amendment Act 1932-33 (1957 Reprint, Vol.3, pp.695, 714).
- 1934 - No.14: The Customs Amendment Act 1934: Parts I and III, the Second Schedule, and so much of the Third Schedule as relates to section 24 of the Tobacco Act 1908, section 3 of the Customs Act 1913 and sections 5, 12, 13, 21, and 25 of the Customs Amendment Act 1930. (1957 Reprint, Vol.3, pp.696, 715; Vol. 15, p.631).
- 1934 - No.31: The Finance Act (No.3) 1934: Sections 6 and 31. (1957 Reprint, Vol.3 pp.573, 576, 701; Vol.5, pp.100, 102).
- 1937 - No.17: The Finance Act 1937: Section 28. (1957 Reprint Vol.3, p.701; Vol.5, p.109).
- 1939 - No.30: The Customs Amendment Act 1939. (1957 Reprint, Vol. 3, pp.701, 718).
- 1942 - No.5: The Customs Amendment Act 1942: Parts I and II. (1957 Reprint, Vol. 3, pp.703, 719; Vol.15, pp.613, 632).
- 1943 - No.9: The Finance Act (2) 1943: section 9. (1957 Reprint, Vol.5 p.128; Vol.15, p.632).
- 1946 - No.21: The Customs Amendment Act 1946: PartI. (1957 Reprint, Vol.3, pp.705, 720).
- 1947 - No.29: The Customs Amendment Act 1947: Parts I and III, and the Third and Fifth Schedules. (1957 Reprint, Vol.3, pp. 705, 721; Vol. 15, p.633).
- 1951 - No.71: The Customs Amendment Act 1951: PartI. (1957 Reprint, Vol.3, pp. 708, 722).

- 1953 - No.57: The Customs Amendment Act 1953: PartI. (1957 Reprint, Vol.3 pp. 709, 723).
- 1958 - No.33: The Customs Amendment Act 1958: Parts I and III.
- 1959 - No.45: The Customs Amendment Act 1959.
- 1960 - No.27: The Customs Amendment Act 1960: Parts I and II.
- 1961 - No.10: The Motor Spirits Duty Act 1961: So much of the sixth Schedule as relates to section 14 of the Customs Amendment Act 1934 and section 7 (1) of the Customs Amendment Act 1939.
- 1961 - No.57: The Customs Amendment Act 1961.

**FIFTH SCHEDULE**  
**(Section 282(3))**

**NEW ZEALAND ENACTMENTS REVOKED AND  
REPEALED AS PART OF THE LAW OF SAMOA**

- N.Z.S.R. 1939/104: The Samoa Customs Order 1939.
- N.Z.S.R. 1945/36: The Samoa Customs Order 1939, Amendment No.3
- N.Z.S.R. 1956/20: The Samoa Customs Order 1939, Amendment No.5
- N.Z.S.R. 1949/125: The Samoa Customs (Aircraft) Regulations 1949.
- N.Z.S.R. 1944/21: The Samoa Import Control Regulations 1944.
- N.Z.S.R. 1956/219: The Samoa Import Control Regulations 1944, Amendment No.1

**SIXTH SCHEDULE/**  
**(Section 190)**

**CUSTOMS WARRANT**

**To:** In pursuance of the Customs Act 1977 you are authorised to enter by day or night, and whether peaceably or by force if need be, any house, premises, or place in which you have reasonable cause to suspect that there are any uncustomed goods, or any goods subject to the control of the Customs or unlawfully imported, or any goods in respect of which an offence has been committed against the Customs Act, or any books or other documents relating to any such goods, or any books or other documents containing information that may lead to the recovery of any penalty or other money under the Customs Act, and to search any houses, premises, or place so entered, and there to break open and search any chests, trunks, packages, or places in which any such goods, books or documents may be or be supposed to be; and on any such entry to seize and carry away any forfeited goods or any goods which there is reasonable cause to believe or suspect to be forfeited; and in so acting you are authorised to take with you and have the assistance of any member of the Police and such other assistants as you deem necessary. For all which this shall be your sufficient warrant.

**GIVEN** under my hand and the Seal of the Customs this ..... day of 20 ..... (Customs Seal).

.....  
Minister of Customs

The reference to the Police should now be read as a reference to the Police Service, see s.3(3) of the Police Service Act 1977.

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#### **REVISION NOTES 2008-2011**

This Act has been consolidated and revised under section 5 of the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) References to the male gender were made gender neutral
- (d) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.



- (i) “Every” and “any” changed to “a” or “each” where appropriate
- (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
- (iii) “shall have” changed to “has”
- (iv) “shall be guilty” changed to “commits”
- (v) “notwithstanding” changed to “despite”
- (vi) “pursuant to” or “in accordance with the provisions of” changed to “under”
- (vii) Numbers in words changed to figures
- (viii) “hereby” and “from time to time” (or “at any time”) removed
- (ix) Divisions inserted for subheadings of Parts
- (x) The heading “Repeals, revocations and savings” changed to “Repeal and savings”. (section 282.
- (xi) Arrangement of provision made consistent with the text.

The following amendments have been made to specific sections of the Act to incorporate amendments made by Act of Parliament passed since the publication of the *Consolidated and Revised Statutes of Samoa 2007* –

By the *Customs Amendment Act 2010, No.2*:

- Section 132** - Repealed by section 2 of the Customs Amendment Act 2010, No.2.
- Part VIIIA & Sections 203A to 203Q** - New Part VIIIA and section 203A to 203Q inserted
- Section 214** - Section 214 was deleted and substituted with a new section 214.

The following amendments were properly noted in the 2010 consolidation:

By *Schedule 2 of the Fines (Review and Amendment) Act 1998*:

- Section 40(3)** - Section 40(3) is amended by prescribing a penalty being a fine not exceeding \$5,000, or 3 times the value of the imported goods, whichever is the greater, and by providing for the forfeiture to the State of the goods and the ship or aircraft involved.
- Section 105(2)** - Section 105(2) is amended by prescribing a fine not exceeding \$1,000, or 3 times the value of the goods, whichever is the greater.
- Section 241** - In paragraph (a), the figure “\$100” was deleted and substituted with “\$10,000”.

- In paragraph (b), the figure “\$20” was deleted and substituted with “\$5,000”.

- Section 280**
- Section 280 is amended by prescribing penalties being fines not exceeding \$1,000 for breach of Regulations.

This Act has been consolidated and revised in 2008, 2009, 2010 and 2011 by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is the official version of this Act as at 31 December 2011. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.



Aumua Ming Leung Wai  
Attorney General of Samoa

*Revised and consolidated in 2008 by the Legislative Drafting Division under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)*

*Revised in 2009, 2010 and 2011 by the Legislative Drafting Division under the supervision of Papalii Malietau Malietoa (Parliamentary Counsel).*

**The Customs Act 1977 is administered  
by the Ministry for Revenue.**