

**THE CUSTOMS ACT 1986**

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CUSTOMS—11 OF 1986

**SCHEDULE  
(Section 174)**

Matters in respect of which appeals may be heard  
by the Court of Review

FIJI

**ACT NO. 11 OF 1986  
[COAT OF ARMS]**

I assent

[L.S]

**P. K. GANILAU**

Governor General

19th June 1986

**AN ACT  
RELATING TO THE CUSTOMS  
THE CUSTOMS ACT, 1985**

ENACTED by the Parliament of Fiji—

[ ]

**PART I - PRELIMINARY**

*Short title and commencement*

1.—(1) This Act may be cited as the Customs Act, 1986.

(2) This Act shall come into force on a date to be notified by the Minister in the Gazette, and different dates may be so notified for the purpose of different provisions of this Act.

***Interpretation***

2.—(1) In this Act, unless the context otherwise requires—

"agent" in relation to the master or owner of an aircraft or ship, includes any person who notifies the Comptroller in writing that he is entitled to act as the agent, and who, or on whose behalf any person authorized by him, signs any document required or permitted by the customs laws to be signed by an agent:

Provided that the owner of an aircraft or ship, if resident or represented in Fiji, shall, if no other agent is appointed, be deemed to be the agent of the master of that aircraft or ship, for all the purposes of the customs laws;

"aerodrome" means an area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;



- "aircraft" includes balloons, gliders, airships, hovercraft, helicopters, flying machines and any other means of aerial locomotion;
- "airport" means an airport appointed by the Minister under section 4 as an airport for the purpose of the customs laws;
- "approved place of loading" and "approved place of unloading" means a quay, jetty, wharf, part of an airport, or other place, appointed by the Comptroller to be a place where goods may be loaded or unloaded;
- "boarding station" means a place appointed by the Comptroller to be a place for aircraft or ships arriving at or departing from any port or place to bring to for boarding by, or the disembarkation of, officers;
- "bonded warehouse" means a building or storage tank licensed by the Comptroller, in which goods entered to be warehoused maybe lodged, kept or secured pending payment of duty or exportation; and includes a customs warehouse and an export warehouse;
- "cargo" includes all goods imported or exported in any aircraft or ship other than such goods as are required as stores for consumption or use by or for that aircraft or ship, its crew and passengers; and also includes the *bona fide* personal accompanied baggage of such passengers;
- "cleared" in relation to goods, means removed, after release by the proper officer, in pursuance of the purpose for which the goods were entered;
- "coastwise" means the trade by air, land or sea from one port to another port in Fiji;
- "Comptroller" means the Comptroller of Customs and Excise or any officer or other person authorised in writing by the Comptroller to act on his behalf;
- "container" includes a bundle, package, box, cask or other receptacle of whatsoever kind;
- "crew" includes every person (except the master) employed or engaged in any capacity on board an aircraft or ship;
- u "the Customs" means the Fiji Revenue and Customs Authority;
- "customs agent" means a person licensed as such under the provisions of this Act;
- "customs area" means a place appointed by the Comptroller under Section 4 for the deposit of goods subject to customs control;
- "customs laws" includes this Act, the Tax Free Zones Decree 1991, and any other Act or subsidiary legislation relating to the customs;
- "customs revenue" means any amount collectible by the Customs in accordance with the provisions of the customs laws;
- "customs warehouse" means a place appointed by the Comptroller for the deposit of uncleared goods or other goods, pending the payment of the import duty payable thereon;
- "days" does not include Saturdays, Sundays or public holidays;
- "drawback" means a refund of all or part of any import duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting drawback;
- "dutiabale goods" includes all goods in respect of which any duty is payable;
- u "duty" means any duty leviable under any customs law, Dumping and Countervailing Duties Act and includes Value Added Tax leviable under section 14 of the Value Added Tax Decree 1991;
- ◆ "duty suspension scheme" means the Customs procedure under which certain goods or materials can be imported into the Fiji Islands conditionally relieved from payment of import duties and taxes, on the basis that the goods or materials are intended for

manufacturing or processing and subsequent exportation;

"export" means to take or cause to be taken out of Fiji;

- υ "exporter" includes an owner or an owner's agent, or any other person for the time being possessed of or beneficially interested in any goods at the time of their exportation;

"export warehouse" means a place appointed by the Comptroller for the deposit, keeping and securing of imported and Fiji manufactured goods for sale to a relevant traveller leaving Fiji from an approved airport or seaport. Export warehouses may be called duty free shops;

"Fiji" includes the internal waters of Fiji, the Archipelagic waters of Fiji and the territorial seas of Fiji, as defined in the Marine Spaces Act;

"foreign parcels" means parcels either posted in Fiji and sent to a place outside Fiji, or posted in a place outside Fiji and sent to a place in Fiji, or in transit through Fiji to a place outside Fiji;

"foreign port" means a place in a country other than Fiji to which aircraft or ships as the case may be, may have access;

"goods" includes all kinds of articles, wares, merchandise, living creatures and movable property of any kind whatsoever;

"goods under drawback" means any goods in relation to which a claim for drawback has been or is to be made;

- υ "identifier" means the identifier allocated to a registered user by the Comptroller under section 36C;

"import" with its grammatical variations and cognate expressions means to bring or cause to be brought within Fiji;

"importer" includes an owner or his agent, or any other person for the time being possessed of or beneficially interested in, any goods at the time of the importation thereof;

- υ "licensee" means a licensee of a bonded warehouse or an export warehouse;

"master" in relation to an aircraft or ship, means the person in charge or in command of that aircraft or ship, but does not include a person appointed for conduct of ships into or out of a port;

"member of crew" means :

- (a) in relation to an aircraft - the pilot, crew and attendants of the aircraft; and
- (b) in relation to a ship - the master, mate, engineer or any other members of the crew of the ship;

"minister" means the Minister responsible for finance;

"name" includes the registration mark of an aircraft or ship;

"officer" includes a person duly appointed and employed, or a person or class of person authorized by the Comptroller, to carry out or assist to carry out any of the provisions of the customs laws;

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

"owner" in respect of an aircraft or ship, includes the master or other responsible officer of that aircraft or ship and also any person acting as an agent for the owner, and any charterer, operator or hirer;

"package" includes every means by which goods for carriage may be cased, covered, carried, enclosed, contained or packed;

"parcel" means a postal parcel or postal packet, which is posted in Fiji and accepted by the Post Office as a packet or a parcel in accordance with the Post Office Act, or which is received in Fiji from abroad by parcel post;

"port" means a place, whether on the coast or elsewhere, appointed by the Minister under section 4 as a port for the purposes of the customs laws;

"proper officer" means the officer authorised by the Comptroller to carry out any provision of the customs laws;

"prohibited goods" and "restricted goods" mean respectively goods the importation or exportation of which is prohibited or restricted by or under the provisions of this or any other Act;

"relevant traveller" means a person who intends to make an international flight or voyage whether, as a passenger on, or as the pilot or a member of the crew of, an aircraft or ship;

"ship" includes a ship, hovercraft, vessel or boat of any kind whatsoever, whether propelled by engine or otherwise, or towed;

"smuggle" means to import, introduce, export or to attempt to import, introduce or export goods with intent to defraud the customs revenue;

"sufferance wharf" means a place, other than an approved place of loading or unloading, at which the Comptroller may, subject to such conditions as he may either generally or in any particular case impose, allow any goods to be loaded or unloaded;

o "system" means a Customs automated cargo reporting or entry processing system;

"time of importation" means the time at which an aircraft or ship importing goods actually lands in Fiji or enters a port, as the case may be;

"time of exportation" means the time at which goods are placed on board an aircraft or ship for the purpose of exportation;

"tons register" means the net tonnage of any ship as set forth in the certificate of registry of such ship;

"tranship" means to transfer, either directly or indirectly, any goods from an aircraft or ship arriving at a port in Fiji from outside Fiji to an aircraft or ship departing from Fiji;

"transit shed" means a building appointed by the Comptroller under section 4 for the deposit of goods subject to customs control;

"uncustomed goods" includes dutiable goods on which the full duties have not been paid, and any goods, whether dutiable or not, which are imported or exported or in any way dealt with contrary to the provisions of the customs laws;

"vehicle" includes every description of conveyance for the transport by land of human beings or goods.

(2) In the construction of this Act, when any thing or act has been or is required to be done within a specific number of hours, in reckoning such hours Saturdays, Sundays and public holidays shall be excluded, and the expression "24 hours" or "48 hours" means respectively 24 or 48 consecutive hours of the day.

## **PART II - ADMINISTRATION**

### ***Customs authorities***

3.—(1) There shall be a Comptroller of Customs and Excise who shall administer this Act and be responsible for the enforcement of its provisions and the collection of revenue under it and who shall perform such other duties as the Fiji Revenue and Customs Authority may assign to him.

u (2) The person for the time being appointed as the Chief Executive Officer of the Fiji Revenue and Custom Authority shall hold office as the Comptroller of Customs & Excise.

(3) The Comptroller may authorise any other officer or employee of the Fiji Revenue and Customs Authority to exercise any of the powers conferred upon him by the customs laws except the power of delegation under this subsection.

(4) The Minister may give to the Comptroller general or special directions which are not inconsistent with provisions of the customs laws.

(5) Every person employed on any duty or service relating to the Customs by the orders or with the concurrence of the Comptroller is deemed to be the proper officer for that duty or service; and every act required by law at any time to be done by, or with, any particular officer nominated for such purpose, if done by or with any person appointed by the Comptroller to act for such particular officer, is deemed to be done by or with such particular officer.

(6) Every officer, when acting against any person under this Act, shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such document establishing his identity as the Comptroller may direct to be carried by such officer;

(7) Every officer shall be liable to serve in any place in Fiji and shall perform such duties as may be required of him by the Comptroller.

(8) Every officer concerned with the administration of the customs laws shall perform such duties and follow such procedures as the Comptroller may direct.

### **PART III - APPOINTMENT OF PORTS AND PLACES**

#### ***Appointment of ports, etc.***

4.—(1) The Minister may, subject to such conditions as he thinks fit, by notice in the Gazette, appoint and specify, for the purposes of the customs laws, ports, airports, and the limits of ports and airports.

(2) The Comptroller may, subject to such conditions as he thinks fit, by notice in the Gazette, appoint and specify such of the following as he may consider necessary for the purposes of the customs laws in relation to areas within the limits of ports and airports appointed under subsection (1)—

- (a) places of loading and unloading;
- (b) boarding stations;
- (c) transit sheds;
- (d) places for the landing and embarkation of persons;
- (e) places for the examination of goods, including baggage;
- (f) entrances and exits whether general or specific, to and from a port or airport.

(3) The Comptroller may, subject to such conditions in any particular case as he may deem necessary, permit any place to be used temporarily as a place for loading or unloading and examination of goods, a boarding station, a sufferance wharf, a road or route over which goods under customs control may be conveyed, an entrance or an exit.

(4) The Comptroller may, with the approval of the Minister, appoint and specify areas or places outside the limits of ports and airports to be used for the purpose of storing, examination and clearance of goods, including baggage, subject to such conditions as may be notified at the time when such areas or places are appointed and to the payment of such sum as may be authorised by the Minister.

***Restrictions on entry, etc. to customs areas***

5.—(1) A person shall not enter a customs area when forbidden to do so by an officer, nor remain therein when requested to leave by an officer, when such area is temporarily restricted for the purpose of the administration of the customs laws.

(2) A person or vehicle entering or leaving, and all goods being brought into or out of a customs area, may be detained by a proper officer for search or for examination.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable to a fine not exceeding \$1,000.

***Accommodation on wharves and airports***

6.—(1) Every wharf and airport owner shall at his own expense provide—

- (a) suitable furnished office accommodation on his wharf or sufferance wharf or at his airport for the exclusive use of the officer employed at the wharf and airport; and
- (b) such shed accommodation for the protection of goods as the Comptroller may in writing require.

- (2) Where a wharf or airport owner contravenes any of the provisions of this section then:-
- (a) the appointment of a place of loading or unloading or a sufferance wharf may be withheld until the required accommodation is provided; or
  - (b) any existing appointment may be revoked.

***Working days and hours and overtime charges***

7.—(1) The working days and hours of the Customs shall be such as may be prescribed and, except with the permission of the Comptroller, no work connected with embarkation or disembarkation of passengers, the discharge, landing, loading or receipt of any cargo or other goods shall be performed outside the prescribed working days and hours.

(2) When work is permitted by the Comptroller to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at the prescribed rates.

**PART IV - CUSTOMS CONTROL OF GOODS**

***Customs liability, goods subject to customs control***

8.—(1) The Customs shall not be liable for the loss of or damage to any goods subject to their

control unless such loss or damage shall have been occasioned by the wilful or negligent act of any officer.

(2) The following goods shall be subject to customs control—

- (a) all imported goods, including goods imported through the Post Office, from the time of importation until removal for home consumption or until exportation, whichever first happens;
- (b) all goods under drawback from the time of their being brought to a proper officer for examination until exportation or until release from customs control;
- (c) all goods for export from the time when the goods are brought to any port or place for exportation until exportation or until release from customs control;
- (d) all goods on board any aircraft or ship while within any airport, port or place in Fiji;
- (e) all goods in or intended for or removed from a tax free zone on which all duties have not been paid and which have not yet been released from the control of Customs;
- (f) all goods removed from a tax free zone intended for export until their export;
- (g) all goods on board any vehicle, aircraft or vessel consigned to or removed from a tax free zone;
- (h) goods subject to the duty suspension scheme under Part VIIB.

***Interference with goods subject to customs control***

9.—(1) A person shall not, except as may be allowed under the customs laws, alter or interfere in any way with goods subject to customs control.

(2) A person who contravenes subsection (1) is guilty of an offence.

***Right of examination and cost***

10.—(1) The control of goods by the Customs includes the right of the Customs to examine at any time all goods subject to customs control.

(2) The shipping, unshipping, carrying and landing of goods, including passengers' baggage, and the bringing of such goods to the place of examination, and the measuring, weighing, counting, unpacking and repacking, and the opening and closing of the packages, shall be provided by and at the expense and risk of the owner, importer or exporter of the goods, as the case may be.

**PART V - ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS**

***Ship to bring to on being hailed***

11. The master of every ship arriving within Fiji shall bring his ship to for boarding when approached by or hailed or signalled from any vessel in the service of the Customs, or from any vessel in the service of the Government, flying the proper flag and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

***Master to facilitate boarding***

12. The master of every aircraft or ship arriving in Fiji from outside Fiji, shall bring his aircraft or ship to, for boarding, at the boarding station appointed at an airport or port and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

***Penalty***

13. The master of an aircraft or ship who, under the provisions of sections 11 or 12, when required to do so, refuses or does not facilitate the boarding or disembarkation of, or neglects to receive any officer at any place in Fiji on board such aircraft or ship, or neglects to bring his vessel to when required to do so, is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for twelve months or to both such fine and imprisonment.

***Procedure on arrival***

14.—(1) The master of every aircraft or ship arriving in Fiji—

- (a) shall not, except where so allowed by the proper officer in any special circumstances, cause or permit the aircraft or ship to land, touch at, or enter, any place in Fiji other than an airport or port;
- (b) shall, on arriving at any airport or port, cause the aircraft or ship to come as quickly as the conditions of the airport or port permit up to the proper place of mooring or unloading without touching at any other place;
- (c) shall, after arriving at the proper place of mooring or unloading, not take his aircraft or ship therefrom except with the authority of the proper officer.

(2) The provisions of subsection (1) shall not apply in relation to an aircraft or ship which is compelled by accident, stress of weather or other unavoidable cause to call at a place other than an airport or port, but the master of any such aircraft or ship shall in those circumstances—

- (a) without any unnecessary delay report to an officer the circumstances which caused the aircraft or ship to call at such place and on demand produce to him the documents relating to the aircraft or ship, its cargo and passengers;
- (b) not, without the consent of a proper officer or, in his absence, of a police officer, permit any goods to be unloaded or loaded, or any of the crew or passengers to land from the aircraft or ship; and
- (c) comply with any directions given by a proper officer or, in his absence, of a police officer with respect to any such goods, and no passenger or member of the crew shall, without the consent of a proper officer or police officer, as the case may be, leave the aircraft or ship;

Provided that nothing in this subsection shall prohibit the landing or unloading of passengers, crew or goods from an aircraft or ship where that landing or unloading is necessary for reasons of health, safety or the preservation of life or property.

(3) The master of a ship arriving in Fiji shall, if the Comptroller so requires, provide a proper officer boarding and remaining on the ship for the purposes of this Act with proper and sufficient food and suitable accommodation.

(4) A person who contravenes or fails to comply with any provision of this section is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for twelve months or to both such fine and imprisonment.

***Place of discharging cargo***

15. The proper officer may, unless other provision is lawfully made, direct at what particular part of any airport or port or other place an aircraft or ship shall discharge its cargo.

***Restriction on boarding before proper officer***

16.—(1) No person, except a port pilot, the Medical Officer of Health for the port, or any other person in the execution of his duty and duly authorised by the Quarantine Authority or the Comptroller, shall board an aircraft or ship before the proper officer.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$1,000.

***Provisions as to persons disembarking from or going on board an aircraft, ship, etc.***

17.—(1) The Comptroller may, for the purpose of the customs laws, give directions as to the procedure to be followed by any person going ashore, disembarking from or going on board, any aircraft or ship.

(2) A person who contravenes or fails to comply with any direction given by the Comptroller under the provisions of this Section is guilty of an offence and is liable to a fine not exceeding \$1,000.

***Report***

u 18.—(1) The master or agent of every aircraft or ship, whether laden or in ballast, shall, subject to the provisions of the customs laws, within twenty-four hours after arrival from outside Fiji at any airport or port, or at another place especially allowed by the proper officer, make a report to the proper officer, in the prescribed form or by means of an electronic message and in the prescribed manner, of such aircraft or ship, and of its cargo and stores and of any package for which there is no bill of lading or airwaybill.

(2) Every such report shall, except where otherwise allowed by the proper officer, be made before bulk is broken and shall show separately any goods which are in transit, any goods which are for transshipment, any goods which are to remain on board for other ports in Fiji, and any goods for re-exportation on the same aircraft or ship.

(3) The proper officer may permit the master or agent of an aircraft or ship to amend any obvious error in the report, or to supply any omission, which in the opinion of the proper officer results from accident or inadvertence, by furnishing an amended or supplementary report in the prescribed manner.

u (4) A master or agent of an aircraft or ship who—  
(a) fails to make a report in accordance with the provisions of this section;  
(b) makes a report in which any of the material particulars contained are false;  
(c) except with the knowledge and consent of the proper officer, causes or permits bulk to be broken contrary to the provisions of this section; or  
(d) except with the knowledge and consent of the proper officer, at any time after arrival, causes or permits any goods to be staved in, destroyed, or thrown overboard, or any packages to be opened, shall unless such contravention is explained to the satisfaction of the proper officer, be guilty of an offence; and any goods in respect of which an offence has been committed contrary to paragraphs (a), (b) or (d) shall be liable to forfeiture.



***Master to furnish information, etc.***

- 19.—(1) The master or agent of an aircraft or ship—
- (a) shall answer fully and immediately all such questions relating to the aircraft or ship, its cargo, stores, baggage, crew, and passengers, as may be put to him by the proper officer for the purposes of the customs laws;
  - (b) shall produce all such books and documents in his custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew, and passengers, as the proper officer may require for the purposes of the customs laws;
  - (c) shall, if required to do so by the proper officer, before any person disembarks, furnish to the proper officer who boards the aircraft or ship on arrival at an airport, port or other place, a correct list in the prescribed form of the names of the passengers disembarking and of those remaining on board the aircraft or ship, and, if required by the proper officer, the names of the master and of the officers and members of the crew; and
  - (d) shall, if required to do so by the proper officer, furnish to the officer at the time of furnishing the report, the clearance if any, of the aircraft or ship from the place from which the aircraft or ship arrived.
- (2) A master or agent who contravenes any provision of this section is guilty of an offence.

***Power to detain ships, etc.***

20.—(1) Where at the expiration of a period of 21 clear days from the date of making a report under the provisions of section 18 of this Act of any aircraft or ship, or, where no such report was made, the date when it should properly have been made, or such longer period as the Comptroller may allow, any goods are still on board the aircraft or ship, the Comptroller may authorise the detention of that aircraft or ship until the expenses specified in subsection (3) have been paid.

(2) Where, in the case of any derelict (2) or other aircraft or ship coming, driven or brought into Fiji under legal process, by stress of weather or for safety, it is necessary to station any officer in charge thereof, whether on board or otherwise, for the protection of the revenue, the proper officer may detain that aircraft or ship until the expenses specified in subsection (3) have been paid.

(3) The Comptroller may recover from the owner or agent of an aircraft or ship detained under the provisions of subsections (1) or (2)—

- (a) any expense incurred in watching and guarding such aircraft or ship and any goods contained therein; and
- (b) where any goods are removed from an aircraft or ship to a customs warehouse by virtue of any of the provisions of the customs laws, the expenses of that removal.

***Minimum size of ships***

21. The Comptroller may order that no goods or class of goods shall be imported into or exported from Fiji in any ship or class of ships of less than 100 tonnes net tonnage.

**PART VI - UNLOADING AND REMOVAL OF CARGO**

***Authority for unloading***

22. No goods shall be unloaded from an aircraft or ship except with the authorisation of the Comptroller or pursuant to any entry passed.

***Unloading of goods***

23.—(1) All goods unloaded from an aircraft or ship shall be either—

- (a) landed at such place as the proper officer may require; or
- (b) transhipped or removed direct to the aircraft or ship into which they are to be transhipped or removed, as the case may be, or after conveyance thereto in a boat, lighter or vehicle under such conditions as may be prescribed.

(2) All imported goods which have been unloaded or landed in accordance with the customs laws shall be conveyed to a customs area or, if the proper officer considers the goods to be unsuitable for storage in a customs area, to such other place as the proper officer may direct, at the expense of the owner; and such goods, if the proper officer so requires, shall be deposited in a transit shed or such other place as the proper officer may direct and such place shall, for the purpose of the deposit, be deemed to be a transit shed.

(3) A person who contravenes a provision of this section, or fails to comply with a condition or direction imposed or given by the proper officer thereunder, is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

***Removal of goods***

24.—(1) Imported goods shall not be removed from any part of a customs area until authority for their removal has been given by the proper officer.

(2) Imported goods entered for warehousing shall be removed by the person entering the goods to the warehouse for which they were entered and shall be delivered into the custody of the person in charge of the warehouse.

(3) The goods referred to in subsection (2) shall be removed by such routes, in such manner and within such time, as the proper officer reasonably directs.

◆ (4) If the proper officer so requires, a bond or other security shall be given for the warehousing of goods, goods entered pursuant to the Tax Free Zones Decree 1991 or goods entered under the duty suspension scheme.

(5) A person who contravenes a provision of this section, or fails to comply with a condition or direction imposed or given by the proper officer thereunder is guilty of an offence, and the goods in respect of which the offence is committed are liable to forfeiture.

***Stacking, weighing, repacking or sorting of goods  
on wharves or in storage places***

25.—(1) Any goods which are chargeable with duty shall be stacked or restacked in such place and in such manner as the proper officer may require.

(2) Any goods may, with the approval of the proper officer, be weighed, repacked or sorted on wharves or in storage places.

***Goods in customs area, etc., deemed to be in aircraft or ship***

26. Goods which have been unloaded and landed into a customs area are deemed to be in the importing aircraft or ship until they are delivered from the customs area, transit shed or other place appointed under section 4; and, while the goods remain in the area, the owner or agent of the aircraft or ship shall be responsible, for the purposes of the customs laws, as if the goods had not been removed from the aircraft or ship.

***Unentered goods***

27.—(1) Within 10 days after the completion of discharge of the importing aircraft or ship, or at such other time as the Comptroller may direct, the owner of the aircraft or ship or his agent shall deliver to the Comptroller in such form and manner as the Comptroller may require, a list of all goods unloaded from such aircraft or ship and not yet cleared. A person who fails to comply with the provisions of this subsection is guilty of an offence.

(2) Where any imported goods remain uncleared at the expiration of 9 days, or such other period as the Comptroller may direct, from the date of completion of discharge of the importing aircraft or ship, the proper officer may direct the owner of the aircraft or ship or his agent to remove or store all or any of such goods to, or at, a customs warehouse, or such other place as the proper officer may approve. A person who fails to comply with such a direction within 24 hours after the direction is given, or such further period as the proper officer may specify, is guilty of an offence and is liable to a fine not exceeding \$500; and the proper officer may cause any such goods to be removed to a customs warehouse or such other place as he may approve, at the expense of the owner of the aircraft or ship or his agent.

(3) Where, under the provisions of subsection (2), goods are removed to or stored at a place approved by a proper officer, that place is deemed to be a customs warehouse and such goods are deemed to have been removed to and deposited in a customs warehouse.

(4) For the purpose of determining the amount of any duty chargeable, any imported goods which have remained uncleared after the expiration of 9 days as specified in subsection (2), are deemed to be warehoused goods and shall be assessed for duty in accordance with section 51.

***Missing goods***

28.—(1) When any dutiable goods shown on the import manifest of any aircraft or ship are not produced or otherwise duly accounted for to the proper officer, the master or agent of the aircraft or ship shall, on demand being made in writing by the proper officer, pay the duty on such goods within one month from the date of the demand.

(2) Where goods on which duty has been paid under the provisions of subsection (1) are, within one year of the time or report of arrival of such goods into Fiji, accounted for to the satisfaction of the proper officer, the proper officer shall refund the duty paid on such goods.

(3) Where it is necessary for the purpose of determining the amount of any duty chargeable under the provisions of subsection (1) or to classify any goods and assess the value, quantity, weight, measurement or strength thereof, such goods are deemed to be of such description and of such value, quantity, weight, measurement or strength as may be determined by the proper officer having regard to the information in his possession.

**Goods abandoned by importer**

29. Goods, which have been abandoned by their importer shall be destroyed or otherwise disposed of within such time and in such manner as may be prescribed.

**PART VII - ENTRY, EXAMINATION AND DELIVERY OF GOODS**

**Entries**

- u 30.—(1) An entry in respect of imported goods shall be made on the forms prescribed or by means of an electronic message transmitted to the system in respect of goods—
  - (a) for home consumption;
  - (b) for warehousing; or
  - (c) for transshipment,as the case may be.
  
- u (1) (A) An import entry may be made by document or by computer.
  
- (2) The Comptroller may allow goods to be entered, under the provisions of this section, prior to importation.

**When entry of imported goods deemed to be made**

- u 30A. For the purpose of this Act, an entry of goods to which section 30 applies is deemed to have been made when a lodgement number has been allocated to that entry either electronically or manually.

**Provisions relating to mail, personal baggage, etc.**

- 31.—(1) Notwithstanding any other provisions in this Act—
  - (a) mail bags and postal articles in the course of transmission by post may be unloaded and delivered to an officer of the Post Office without entry;
  - (b) goods, which are the *bona fide* personal baggage of passengers or members of the crew of any aircraft or ship may, subject to the Customs Regulations, be imported by those persons without entry.
  
- (2) The proper officer may permit the unloading and delivery to the importer of—
  - (a) goods of a dangerous or inflammable nature;
  - (b) bullion, currency notes or coin;
  - (c) perishable goods;
  - (d) bulk goods,
  - ♦♦ (e) air cargo which has been reported electronically to the Customs, for which a self-assessment of duty has been made and in respect of which the duty has been paid by the importer; or
  - ♦ (f) any other goods authorised by the Comptrollerwithout entry, subject to an undertaking being given by the importer to the Customs that the necessary entry will be provided within 48 hours of the time of delivery.
  
- (3) An importer who contravenes an undertaking given under subsection (2) is guilty of an offence and is liable to a fine not exceeding \$1000 and the goods in respect of which the undertaking was given are liable to forfeiture.
  
- (4) If any goods under the control of the Customs are of a perishable nature or become

offensive in any way and such goods are not entered and cleared by the owner thereof within such time as the proper officer may allow, such goods may be immediately destroyed or sold, and the proceeds of sale of any goods sold under this subsection shall be applied as provided under section 63.

***Particulars of entries***

32. A person entering any goods shall—

- u (a) deliver to the Comptroller the entry of those goods in the prescribed form together with such copies as may be required by the proper officer or by means of an electronic message transmitted to the system;
- (b) furnish such other particulars and documents as may be prescribed or as may be required by the proper officer, and
- (c) at the same time, pay all duties due upon the goods, unless the goods are entered to be warehoused, or are for transshipment or are free of duty :

Provided that—

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◆◆ Effective 9 December 1999

◆ Effective 1 January 2004

- (i) the holder of a draft with a bill of lading in guarantee of the payment thereof may give notice to the Comptroller that he holds those documents, and thereupon the Comptroller shall not allow the entry of such goods without the written consent of the holder of those documents; and
- (ii) where the goods have been entered in compliance with the provisions of this section but have not been taken delivery of by the importer, the Comptroller may, at any time before such goods are disposed of as unclaimed, allow delivery of such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods shall be dealt with in accordance with the entry already presented, and the importer shall have no claim against the Comptroller for any expenses or other costs incurred by him in connection with the entering of the goods.

***Provisional entries***

- u 33.—(1) Where the importer of any goods for home consumption is unable immediately to supply any particulars required by the Comptroller for making an entry, he may make a declaration to that effect before the Comptroller and provide him with an undertaking to make a perfect entry within 6 months of the issue of a warrant number for the provisional entry and he may be authorised to make a provisional entry on payment of the sum specified in subsection (2).

(2) The importer shall, in respect of any provisional entry, produce such documentary evidence as the proper officer may require, including bank drafts, copies of orders, copies of confirmation of indent, catalogues, price lists and other documents as may be in his possession in support of such provisional entry; and after examination, appraisal and computation of duty, shall pay into the Consolidated Fund the amount of estimated duty together with such additional sum as the proper officer may require.

- u (3) If an importer, within 6 months of the issue of a warrant number for the provisional entry, makes a perfect entry in respect of any goods for which a provisional entry has been made, the importer shall produce to the proper officer such documentary evidence as may be prescribed and

upon production of the prescribed documentary evidence to the satisfaction of the Comptroller—

- (a) any sum which may have been paid under this section by the importer in excess of the correct amount of duty shall be refunded to such importer and any sum to be so refunded shall be a charge upon the Consolidated Fund, provided that the claim for the payment of duty paid in excess of the correct amount is made by the importer within one month from the date of the issue of the warrant number or such further period as the Minister may in special circumstances approve; and
  - (b) where the amount paid by the importer as estimated duty is less than the amount of duty payable, the importer shall pay to the Comptroller the amount of the deficit.
- (4) Whenever an importer fails to produce any particulars required by the Comptroller and to make a perfect entry within 6 months or such further period as may be permitted by the Comptroller from the date of passing of the provisional entry, the sum paid under the provisions of subsection (2) shall not be refunded.
- (5) When the owner of any goods for warehousing is unable to produce immediately the proper documents required for perfect entry of the goods, the proper officer may permit such goods to be deposited in a customs warehouse, but—
- (a) the owner shall furnish a provisional warehouse entry which shall be as complete as possible for the removal of the goods to a customs warehouse; and
  - (b) if a perfect warehouse entry is not furnished within 12 weeks from the date of such provisional warehouse entry, the provisions of section 63 shall apply.
- (6) The special attendance of an officer or officers, which may be required for the examination of goods in respect of which a provisional entry is made, shall be charged to and borne by the owner or importer of the goods at the rates prescribed.

***Power to allow special entries***

34. Notwithstanding anything to the contrary contained in this Act, the Comptroller may permit the entry of any goods in such form and manner and subject to such conditions as he may direct, to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

***Assessment and payment of duty***

34A.—(1) An entry for goods or a claim for refund or drawback in respect of goods made under this Act is deemed to be an assessment by the importer, exporter or licensee, as the case may be, as to the duty payable or refundable in respect of those goods.

(2) The Comptroller may approve a person who is required to pay any duty, fee, charge or penalty under the customs laws to pay the duty, fee, charge or penalty by electronic transfer of funds.

***Security***

35.(1)—(1) The Comptroller may require and take security for compliance with the provisions of this Act and generally for the protection of the revenue of the Customs, and, pending the giving of the required security in relation to any goods subject to the control of the Customs, may refuse to deliver the goods or to pass any entry relating thereto.

(2) Where any security is required to be given, such security shall be given by bond or guarantee or cash deposit or all or any of these methods and, in each case, the security shall be subject to the approval of the Comptroller.

(3) The forms of security prescribed shall be sufficient for all purposes of a bond or guarantee under the provisions of this Act, and, unless otherwise provided therein, shall bind the subscribers thereto jointly and severally for the full amount.

- υ (2) In the case of anti-dumping and countervailing duties, the Comptroller, on receipt of a provisional notice under section 16 of the Dumping and Countervailing Duties Act, 1998, may release the goods after the amount of duty specified in the notice has been paid in cash or by such other means as the Comptroller may accept.

***Cancellation of securities***

36. All securities may, after the expiration of 3 years from the date thereof, or from the time specified for the performance of the particular conditions thereof, whichever is the later date, be cancelled by the Comptroller.

**PART VIIA—CUSTOMS AUTOMATED ENTRY PROCESSING SYSTEM**

***Access to system***

- υ 36A. No person may transmit to, or receive information from, a system unless the person is registered by the Comptroller as a user of the system.

***Registered users***

- υ 36B. —(1) A person who wishes to be registered as a user of a system may apply in writing to the Comptroller in the prescribed form and must provide the prescribed information in relation to the application.

(2) The Comptroller may require an applicant under subsection (1) to provide any additional information the Comptroller considers necessary for the purpose of the application.

- (3) The Comptroller may –
- (a) register an applicant subject to any conditions (including the payment of any prescribed fee) the Comptroller thinks fit to impose; or
  - (b) refuse to register an applicant.

(4) The Comptroller must, in writing, notify an applicant of the decision made under subsection (3).

(5) A person aggrieved by a decision of the Comptroller under subsection (3) or section 36E(1) may appeal to the Minister who may confirm or vary the decision.

***Registered users to be allocated identifier***

- υ 36C.—(1) A person who is registered as a user of a system must be allocated by the Comptroller for use in relation to the system an identifier in a form and of a nature determined by the Comptroller.

(2) A registered user who is allocated an identifier under subsection (1) must use the identifier for the purpose of transmitting information to, or receiving information from, the system.

(3) The Comptroller may, by notice in writing, impose conditions on a particular registered user, or on registered users generally, relating to the use and security of an identifier or identifiers.

***Use of identifier***

36D.—(1) If any information is transmitted to a system using an identifier issued to a registered user by the Comptroller for the purpose, the transmission of the information is, unless the contrary is proved and subject to subsection (2), evidence that the registered user to whom the identifier has been issued has transmitted the information.

(2) If—

- (a) an identifier is used by a person who is not entitled to use it; and
- (b) the registered user to whom the identifier was issued has, prior to the unauthorised use of that identifier, notified the Customs in writing that the identifier is no longer secure,

subsection (1) does not apply.

***Cancellation of registration of registered user***

36E.—(1) If at any time the Comptroller is satisfied that a registered user of a system has—

- (a) failed to comply with a condition of registration imposed by the Comptroller under section 36B(3)(a);
- (b) failed to comply with, or acted in contravention of, a condition imposed by the Comptroller under section 36C(3) relating to the use and security of the registered user's identifier; or
- (c) been convicted of an offence under this Act relating to the improper access to or interference with a system,

the Comptroller may cancel the registration of the registered user.

(2) Cancellation under subsection (1) is done by giving notice in writing to the registered user stating that the registration is cancelled and setting out the reasons for the cancellation.

***Customs to keep records of transmission***

36F.—(1) The Customs must keep a record of every transmission sent to or received from a registered user using a system.

(2) A record kept under subsection (1) must be kept for 5 years from the date of the sending of or the receipt of the transmission, or for any other period.

**PART VIIB – DUTY SUSPENSION SCHEME FOR IMPORTED GOODS**

***Power to grant licence, etc.***

36G.—(1) The Comptroller may grant a licence to a person authorising such person to import and export goods that are subject to the duty suspension scheme.

(2) A person who intends to be licensed under subsection (1) may apply to the Comptroller in the prescribed form and accompanied by the prescribed fee.



(3) The Comptroller may, at any time, in his discretion, revoke, cancel, or suspend a licence, issued under subsection (1).

(4) Where the Comptroller makes a decision to revoke, cancel or suspend a licence in accordance with subsection (3), the Comptroller shall cause to be served, either personally or by registered post, on the licensee, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

(5) The Comptroller may, at any time, impose conditions on a licence issued under subsection (1) that, in the opinion of the Comptroller are necessary for the protection of revenue or for the purpose of ensuring compliance with this Act and may, at any time, revoke, suspend or vary such conditions so imposed.

(6) Where the Comptroller makes a decision to revoke, suspend or vary a condition of a licence in accordance with subsection (5), the Comptroller shall cause to be served, either personally or by registered post, on the licensee, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

(7) A person who fails to comply with any conditions imposed under subsection (5) commits an offence and is liable on conviction to a fine not exceeding \$5,000.

### ***Regulations***

36I. —(1) The Minister may appoint a panel for a 3 year period consisting of—

- (a) 4 legal practitioners who have had legal practice for not less than 5 years;
- (b) 3 members nominated by the Exporters Club; and
- (c) 3 Customs Officers.

(2) Subject to subsection (3), if there is a dispute with respect to the operation or administration of the duty suspension scheme, both parties to the dispute must refer the dispute to a committee appointed from the panel under subsection (1) to hear and determine the dispute consisting of—

- (a) a legal practitioner as the chairperson;
- (b) a member to represent the Exporters Club; and
- (c) a Customs Officer to represent the Customs.

(3) If the single parties to a dispute are of the opinion that the dispute may be dealt with by a single member, the parties must agree on a legal practitioner on the panel under subsection (1) to hear and determine the dispute.

(4) A party to a dispute may appeal the determination of a dispute made under this section to the Court of Review.

(5) This section does not apply to a decision in respect of matters to which appeals may be heard by the Court of Review as set out in the Schedule.

(6) In this section, unless the context otherwise requires—

“dispute” means any grievance or disagreement brought by a person licensed under this Part in relation to any decision made either by the Comptroller or the Exporters Club relating to the duty suspension scheme;

“Exporters Club” means a company, associated or body of persons, corporate or unincorporate contracted by the Comptroller for the purpose of the duty suspension scheme;

“legal practitioner” and “practice” have the meaning ascribed to them by the Legal Practitioners Act 1997.

## **PART VIII - BONDED WAREHOUSES**

### ***Licensing of warehouses***

37. No warehouse shall be licensed at any port or place other than a port or place appointed by the Minister in accordance with section 4.

### ***Appointment of bonded warehouses***

38.—(1) (a) The Comptroller may, on application, licence any building, enclosure or storage tank as a bonded warehouse for the deposit of goods permitted to be warehoused on first importation without payment of duty, and may attach such conditions to the licence as he may see fit.

(b) A licence is required for each storage tank, notwithstanding that such tank may be connected by a pipe or other means to any other tank.

(2) The licence issued under subsection (1) shall be in such form as may be prescribed and shall be subject to the payment of such fees as may be prescribed.

(3) A licence shall not be issued under the provisions of this section until the person who applies therefor has furnished such security for the due payment of all duties and the due observance of the provisions of the customs laws as the Comptroller may require; and the Comptroller may, at any time, require a warehousekeeper to furnish such additional or new security as he may consider necessary for such purposes.

(4) The Comptroller may at any time for reasonable cause revoke any licence, which has been issued under subsection (1).

(5) A warehousekeeper who, without the previous consent in writing of the Comptroller, makes any alteration in, or addition to, a warehouse or who uses his warehouse, or permits it to be used in contravention of any of the conditions of his licence, is guilty of an offence and is liable to a fine not exceeding \$1,000.

(6) An owner or occupier of a building, enclosure or storage tank who uses or permits such building, enclosure or storage tank to be used for the deposit of goods entered for warehousing while a valid licence under the provisions of this section is not in force is guilty of an offence and is liable to

a fine not exceeding \$1,000.

***Procedure on warehouse ceasing to be licensed***

39.—(1) Where the Comptroller intends to revoke or not to renew the licence of a warehouse, he shall, not later than 3 months before the date when the revocation is to take effect or the licence is due to expire, as the case may be, give notice of his intention, specifying therein such date, and no goods shall be deposited for warehousing in that warehouse after notice of intention to revoke or not to renew the licence has been given.

(2) The notice referred to in subsection (1) shall be given in writing and shall be deemed to have been served on all persons interested in any goods then entered for or deposited in that warehouse, if addressed to the warehouse-keeper and delivered personally or sent by registered post.

(3) If—

(a) after the date specified in the notice referred to in subsection (1), or such later date as the Comptroller may in any case allow, any goods upon which duty has not been paid remain in the warehouse, or

(b) after such notice has been served, any goods are deposited for warehousing in the warehouse,

the proper officer may cause the goods to be taken to a customs warehouse;

Provided that the Comptroller may, if he thinks fit, permit such goods to be re-warehoused in another licensed warehouse.

***Warehousekeeper to provide facilities***

40.—(1) Every warehouse-keeper shall at his own expense—

(a) provide and maintain at the warehouse such office, lavatory and sanitary accommodation for the proper officer, with the requisite furniture, lighting and cleaning, as the Comptroller may require;

(b) provide and maintain such appliances, and afford such other facilities, for examining and taking account of goods and for securing them, as the proper officer may require;

(c) stack and arrange the goods in the warehouse so as to permit reasonable access to and examination of every container at all times;

(d) provide all necessary labour and materials for the storing, examining, packing, marking, cooperating, weighing and taking stock of the warehoused goods whenever the proper officer so reasonably requires; and

(e) keep a record of all goods warehoused and at all reasonable times keep such record available for examination by the proper officer.

(2) If, in respect of any warehouse, a warehousekeeper fails to comply with any of the provisions of this section, the Comptroller may direct that no further goods shall be warehoused in that warehouse until the warehousekeeper has complied with such provision or provisions to the satisfaction of the Comptroller.

(3) A warehousekeeper who contravenes any direction given by the Comptroller under the provisions of subsection (2) is guilty of an offence and is liable to a fine not exceeding \$500.

***Times at which goods may be warehoused***

41.—(1) The Comptroller may give directions as to the times between which goods may be received at a warehouse and goods shall not be removed for warehousing except at such times as may allow them to be received at the warehouse within the times directed by the Comptroller for that purpose.

(2) If any goods are removed in contravention of subsection (1), the person removing such goods is guilty of an offence.

***Procedure on warehousing***

42.—(1) A warehousekeeper shall immediately report, to the proper officer, the arrival of any goods at a warehouse.

(2) Goods, which are, on importation, entered for warehousing, are deemed to be duly warehoused as from the time certified by the proper officer.

(3) All goods delivered to be warehoused shall forthwith be removed to the warehouse for which they are entered and shall be deposited therein in the packages or lots in which they were entered for warehousing. Any goods warehoused in contravention of this subsection are liable to forfeiture.

(4) The warehousekeeper shall mark the containers or lots of any warehoused goods in such manner as the proper officer may direct and shall, subject to any further directions, keep them so marked while they are warehoused.

(5) A warehousekeeper who fails to comply with the provisions of this section is guilty of an offence.

***Stowage and storage of warehoused goods***

43.—(1) The proper officer may direct in what parts of a warehouse and in what manner any goods shall be deposited and kept.

- (2) If, except as permitted or directed by the proper officer—
- (a) goods deposited in a warehouse are moved from that part of the warehouse in which they have been deposited;
  - (b) any alteration is made in the goods or in the packages or lots thereof; or
  - (c) any alteration is made in the marks or numbers of such goods or the containers or lots thereof,

the goods are liable to forfeiture.

(3) If goods are deposited in a warehouse contrary to the directions of the proper officer, the warehousekeeper is guilty of an offence.

***Liability for production of warehoused goods***

44. A warehousekeeper shall produce upon request by the proper officer any goods deposited in a warehouse which have not been lawfully removed therefrom, and if he fails to produce

any goods so requested he is guilty of an offence.

***Deficiency in warehoused goods***

45. If, at any time after any goods have been warehoused and before they are lawfully removed from a warehouse, the goods are found to be missing or deficient, and it is not shown to the satisfaction of the Comptroller that their absence or deficiency can be accounted for by natural waste or other legitimate cause then, without prejudice to any penalty of forfeiture incurred under any other of the provisions of the customs laws, the Comptroller may require the warehousekeeper to pay immediately the duty on the missing goods or on the whole or any part of the deficiency, as the Comptroller sees fit.

***Repacking, etc.***

46.—(1) The Comptroller may, subject to such conditions as he sees fit to impose, permit goods in a warehouse to be inspected, bulked, sorted, lotted, packed or repacked therein.

(2) A person who contravenes any conditions imposed by the Comptroller under subsection (1) is guilty of an offence.

***Entry of warehoused goods***

47.—(1) Before goods are removed from a warehouse the owner of the goods shall deliver to the proper officer an entry thereof in such form and manner as the Comptroller may require.

- (2) Subject to the customs laws, warehoused goods may be entered—
- (a) for home consumption in Fiji;
  - (b) for exportation;
  - (c) for use as stores; or
  - (d) subject to such conditions as the Comptroller sees fit to impose, for removal to another warehouse.

u (3) Goods are deemed to have been duly entered under the provisions of this section when a lodgement number has been allocated either electronically or manually.

(4) Except as otherwise provided under the customs laws, goods may not be removed from a warehouse before all duties and other charges payable thereon to the Government have been paid.

(5) A person who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$5,000, or to imprisonment for 12 months, or to both such fine and imprisonment.

***Account to be taken of goods to be warehoused***

48.—(1) Upon the landing of any goods to be warehoused, or as soon as practicable thereafter, the proper officer shall take a particular account of the goods.

(2) Except where otherwise provided, the account referred to in subsection (1) shall be that upon which the duties are ascertained and paid.

***Constructive warehousing***

49. If goods, which have been entered for warehousing either on importation or removal for

re-warehousing, are entered for home consumption, exportation or removal before they have been actually warehoused, the goods are deemed to have been warehoused and shall be delivered as such for home consumption, exportation or removal, as the case may be.

**Samples**

50. The Comptroller may allow the owner of any warehoused goods to take samples thereof subject to such conditions as he thinks fit.

**Duty chargeable on warehoused goods**

51.—(1) The rates of duty chargeable on warehoused goods shall be those in force with respect to goods of that class or description at the date of the removal of the goods from the warehouse.

(2) Subject to the provisions of subsection (3), the amount payable in respect of any duty chargeable on goods under the provisions of this section shall be calculated in accordance with the quantity and value established by the first account taken of the goods after their importation.

(3) The proper officer may, either on the direction of the Comptroller or on the written application and at the expense of the owner of the goods—

- (a) re-gauge, re-measure, re-weigh, examine or take stock of any warehoused goods;
- (b) re-value any warehoused goods liable to duty *ad valorem* which have deteriorated in quality,

and in either such case the duty on such goods shall be chargeable on the basis of the examination or valuation under paragraphs (a) or (b) unless the proper officer considers that any loss or deterioration so revealed is or has been wilfully or negligently caused. In such event the duty shall, subject to such reduction, if any, as the Comptroller may allow, be chargeable according to the original account.

**Period of warehousing**

52. If the owner does not lawfully remove any goods which have been deposited in a bonded warehouse within three years of the date of their deposit in the warehouse, the Comptroller may, after giving one month's notice of his intention, proceed to sell the goods in the prescribed manner or otherwise dispose of the goods, and the proceeds of any sale of such goods shall be dealt with in accordance with the provisions of Section 63.

Provided that the Comptroller may in his discretion allow such goods to be re-warehoused by the owner for a further period not exceeding two years.

**Goods not worth the duty may be destroyed**

53.—(1) The Comptroller may allow any warehoused goods, which are not worth the duty payable, to be destroyed under such conditions as he sees fit, and may remit the duty thereon.

(2) Any charges which may be due in respect of destroyed goods which were stored in a customs warehouse shall be paid to the Comptroller.

**Comptroller to have access to warehouse**

54. The Comptroller shall have access at all reasonable times to every part of any

warehouse and shall have the power to examine the goods therein, and, for that purpose may, if necessary, break open the warehouse.

***General offences relating to bonded warehouses***

55. Any person who, except with the authority of the proper officer, opens any of the doors or locks of a bonded warehouse or makes or obtains access to any such bonded warehouse or to any goods warehoused therein is guilty of an offence and is liable to a fine not exceeding \$1,000, or to imprisonment for a term of 12 months or to both such fine and imprisonment.

***Transfer and removal of goods in a bonded warehouse***

56. If the ownership of goods in a bonded warehouse is transferred from one person to another, the transferor of such goods shall inform the proper officer and the warehousekeeper in writing of the change of ownership. On removal of any goods from a bonded warehouse neither the Government nor any officer shall be responsible for ascertaining the title to the goods of the person removing the same.

**PART IX - PROVISIONS RELATING TO CUSTOMS WAREHOUSES**

***Customs warehouses***

57. Customs warehouses shall be appointed by the Comptroller by notice in the Gazette.

***Deposit of goods in customs warehouse pending payment of import duty***

58.—(1) The Comptroller may, in his discretion, allow the removal to and deposit of any goods in a customs warehouse, pending the payment of the import duty payable thereon.

(2) The removal and deposit of all goods in pursuance of the provisions of subsection (1) shall be performed by and at the risk and expense of the owner of the goods.

***Delivery of goods from customs warehouse***

59. Subject to section 63, the proper officer shall not permit the removal from a customs warehouse of any goods deposited therein in accordance with the provisions of section 58 until it is shown to his satisfaction that all duties, rent and other charges due in respect of the goods have been paid.

***Rent to be charged***

60. Where any goods are deposited in accordance with the provisions of section 58, in a customs warehouse or other place of deposit provided by the Government for the security of the duties thereon, or until the regulations relating to the importation thereof have been complied with, the Comptroller may charge, demand and receive warehouse rent for such period as the goods remain therein, at such rates and subject to such conditions as may be prescribed.

***Inflammable or dangerous goods***

61.—(1) Without prejudice to any other law for the time being in force, no goods of a dangerous, combustible, inflammable or offensive nature shall be lodged or deposited in a customs warehouse or a transit shed except with the previous authorisation of the Comptroller, and when any such goods

are landed, they may be deposited in any other place approved by the Comptroller in accordance with the provisions of section 4.

(2) While deposited in a place approved by the Comptroller in accordance with the provisions of subsection (1), goods shall be deemed to be in a customs warehouse unless duly cleared or warehoused in some approved place in the meantime; and such charges shall be made for securing, watching and guarding the goods until sold, cleared or warehoused as aforesaid as the Comptroller may deem reasonable.

(3) The state shall not be responsible for any damage, which goods may sustain by reason of, or during the time of, their being deposited in any place other than a customs warehouse or a transit shed and dealt with in pursuance of the provisions of this section.

***Customs warehouses under control of Comptroller***

62. Every custom warehouse shall be under the control of the Comptroller, and the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to customs warehouses.

***Goods deposited in a customs warehouse may be sold, etc.***

63.—(1) Where unentered goods deposited in a customs warehouse under the provisions of section 27(2) are not lawfully removed within 21 days after deposit, they may be sold by public auction after 7 days' public notice of sale has been given by the proper officer:

Provided that goods which are of a perishable nature may be sold by the proper officer, either by public auction or otherwise, at any time after deposit in the customs warehouse, and after notice of intention to sell has been given to the consignee.

(2) Where any goods removed to or deposited in a customs warehouse under the provisions of section 58 or subsection 33(5) are not removed therefrom within 12 weeks after the date of entry therein, the goods may be sold by the Comptroller in the prescribed manner, and the proceeds of sale thereof shall be applied as provided in subsection (3).

(3) Where goods are sold under this section, the proceeds of the sale shall be applied in the order set out below in discharge of—

- (a) the duties, if any;
- (b) the expenses of sale reasonably incurred; and
- (c) the rent and charges due to the Customs.

(4) If, after the proceeds of sale have been applied in accordance with subsection (3), there is a balance, the balance shall be payable to the person claiming to be owner of the goods if he makes application therefor within 6 months of the date of the sale or such further period as the Comptroller may allow.

(5) If goods to be sold under this section are unlikely to raise a sum sufficient to cover the charges set out in subsection (3), then they may be destroyed or disposed of in such manner as the Comptroller may direct.



## PART IX(A) - PROVISIONS RELATING TO EXPORT WAREHOUSE

### ***Sales from an export warehouse***

63A Subject to the regulations, specified goods may be sold to a relevant traveller in an export warehouse when—

- (a) delivered to the relevant traveller personally for export by him when making an international flight or voyage from Fiji; and
- (b) exported by the relevant traveller when making that flight or voyage without the goods having been entered for export.

### ***Export warehouses under control of Comptroller***

63B. Every export warehouse shall be under the control of the Comptroller and the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to export warehouses.

### ***Deposit of goods in export warehouse pending export***

63C.—(1) The Comptroller may, in his discretion, allow the removal to and display of any prescribed goods in an export warehouse, pending their sale to and exportation by, a relevant traveller.

(2) The removal and deposit of all prescribed goods in pursuance of the provisions of sub-section (1) shall be performed by and at the risk and expense of the licensee of the export warehouse.

### ***Application for export warehouse licence***

63D.—(1) An application for an export warehouse licence shall be made to the Comptroller in writing, as prescribed, and shall state the place at which the applicant proposes to carry on business and shall be accompanied by the prescribed fee.

(2) The application shall be made by the occupier of the premises to which it relates and shall be accompanied by such plans and particulars as the Comptroller may require.

(3) A plan submitted under sub-section (2) shall show the limits of the area and buildings or parts of buildings, which would constitute the proposed export warehouse.

(4) The application shall be accompanied by details of security and insurance policies as the Comptroller may require.

### ***Export warehouse to be gazetted***

63E All export warehouses shall be appointed by the Comptroller by notice in the *Fiji Republic Gazette*.

### ***Comptroller may impose conditions on warehouse licences***

63F.—(1) The Comptroller may, at any time, impose conditions that, in the opinion of the Comptroller are necessary for the protection of revenue or for the purpose of ensuring compliance

with this Act and may, at any time, revoke, suspend or vary a condition so imposed.

- υ (2) Where the Comptroller makes a decision to revoke, suspend or vary a condition of an export warehouse licence in accordance with subsection (1), the Comptroller shall cause to be served, either personally or by registered post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

***Failure to comply with conditions***

- υ 63G. A person who fails to comply with any conditions imposed under section 63F(1) commits an offence and is liable on conviction to a fine of \$5,000.

***Revocation of an export warehouse licence***

63H.—(1) The Comptroller may, at any time, in his discretion, revoke, cancel or suspend an export warehouse licence, issued under section 38 of this Act.

(2) Where the Comptroller makes a decision to revoke, cancel or suspend an export warehouse licence in accordance with sub-section (1), the Comptroller shall cause to be served, either personally or by registered post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

***Goods must be sold for export***

63I.—(1) All goods in an export warehouse must be intended for sale to relevant travellers for exportation from Fiji.

- (2) No goods may be sold to a relevant traveller without the production of :
  - (a) a current passport in the name of the relevant traveller; and
  - (b) an airline or shipping ticket, which indicates that the relevant traveller will be departing Fiji within five (5) days of the sale of goods.
  - (c) Other prescribed conditions relating to sales to relevant travellers must be adhered to and notwithstanding anything to the contrary contained in this Act, the Comptroller may impose further conditions to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

***Evidence of export***

63J. Where the licensee of an export warehouse does not produce the proof required as evidence that the goods delivered by him to a relevant traveller have been exported by that relevant traveller, the goods shall be deemed to have been entered, and delivered, for home consumption by the licensee, as owner of the goods, on the day on which the goods were delivered to that traveller.

**PART X - PROHIBITED AND RESTRICTED IMPORTS AND EXPORTS**

***Prohibition and restriction of imports and exports***

64.—(1) The Minister may make regulations to prohibit or restrict the importation into Fiji or exportation from Fiji of any goods of any description whatsoever.

- (2) The power conferred by subsection (1) may be exercised—
- (a) by prohibiting the importation or exportation absolutely;
  - (b) by prohibiting the importation or exportation of goods from or to a specified place; or
  - (c) by prohibiting the importation or exportation of goods unless specified conditions or restrictions are complied with.

## PART XI - EXPORTATION OF GOODS AND CLEARANCE OF AIRCRAFT OR SHIPS

### *Loading, etc.*

- 65.—(1) Subject to section 66—
- (a) no goods shall be taken on board an aircraft or ship for export unless the exporter or the exporter's agent—
    - (i) has previously delivered to an officer an entry outwards in the prescribed form; or
    - (ii) in the case of an entry made by means of an electronic message – has transmitted the appropriate message to a system and the system has allocated a lodgement number in respect of that message; and
    - (iii) has paid all duties and charges payable upon the goods.
  - (b) no goods shall be put on board an aircraft or ship departing from Fiji except from an approved place of loading, a sufferance wharf or a ship on to which they have been loaded for the purpose of being transferred on to the aircraft or ship.
- (2) A person who contravenes a provision of this section is guilty of an offence, and any goods in respect of which the offence is committed are liable to forfeiture.

### ***Goods which may be loaded without entry***

- 66.—(1) Notwithstanding anything contained in this Act, the proper officer may permit—
- (a) goods, which are the personal baggage of the passengers or members of the crew of an aircraft or ship, to be put on board the aircraft or ship and exported without entry;
  - (b) mail bags and postal articles in the course of transmission by post to be put on board an aircraft or ship and exported without entry;
  - (c) goods to be put on board an aircraft or ship departing from Fiji without entry provided —
    - (i) an application is made by the owner in such manner and form as may be prescribed;
    - (ii) an undertaking is given to the Comptroller by the owner of the goods that he will furnish the necessary entry within 6 days of the departure of the aircraft or ship or within such further time as the Comptroller may specify; and
    - (iii) such security, if any, is given by the owner for the due payment of any export duties as the Comptroller may consider appropriate.
- ◆ (2) A person who fails to comply with an undertaking given under subsection (1)(c), shall pay \$5.00 per entry for each day after the period of 6 days, or after such further period as the Comptroller

may allow under the provisions of that subsection, provided that the maximum payment under this subsection is \$100.

***Provisions relating to export of certain goods***

67.—(1) Before—

- (a) warehoused goods;
- (b) goods on which drawback may be claimed;
- (c) dutiable goods intended for transshipment; or
- (d) restricted goods,

may be entered for exportation, transshipment, or for use as stores for aircraft or ships, the proper officer may require the owner of the goods to give security, in such amount and subject to such conditions as he may think fit to impose, that the goods shall be duly put on board the aircraft or ship for which they are entered and either duly exported and discharged at the place for which they are so entered, or used as stores, as the case may be, within such time as the proper officer may specify.

(2) All goods in respect of which security is required under this section, in this Part referred to as “bonded goods”, shall, after being put on board, be duly exported and discharged at the place for which they are entered, or used as stores for aircraft or ships, as the case may be.

(3) The proper officer may require the owner of any bonded goods which have been put on board an aircraft or ship for exportation to any place to produce, within such time as the proper officer may consider reasonable, a certificate from the customs authorities at the port of discharge of the due discharge thereof of the goods according to the export entry; and if the owner fails to produce such certificate, or if such certificate does not show that the goods have been discharged thereof according to the export entry, and the owner fails to account for any of the goods to the satisfaction of the proper officer, then the proper officer may refuse to allow the owner to enter for export and to export any other goods in respect of which security may be required under this section.

(4) Where bonded goods, which have been entered outwards have not been shipped according to the entry—

- (a) the person who entered the goods or the exporter thereof shall so notify the proper officer within 24 hours of the departure of the aircraft or ship or such other time as the proper officer may allow; and
- (b) the person who entered the goods or the exporter thereof shall forthwith re-warehouse the goods or again enter the goods for exportation, or for use as stores for aircraft or ships.

(5) Any person who enters or exports, bonded goods which are brought to be put on board an aircraft or ship and which, on examination by a proper officer, are found—

- (a) not to agree with the particulars of the entry thereof; or
- (b) being goods entered under drawback, not to be goods entitled to drawback,

is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

(6) A person who contravenes any condition imposed on him under this section in respect of any bonded goods is guilty of an offence and is liable to a fine not exceeding \$2,000, and any goods in respect of which such offence is committed are liable to forfeiture.

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◆ Effective 1 January 2004

***Shortshipment of nonbonded goods***

68.—(1) Where goods, other than bonded goods, are entered for exportation and are not

exported in the aircraft or ship for which they were so entered or are shortshipped, the person who entered the goods or the exporter thereof shall so notify a proper officer within 48 hours of the departure of the aircraft or ship or within such further time as the proper officer may allow.

- (2) A person who contravenes this section is guilty of an offence.

***Provisions relating to goods liable to export duty***

69.—(1) No goods liable on export to duty shall be exported until the export duty or other charge relating thereto has been paid or security therefor given to the satisfaction of the proper officer.

(2) Where goods liable on export to duty are brought to be put on board an aircraft or ship, and on examination by the proper officer are found not to agree with the particulars of the entry or application for shipment relating thereto, the person who entered the goods and the exporter thereof are guilty of an offence; and the goods in respect of which the offence is committed are liable to forfeiture.

***Certificate of origin and movement certificates***

70.—(1) The Comptroller may, where appropriate, upon application by an exporter, issue to him certificates of origin of goods or movement certificates in respect of goods, in such form as may be determined.

(2) The application for certificates shall be made by an exporter at the time of exportation or in exceptional circumstances within 6 days after exportation, subject to such conditions as the Comptroller may think fit.

(3) The Comptroller may require an exporter to produce such documentary or other evidence in support of an application for the issue of certificates of origin and movement certificates as may be necessary for the purpose of issuing any certificate.

(4) For the purpose of verifying the origin of goods in respect of which a certificate of origin or movement certificate has been issued, the Comptroller may within a period of 3 years from the date of issue of such certificate require an exporter to produce such documents and answer such questions as the Comptroller may consider necessary.

***Giving incorrect material particulars***

71. A person who, for the purposes of the issue or verification of a certificate of origin or movement certificate, makes a statement which is incorrect in a material particular in relation to—

- (a) any form of application;
- (b) any document produced or delivered in support of such application;
- (c) any document produced or delivered in verification of any certificate; or
- (d) any oral statement made to the Comptroller, whether for the purposes of the issue of a certificate or for the purposes of the verification of a certificate,

is guilty of an offence and is liable to a fine not exceeding \$2,000.

***Clearance of aircraft or ship***

72.—(1) Before an aircraft or ship departs from a place in Fiji to an eventual destination outside Fiji, the master of the aircraft or ship shall obtain from the proper officer a clearance of the aircraft or ship for that departure.

(2) Before a certificate of clearance is granted, the master or owner or duly authorized agent of the aircraft or ship shall make due report outwards in the prescribed manner and shall—

- (a) deliver to the Comptroller an outward cargo manifest and such copies thereof as may be required, in the prescribed form;
- (b) answer questions relating to the aircraft or ship and to the cargo, crew, passengers, stores and voyage; and
- (c) produce all documents required by the proper officer relating to the aircraft or ship and to the cargo and passengers.

(3) No certificate of clearance shall be granted for any aircraft or ship unless all requirements of the law in regard to such aircraft or ship, and the inward and outward cargo, have been duly complied with.

(4) If an aircraft or ship required to be cleared under this section departs from Fiji or from any place in Fiji without a valid clearance, the master and agent of the aircraft or ship are guilty of an offence and are liable to a fine not exceeding \$2,000.

***Power to refuse or cancel clearance of aircraft or ship***

73.—(1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under the customs laws or for the purpose of securing compliance with any provision of the customs laws being a provision relating to the importation or exportation of goods—

- (a) the proper officer may at any time refuse clearance of any aircraft or ship; and
- (b) where clearance has been granted to an aircraft or ship, any officer may at any time while the aircraft or the ship is within Fiji, demand that the clearance be returned to him.

(2) Any such demand may be made either orally or in writing, on the commander of the aircraft or the master of the ship, and if made in writing may be served—

- (a) by delivering it to him personally;
- (b) by leaving it at his last known place of abode; or
- (c) by leaving it on board the aircraft or ship with the person appearing to be in command or charge thereof.

(3) If a demand for the return of a clearance is made as aforesaid—

- (a) the clearance shall forthwith become void; and
- (b) if the demand is not complied with, the commander of the aircraft or the master of the ship is guilty of an offence.

***Goods for export not to be discharged***

74.—(1) Subject to the customs laws, no goods which have been put on board an aircraft or ship for export, for use as stores, or as passengers' baggage, shall, save with the written consent of the proper officer and in accordance with such conditions as he may impose, be discharged at any place within Fiji.

(2) A person who contravenes this section, or any condition imposed by the proper officer, is guilty of an offence, and the goods in respect of which the offence is committed are liable to forfeiture.

***Discrepancies in cargo or stores***

75.—(1) The master of an aircraft or ship who, after clearance has been granted, fails to account to the Comptroller when required to do so for any goods specified or referred to in the outward manifest and not on board his aircraft or ship, is guilty of an offence.

(2) The master of an aircraft or ship which, when boarded by a proper officer, contains goods or stores not shown in the manifest, is guilty of an offence, and the goods in respect of which the offence is committed are liable to forfeiture.

- (3) If an aircraft or ship is boarded by a proper officer and any goods which—
- (a) were reported on the arrival of the aircraft or ship as remaining on board for other ports in Fiji, or for re-exportation, or as stores; or
  - (b) after arrival, were put on board for removal under bond to another port in Fiji, or for exportation or use as stores,

are not on board and due allowance has been made, in the case of stores, for any goods which might fairly have been consumed or used, then the master of the aircraft or ship is guilty of an offence.

***Aircraft or ship to bring to at boarding station***

76.—(1) The master of every aircraft or ship departing from Fiji shall bring to at the boarding station for the purpose of disembarking any officer on board the aircraft or ship, or for any other purpose of the customs laws, or when required to do so by the proper officer.

- (2) A master of an aircraft or ship who fails to comply with subsection (1) is guilty of an offence.

**PART XII - AIRCRAFT AND SHIP'S STORES**

***Stores on board***

77.—(1) The proper officer may, on boarding an aircraft or ship, place under seal any dutiable goods on board such aircraft or ship, being either unconsumed stores of the aircraft or ship, or personal property in the possession of any member of the crew in transit or of any passenger in transit for any other place outside Fiji.

(2) Except with the consent of the Comptroller, no seal referred to in subsection (1) may be broken or interfered with while the aircraft or ship remains at an airport or in a port, and any person who breaks or interferes with such seal is guilty of an offence.

(3) If, when required by an officer, the master fails to make full disclosure of any unconsumed stores of the aircraft or ship, or if the master or any member of the crew of any aircraft or ship knowingly or negligently fails to disclose any dutiable goods the property of or in the possession of the master or such member of the crew, as the case may be, such master or member of the crew is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

***Disposal of aircraft stores and ship's stores***

78. Subject to the customs laws, aircraft stores or ship's stores, whether taken on outside Fiji or in Fiji, shall, unless entered for home consumption, only be used by the passengers and crew for the service of the aircraft or ship, and no such stores shall be unshipped except with the consent of the Comptroller.

***Surplus goods***

79. Surplus aircraft stores or ship's stores may, with the authorisation of and at the direction of the Comptroller, be entered in like manner as goods, or warehoused for future use as aircraft stores or ship's stores.

***Shipment of stores***

80.—(1) Upon an application made in that behalf in the prescribed form by the master of an aircraft or a ship departing from Fiji, the Comptroller may permit, for the use on board the aircraft or ship, the loading of such stores as may be necessary according to the voyage upon which the aircraft or ship is about to depart:

Provided that no goods taken on an aircraft or ship shall be deemed to be stores, unless duly shipped as such and specified on the prescribed form.

(2) If the amount of goods applied for by the master or agent of any aircraft or ship in pursuance of the provisions of subsection (1) is, in the opinion of the Comptroller, in excess of the amount which should normally be required, the Comptroller may restrict the amount of stores to such an amount as he considers fair and reasonable in the circumstances.

(3) Goods shipped otherwise than in accordance with the provisions of subsection (1) are deemed to be goods not entered and are liable to forfeiture.

(4) Goods required as stores for the master, crew or passengers of any aircraft or ship leaving Fiji and taken from any bonded or customs warehouse, shall be allowed to be exported free of duty.

***Stores under seal***

81. All stores taken on board an aircraft or ship free of customs duty in accordance with the provisions of this Act shall be placed under seal by an officer and shall remain under seal until the aircraft or ship has departed from Fiji on an outward voyage.

**PART XIII - GOODS FOR TRANSHIPMENT**

***Transhipment under bond***

82.—(1) Upon the entry inwards of an aircraft or ship, the Comptroller may, on the application of the owner or his agent, permit the transhipment of goods without payment of the import or export duty, if any, leviable thereon, if such goods are specifically entered for transhipment at the time of importation.

(2) Transhipment under the provisions of subsection (1) shall take place under the supervision of an officer at the expense of the applicant after the due entries inwards and outwards have been passed for the goods and a bond has been entered into for the exportation of the goods in like manner as if they had been actually landed and deposited in a warehouse.



(3) A person who, without the previous authorization of the Comptroller, transships any goods or attempts to remove any goods from an aircraft or ship to another aircraft or ship, is guilty of an offence.

***Power to sell after six months, goods entered for transshipment***

83. Where any goods entered for transshipment are deposited in a customs warehouse, bonded warehouse, transit shed or customs area and are not transshipped, within a period of 6 months from the date when such goods arrived in Fiji, the Comptroller may in his discretion cause such goods to be sold in the prescribed manner and the proceeds of the sale shall be applied as specified in subsections (3) and (4) of section 63.

**PART XIV - CARRIAGE OF GOODS WITHIN FIJI**

***Transfer of unentered goods for carriage within Fiji***

84.—(1) The Comptroller may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing aircraft or ship to a port in Fiji but consigned to and intended to be delivered at some other port in Fiji, to be transferred before due entry of the goods has been made to another aircraft, vehicle or ship for carriage by air, land or sea to that other port, and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Imported goods which have been carried coastwise by virtue of the provisions of this section shall not be unloaded before due entry thereof has been made except if the goods are unloaded for deposit in a customs area and duly deposited therein. If any goods are unloaded in contravention of this subsection or are dealt with contrary to any condition or restriction imposed under the provisions of subsection (1), such goods are liable to forfeiture and the master of the aircraft or ship or the agent is guilty of an offence.

***Failure to produce goods transferred***

85.—(1) If the owner, operator or agent of an aircraft, vehicle or ship to which imported goods have been permitted to be transferred under the provisions of section 84, fails to produce such goods to the proper officer at the airport or port to which they have been consigned, such goods shall be deemed to have been removed for use in Fiji and, without prejudice to any other remedy in respect of any contravention of this or any other Act in respect of such goods, the owner, operator or agent shall, if so required by the proper officer within one year from the date of arrival of the aircraft, vehicle or ship at such airport or port, pay on demand any duty chargeable on the importation of the goods.

(2) The provisions of subsection (3) of section 28 shall apply for the purpose of determining any duty payable under subsection (1).

***Goods landed at another port***

86. Goods intended to be landed at one port in Fiji but landed at another shall be treated in respect of storage charges as goods entered for transshipment.

***Licence to carry coastwise***

87. Licences to enable foreign-going ships, arriving at a port from any place beyond Fiji, to carry coastwise within Fiji goods or passengers not arriving therein from abroad or not to be carried therein beyond Fiji (hereafter called "licences to carry coastwise") may be issued by and at the

discretion of the proper officer of Customs at any port of entry and shall be subject to such conditions as the Comptroller may impose:

Provided that this section shall not apply to yachts, pleasure launches and other similar ships carrying solely passengers for pleasure without hire or reward.

## **PART XV - IMPORTATION AND EXPORTATION BY POST**

### ***Entry of postal articles***

88.—(1) Postal parcels and postal packets may be entered at such place and in such manner as the Comptroller may direct.

(2) Any officer in the service of the Post Office performing any duty in relation to the importation or exportation of any postal article shall perform such duty in accordance with this Act.

### ***Production of postal articles***

89. All imported postal parcels and postal packets and all postal parcels and postal packets intended for exportation shall, if the Comptroller so requires, be produced by an officer of the Post Office to the proper officer either at the port of arrival in or departure from Fiji, as the case may be, or at such other place in Fiji as the Comptroller may direct, and, for that purpose, the officer of the Post Office shall be deemed to be the agent of the importer or exporter.

### ***Customs declaration forms may be accepted in lieu of entries***

90.—(1) When goods are imported in postal parcels or postal packets, the Comptroller, in his discretion, may accept for the purpose of assessing the duty on the goods the customs declaration on the form provided by the Postal Administration in the country of origin, in lieu of the entry required under the customs laws.

(2) Where goods are exported by post, the Comptroller may, in his discretion, deem any form or label affixed to the parcel and bearing a description of the contents and a declaration of their value to be the entry required under the customs laws.

### ***Entry of postal parcels and packets***

91. Where a postal parcel or postal packet or any part of its contents is on examination found—

- (a) not to agree with any declaration which accompanies or is affixed to such postal article, or with any entry, invoice, or other document purporting to relate to its contents and which may be either transmitted therewith or produced by the addressee;
- (b) to consist of goods prohibited from being imported or exported, as the case may be; or
- (c) to consist of goods regulated by or under the customs laws and imported or exported contrary to any conditions regulating such importation or exportation,

such postal article and all its contents shall be deemed to be goods imported or exported contrary to the customs laws and shall be dealt with in accordance with the customs laws.

**PART XVI - DUTIES**

***Liability to duty***

92.—(1) Subject to the Customs laws, import duty is payable on all goods imported into Fiji at the rates and in the circumstances specified in the Customs Tariff Act, 1986, and in any other law relating to import duties.

(2) Subject to the customs laws, export duty is payable on the goods and at the rates and in the circumstances specified in the Customs Tariff Act, 1986, and in any other law relating to export duties.

u (3) The duty on all goods imported or entered for home consumption or exported shall, immediately on their importation or entry for home consumption or, as the case may be, on the delivery to the Comptroller or other proper officer of the entry for the export of the goods or upon transmission to the system of an electronic message, constitute a debt due to the Government.

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

u (5) Subject to any special provisions made by this Act in that behalf, such debt shall become due and payable as soon as entry of the goods for home consumption has been made, or the goods have been entered for delivery to a manufacturing area, or the delivery of the entry for the export of the goods has been made to the Comptroller or other proper officer or upon transmission to the system of an electronic message, export of the goods have been wrongfully landed or shipped or otherwise wrongfully dealt with without having been entered for home consumption or for delivery to a manufacturing area, or for export, as the case may be or any other offence against this Act has been committed in respect of the goods.

◆ (5A) The Comptroller may, subject to such conditions, as he may impose to ensure compliance with this Act for the protection of the revenue, approve any petroleum company to defer the payment of import duty on imported petroleum products.

◆ (6) The Comptroller may, subject to such conditions as he may impose to ensure compliance with this Act and for the protection of the revenue, approve any company or person licenced under Section 7 of the Tax Free Zones Decree 1991 or under Part VIIB of this Act, to defer payment of Value Added Tax on imports. This subsection shall not apply to any such company or person who has not registered for Value Added Tax under the Value Added Tax Decree.

(7) Where a company or person has received approval under subsection (6) of this section, the due date for payment for any debt due shall be 90 consecutive days after the end of the duty accounting period during which it would otherwise have become payable.

◆ (7A) Where a petroleum company has received approval under subsection (5A) of this section, the due date for payment of import duty shall be the third working day after the end of the duty accounting period during which it would otherwise have become payable.

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◆ Effective 1 January 2004

◆◆ Effective 1 May 2002

(8) For the purposes of subsection (7), the expression 'duty accounting period', in relation to any company or person, means a calendar month in which goods may be imported or entered for Customs purposes, whichever is the latter.

- ◆ (8A) For the purposes of subsection (7A), the expression "duty accounting period" in relation to any petroleum company means a period of one week from Monday to Sunday, in which goods may be imported, exported, transferred or entered into home consumption.

(9) Where any such debt is not paid by the approved company or person by the due date pursuant to subsection (7) of this section, the Comptroller may, in his discretion, suspend or withdraw his approval, or may vary the conditions under which the approval was given.

- ◆ (9A) Where any such import duty is not paid by the approved petroleum company by the due date pursuant to subsection (7A) of this section, the Comptroller may, in his discretion, suspend or withdraw his approval, or may vary the conditions under which the approval was given.

#### ***Rates of duty applicable***

93.—(1) Subject to sections 27 and 51, import duties shall be paid at the rate in force at the time of importation, irrespective of the date when the goods liable to such duty are entered for home consumption.

(2) If in accordance with subsection (2) of section 30, goods are entered before the arrival at the port of discharge of the aircraft or ship in which they are imported, the import duty upon them shall be paid at the rate in force at the time of importation.

(3) Export duty shall be paid at the rate in force at the time of exportation, irrespective of the date when the goods liable to such duty are entered for export:

Provided that, in the case of goods exported by post, the rate of duty payable shall be the rate applicable when such goods are received by the Post Office.

#### ***Disputes concerning duty payable***

94.—(1) If any dispute arises as to the amount or rate of duty payable in respect of any goods, or as to the liability of any goods to duty under any customs laws, the owner of the goods may pay under protest the sum demanded by the Comptroller as the duty payable in respect of the goods, and thereupon the sum so paid shall, as against the owner of the goods, be deemed to be the proper duty payable in respect of the goods unless the contrary is determined in an action brought in pursuance of this section.

(2) The owner may—

(a) if the dispute relates to the decision by the Comptroller upon any of the matters specified in the Schedule to this Act, within 3 months after the date of payment, enter an appeal to the Court of Review established under the provisions of section 174;

(b) in any other case, within 3 months after the date of payment, bring an action against the Comptroller in any Court of competent jurisdiction for the recovery of the whole or any part of the sum so paid.

- u (3) No action shall lie for the recovery of any sum paid under the provisions of subsection (1) unless, before payment is made, the words "paid under protest" are written on every copy of the entry of the goods presented to the Customs and signed by the owner of the goods or his agent or are transmitted to the system by a registered user.

(4) If the sum demanded by the Comptroller as the duty payable on any goods is not paid, the Comptroller may refuse to pass an entry or to release such goods unless otherwise directed by an order of a court in an action brought by the owner.

(5) If the court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Comptroller.

(6) A payment made pursuant to subsection (1) shall not affect the right of the Comptroller to bring or maintain a prosecution for an offence against the customs laws, and notwithstanding any such payment, the Comptroller may retain any goods which he considers may be required for production in court as evidence in any prosecution.

#### ***Recovery of duties***

95.—(1) The correct amount of any duty, charge or fee due and payable under this Act—  
(a) may be demanded by the Comptroller at any time within one year from the date when such duty, charge or fee should have been paid;  
(b) shall constitute a debt payable to the Government;  
(c) is payable by the importer or exporter, as the case may be; and  
(d) is recoverable in a court of competent jurisdiction in the name of the Comptroller.

(2) Any goods at whatever time imported or entered for export shall, while stored in a bonded warehouse or otherwise in the custody of the Customs and belonging to the importer or exporter, be subject to a lien for the said debt and may be detained until that debt is paid.

(3) Any duty recoverable under this section shall have priority over all claims of whatsoever nature upon the said goods.

#### ***Refunds***

96.—(1) Where any duty, fee or other charge has been levied and paid and repayment of such duty or charge, or of any portion thereof is claimed on the ground that the duty, fee or other charge was levied or paid through inadvertence or from other error, and where the Comptroller is satisfied that such claim is correct, the excess duty, fee or other charge shall be refunded and any sum to be so refunded shall be a charge upon the Consolidated Fund.

(2) No repayment referred to in subsection (1) of excess duty, fee or other charge, or of any portion thereof, shall be made by the Comptroller when such claim is made after one year from the date of the payment.

(3) Where any amount of duty, fees or other charges has been erroneously refunded, the Comptroller may, within one year from the date upon which such sum was refunded, demand repayment of such sum and may recover such sum in a court of competent jurisdiction.

#### ***Remission of duty on goods lost, destroyed, or damaged, etc.***

97.—(1) If it is shown to the satisfaction of the Comptroller that any goods chargeable with any duty have by accident been lost or destroyed—  
(a) after importation but before being cleared for any purpose for which they might be entered on importation;  
(b) while in a bonded warehouse or customs warehouse;  
(c) at any time while that duty is otherwise lawfully unpaid; or  
(d) if the duty with which the goods are chargeable is a duty on exportation, at any time

after being entered for exportation and before exportation, the Comptroller may remit or repay any duty chargeable or paid thereon and, in the case of any repayment made under this subsection, the provisions of section 96 shall apply:

Provided that in the case of lost imported goods or lost goods entered for exportation the remission or repayment shall not be given unless the Comptroller is satisfied that they have not and will not be used or consumed in Fiji.

(2) The Comptroller, at the request of the owner of the goods and subject to compliance with such conditions as the Comptroller sees fit to impose, may allow the value originally declared for the goods specified in paragraph (a) or (b) to be reduced or permit the destruction of such goods, and may remit or repay the whole or part of any duty chargeable or paid on—

- (a) any imported goods not yet cleared for any purpose for which they might be entered on importation; or
- (b) any warehoused goods which have by reason of their state or condition ceased to be worth the original value declared.

***Drawback allowed on re-export***

98.—(1) Where goods have been imported from a foreign port and are thereafter exported to a foreign port or as ship's stores without having been subjected to any process in Fiji, an amount not exceeding the duty paid in respect of the importation of the goods may be repaid as drawback if the following conditions are complied with, namely—

- (a) the goods must be identified to the satisfaction of the Comptroller with the original import invoice and with the entry for the payment of duty in Fiji;
- (b) the re-exportation must be made within 2 years from the time of importation or the date of clearance from bonded warehouse or within such further period as the Comptroller may, in special circumstances, approve;
- (c) the claim for drawback is of not less than \$20 in respect of any one commodity entered as a separate item on the original entry; and
- (d) the claim for drawback is established at the time of the re-export, and payment is demanded within one month from the date of the entry for shipment or within such further period as the Comptroller may, in special circumstances, approve:

Provided that no drawback is payable on any damaged goods or on any goods that are not in all respects in as good and sound condition as when imported or removed from bonded warehouse.

(2) No payment of drawback shall be made until the aircraft or ship carrying the goods has left Fiji.

***Declaration by claimant for drawback***

99. A person or his duly authorized agent demanding payment of drawback on any goods duly exported shall make and subscribe a declaration that such goods have been duly exported, and have not been re-landed at any place within Fiji, and that such person was, at the time of entry outwards and shipment, and continues to be, entitled to drawback thereon.

***When no drawback allowed***

100.—(1) If goods upon which drawback is claimed or allowed are shipped or brought to any wharf, quay or other place, to be shipped for exportation or are found on board an aircraft or ship and are, upon examination by the proper officer found not to be of the description, quality or quantity

stated on the export entry or shipping bill or other document for the allowance of drawback on shipment, all such goods and the packages containing them with all other contents therein are liable to forfeiture and the person entering such goods and claiming the drawback thereon shall in every case be guilty of an offence and shall be liable to a fine not exceeding \$2,000 or treble the amount of the drawback claimed, whichever is the greater.

(2) A person who wilfully claims more drawback on any goods than is legally due thereon or falsely claims drawback on goods, is guilty of an offence and is liable to a fine not exceeding \$2,000.

***Power to allow drawback on locally manufactured goods***

101. A drawback of duty equal to the duty paid may be allowed on the quantity of any imported article or material which has been used in the manufacture of goods or articles of any class or description manufactured in Fiji and exported, subject to such conditions as may be prescribed.

***Power to amend assessments of duty made by importers, exporters or licensees***

101A.—(1) If the Comptroller is satisfied, as a result of an investigation carried out under section 114B or for any other reason, that an assessment of duty payable or refundable made by an importer, exporter or licensee contravenes the customs laws or is for any other reason incorrect, the Comptroller may amend the assessment and demand any short-paid duty.

- (2) Notice in writing must be given to the importer, exporter or licensee of—
- (a) an amended assessment made under subsection (1); and
  - (b) the basis for the amended assessment, and where applicable, the relevant provision of any written law.

(3) Subsection (1) applies whether or not the goods have been released from the control of the Customs and whether or not any duty assessed has been paid.

(4) An importer, exporter or licensee who is dissatisfied with a decision of the Comptroller under this section may, within 15 working days after the date on which notice of the decision was given, appeal the decision to the Court of Review.

**PART XVII - POWERS OF OFFICERS**

***Power of Comptroller with regard to invoices***

102.—(1) If information has been received by the Comptroller to the effect that goods have been or are intended to be smuggled, undeclared, unlawfully entered or illegally dealt with, or where any goods have been seized or detained, a person shall, upon being requested to do so by the Comptroller, produce any books, invoices and documents relating to any goods imported or exported and which such person may have had in his possession at any time within the period of 5 years immediately preceding the date of such request, and shall also produce for the inspection of the Comptroller, and permit him to make copies of, or take extracts from, all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way to relate to any such goods.

(2) The Comptroller may seize and detain any book, invoice or document produced under the provisions of this section if, in his opinion, such book, invoice or document may afford evidence of the commission of any offence against the customs laws.

- ◆ (3) A person who—
  - (a) refuses or neglects to comply with a request of the Comptroller under the provisions of this section;
  - (b) knowingly produces any false book, invoice or document;
  - (c) knowingly makes any false representation in regard to the country in which any goods were grown, produced or manufactured; or
  - (d) makes any false representation with intent to evade or to contravene the provisions of this section,is guilty of an offence and is liable to a fine not exceeding \$2,000 or to imprisonment for 12 months or to both such fine and imprisonment.

***Power to require ships, etc., to bring to***

103.—(1) The master of a ship entering Fiji or operating within Fiji shall bring his ship to for boarding on being signalled to do so by any ship in the service of the Customs, or any other ship in the service of Fiji.

(2) The master of an aircraft entering Fiji or operating within Fiji shall land the aircraft on being signalled to do so by a proper officer.

- (3) A ship may be fired upon if—
  - (a) that ship is liable to forfeiture or examination pursuant to the provisions of the customs law;
  - (b) that ship does not bring to when so required;
  - (c) that ship has been chased by a ship in the service of the Customs or in the service of Fiji, which has flown the proper flag and fired a gun as a signal; and
  - (d) that ship continues to fail to bring to.

(4) A master of an aircraft or ship who contravenes any of the provisions of this section is guilty of an offence and is—

- (a) in the case of the master of a light aircraft or a ship of less than 250 tonnes register, liable to a fine not exceeding \$10,000, and the aircraft or ship in respect of which the offence is committed is liable to forfeiture;
- (b) in the case of the master of an aircraft other than a light aircraft, or of a ship of 250 tonnes register or more, liable to a fine not exceeding \$50,000; and the aircraft or ship in respect of which the offence is committed may be seized and detained until the fine is paid or satisfactory security therefor is given.

(5) In this section "light aircraft" means an aircraft licensed to carry less than 8 passengers.

***Power to board ship, etc., and search***

104.—(1) A proper officer may, in the course of his duty, board and search any aircraft or ship within Fiji and may require the master of any such aircraft or ship to produce documents and answer questions relating to such aircraft or ship, its cargo, stores, baggage, crew and passengers, and may examine, lock-up, seal, mark, or otherwise secure any goods on such aircraft or ship; and for the purpose of the examination or security of any goods, he may require them to be unloaded or removed to a customs warehouse at the expense of the master of the aircraft or ship.

(2) An officer may at the risk of the owner open packages and examine, weigh, mark and seal



any goods subject to the control of the Customs, and the expenses of the examination including the cost of removal to the place of examination shall be borne by the owner.

(3) A proper officer, acting in pursuance of this section, who is unable to obtain free access to any part of an aircraft or ship or to any container therein, may enter such part or open such container, by force if necessary.

(4) A proper officer boarding a ship pursuant to this section may remain thereon for such time as he may consider necessary and the master of the ship shall provide the officer with proper and sufficient food and suitable accommodation. A master who contravenes any provision of this subsection is guilty of an offence and is liable to a fine not exceeding \$1,000.

(5) A master of an aircraft or ship—  
(a) shall not refuse to unload or remove any goods from the aircraft or ship when required to do so in accordance with this section;  
(b) shall not cause or permit any goods which have been locked up, sealed, marked, or otherwise secured in the aircraft or ship to be interfered with in any way except with the consent of the proper officer; and  
(c) shall not cause or permit any lock, seal, or mark, placed on any place or goods in the aircraft or ship in accordance with this section, to be opened, broken or altered,  
and any master who contravenes any provision of this subsection is guilty of an offence and is liable to a fine not exceeding \$1,000 or treble the value of any goods found to be missing as a result of the offence, whichever is the greater.

(6) If, on the search of an aircraft or ship under this section, goods are found in relation to which an offence under this Act has been committed, those goods are liable to forfeiture.

(7) If—  
(a) on an aircraft or ship boarded under this section, goods are found therein;  
(b) on the aircraft or ship being subsequently boarded, whether by the same or another proper officer, the goods or any part thereof are no longer therein; and  
(c) the master of the aircraft or ship cannot account for the missing goods to the reasonable satisfaction of the proper officer,  
the master is guilty of an offence.

***Access to transit sheds***

105. A proper officer acting in the execution of his duty has the right to demand immediate access to any transit shed and if any person with the authority to grant access fails or refuses to grant such access the proper officer may cause the transit shed to be opened by any means, including by force.

***Power to patrol freely***

106.—(1) The officer in charge of an aircraft, ship or vehicle, employed in the enforcement of the customs laws—

(a) may take such aircraft, ship or vehicle to any place in Fiji; and  
(b) keep any such aircraft, ship or vehicle at any place in Fiji for such time as he considers necessary,  
and such officer is not liable to any prosecution or action at law for so doing.

(2) An officer engaged in the enforcement of the customs laws may for that purpose patrol upon and pass freely over and enter any place in Fiji, and such officer is not liable to any prosecution or action at law for so doing.

(3) Nothing in this section alone shall authorise entry into a dwelling house or other building.

***Power to stop vehicle, boat, etc. suspected  
of conveying uncustomed goods, etc.***

107.—(1) A proper officer shall, if he has reasonable grounds to believe that a vehicle, boat or other means of conveyance is conveying any uncustomed goods, stop and search such vehicle, boat or other means of conveyance and, for the purposes of the search, the proper officer may require any goods in such vehicle, boat or other means of conveyance to be unloaded at the expense of the owner of the vehicle, boat or other means of conveyance.

(2) A proper officer who is unable to obtain free access to any place or container in the course of any search carried out under this section may, if necessary, use force to gain such access.

(3) Where, on the search of a vehicle, boat or other means of conveyance carried out under this section, goods are found in relation to which an offence under this Act has been committed, the goods are liable to forfeiture.

(4) A person in charge of a vehicle, boat or other means of conveyance who refuses to stop or to permit it to be searched in accordance with this section is guilty of an offence.

***Power to question persons arriving or leaving***

108. A proper officer may, in the course of his duty, question any person who is entering Fiji or who is about to depart from Fiji, for the purpose of determining whether such person has any dutiable goods, prohibited goods or restricted goods in his possession, whether upon his person or in his baggage.

***Power to detain and search persons***

109.—(1) Subject to subsections (2) and (3), a proper officer may, if he has reasonable grounds to suspect that any person has uncustomed goods in his possession, whether upon his person or in his baggage, detain and search that person; and the proper officer may, for that purpose, use all reasonable force necessary.

(2) A female shall not be searched except by a female.

(3) The person to be searched may require to be taken forthwith before an officer of no lesser rank than of Collector, who shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place.

(4) If a proper officer has reasonable cause to believe that a person has unlawfully secreted about his person or within his body cavities any uncustomed goods or prohibited imports, he may cause an internal search of that person to be undertaken at his direction by a registered medical practitioner.

(5) If, on the search of a person under this section, goods are found in his possession, whether upon his person or his baggage, in relation to which an offence under this Act has been committed, the goods are liable to forfeiture.

***Power to arrest***

110.—(1) A proper officer may, if he has reasonable grounds to believe that a person is committing, or has committed an offence under this Act, arrest that person, and the proper officer may, for that purpose, use all reasonable force necessary.

(2) A person arrested in accordance with this section shall forthwith be taken before a magistrate or to a police station, to be dealt with according to law.

***Powers of search***

111.—(1) Any officer may, where there are reasonable grounds to suspect that any goods liable to forfeiture under the Customs laws are kept in any building or place, enter that building or place at any time and search for, seize, detain or remove any such goods, and may, so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction :

Provided that entry shall not be made at night except in the company of a police officer.

(2) Any officer acting under subsection (1) may at any time require assistance from a police officer who shall render assistance accordingly.

(3) Without prejudice to any other power under the Customs laws, where an officer declares on oath before a magistrate that he has reasonable grounds to believe that there are in any premises any uncustomed goods or any books or documents relating to any uncustomed goods, the magistrate may by warrant under his hand authorise the officer to enter upon and search the premises with such force as may be necessary, by day or by night, and to seize and carry away any uncustomed goods, and any books or documents relating thereto that may be found in the premises.

(4) An officer in possession of a search warrant may require a police officer to assist him in the execution of the warrant and the police officer so required shall render assistance accordingly.

***Power of entry, detention and seizure without search warrant***

112. If an officer observes an act being committed which is an offence under the customs laws, such officer may enter any building or place where such offence is being committed, using whatever force may be necessary to secure entry, and may—

- (a) detain any person found to be in such building or place, who he suspects upon reasonable grounds of being involved in the commission of the offence;
- (b) seize any goods which may be the subject of the offence; and
- (c) seize any documents relating to the goods which are the subject of the offence.

***Penalty for interfering with Customs ships, etc.***

113.—(1) A person who interferes in any way with an aircraft, ship, vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose of enforcing the customs laws, is guilty of an offence.

(2) A person who fires upon any aircraft, ship or vehicle which is being used for the purpose of

enforcing the customs laws or by an officer while otherwise engaged in the execution of his duty is guilty of an offence and is liable to imprisonment for 15 years.

***Examination, sampling, etc., of goods subject to customs control***

114.—(1) If goods are subject to customs control, a proper officer may—

- (a) at any time examine and take account of them;
- (b) at any time take samples of them for such purposes as the Comptroller may think necessary; and
- (c) subject to such conditions as the Comptroller may see fit to impose, permit them to be bulked, sorted, lotted, packed or repacked.

(2) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their packages for the purpose of, or incidental to, any facilities or assistance required for any of the purposes described in subsection (1), is performed or provided by the owner of the goods at his expense.

***Keeping of business records***

u 114A.—(1) Every licensee, importer, and exporter must keep or cause to be kept in the Fiji Islands in the English language all business records and other prescribed information needed to enable an officer to be satisfied as to the correctness and completeness of the particulars shown in any entry or claim lodged with Customs.

(2) The business records and other prescribed information kept under subsection (1) must be kept for at least 5 years.

(3) Every licensee, importer and exporter must, when required by an officer—

- (a) make the records and the prescribed information kept under subsection (1) available to the Customs;
- (b) provide copies of the records and the prescribed information as required; and
- (c) answer any questions relating to matters arising under this Act asked by an officer in respect of them.

(4) If, for the purposes of complying with subsection (2), information is recorded or stored by means of an electronic or other device, the licensee, importer or exporter, or an agent of the licensee, importer or exporter must, at the request of an officer, operate the device, or cause it to be operated, to make the information available to the officer.

***Powers of officers to examine business records***

u 114B. If a person has exported, imported, warehoused, removed from a warehouse or transhipped any goods or has made a claim for refund or drawback dealing with part or all of the goods, an officer may—

- (a) at all reasonable times within 5 years after the entry has been lodged or the claim for refund or drawback of duty has been made, for the purpose of this section enter and remain on the premises in which the records required under section 114A(1) are kept;
- (b) have full and free access, at all reasonable times, to any relevant business document or other accounting book, record, report or document kept on the premises; and
- (c) inspect, examine, make copies of, or take extracts from, any such document,

book, record or report,

for the purpose of verifying any information provided to the Customs and being satisfied that all entries, forms and declarations relating to the goods are an accurate and complete record of the matters required to be reported on.

***Customs officers not liable for acts done in good faith***

115. An officer or other person acting under his direction shall not be liable to any legal proceedings for any action taken by him in good faith in accordance with any provision of this Act.

***Power to require declaration***

116.—(1) A person entering Fiji shall, at such place and in such manner as the Comptroller may direct, declare anything contained in his baggage or carried with him which—

- (a) he has obtained outside Fiji; or
- (b) being dutiable or chargeable goods within the meaning of any law relating to Customs and Excise, he has obtained in Fiji without payment of duty or tax,

and in respect of which he is not entitled to exemption from payment of duty or tax by virtue of any provision of the customs law.

(2) A person entering or leaving Fiji shall answer such questions as the proper officer may put to him with respect to his baggage and anything contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Comptroller may direct.

(3) A person who fails to declare or to produce any baggage or thing as required by this section is guilty of an offence and is liable to a fine not exceeding \$1,000 or treble the value of the thing not declared or of the baggage or thing not produced, whichever is the greater; and anything chargeable with any duty or tax which is found concealed or is not declared, is liable to forfeiture.

***Impounding of documents***

117. The Comptroller may impound or retain any document which is presented in connection with any entry or which is required to be produced under the provisions of this Act, and the person otherwise entitled to such documents shall, on his application, be given in lieu thereof a copy of the document duly certified by the Comptroller, and the certified copy shall be admissible in evidence at any trial to the same extent, and in the same manner, as the original.

***Comptroller may require further proof of proper entry***

118. The Comptroller may require from the importer of any goods, proof by declaration or by the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty and failing the giving of such proof the Comptroller may refuse to deliver the goods or to pass any entry relating thereto.

***Translation of foreign documents***

119. If a document in a foreign language is presented to an officer for any purpose connected with the Customs, the Comptroller may require a translation in the English language to be made at the expense of the owner.

***Value of goods seized***

120. Where any penalty, fine or forfeiture, the amount of which is to be determined by the value of

any goods, is incurred under any customs law, the goods shall not be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with them by any person offending or endeavoring to commit an offence against the law.

***Power to inspect aerodromes, records, etc.***

121.—(1) The person in control of an aerodrome shall permit a proper officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(2) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Comptroller, the person in control of any other aerodrome shall—

- (a) keep a record in such form as the Comptroller may approve of all aircraft arriving at or departing from the aerodrome;
- (b) keep such record available and produce it on demand to any proper officer, together with all other books and documents kept at the aerodrome which relate to the movement of aircraft; and
- (c) permit any proper officer to make copies of and take extracts from any such record, book or document.

(3) A person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence.

***Power to prevent flight of aircraft***

122.—(1) An officer or police officer, if it appears to him that an aircraft is about to or is likely to depart for a destination outside Fiji from any place other than an airport or from an airport before customs clearance is given therefrom, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) A person who contravenes any instructions given under the provisions of subsection (1) is guilty of an offence and is liable to a fine not exceeding \$1,000 or imprisonment for 6 months, or to both such fine and imprisonment.

(3) If an aircraft flies in contravention of any instructions given under the provisions of subsection (1), notwithstanding any steps taken to prevent the flight, the operator of the aircraft and the commander thereof shall, without prejudice to the liability of any other person under this section, each be guilty of an offence under subsection (2), unless he proves that the flight took place without his consent or connivance.

**PART XVIII - PENAL PROVISIONS**

***Obstruction of officers, etc.***

123. A person who—

- (a) obstructs, hinders, molests, assaults, uses threatening language to, attempts to intimidate or endeavours to bribe any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by the customs laws or any person acting in his aid;
- (b) does anything which impedes or is intended to impede the carrying out of any search for

anything liable to seizure under the customs laws or the detention, seizure or removal of any such thing;

- (c) rescues, damages or destroys anything so liable to forfeiture;
- (d) does anything intended to prevent the procuring or giving of evidence as to whether or not anything is so liable to forfeiture; or
- (e) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for 2 years or to both such fine and imprisonment.

#### ***Offences with violence***

124.—(1) A person who—

- (a) shoots, or otherwise attacks with any weapon, wounds or maims any officer in the execution of his duty or any person acting in his aid, or attempts to shoot or otherwise attack such officer or other person acting in his aid; or
- (b) commits with violence any of the offences referred to in subsection (4),

is guilty of an offence and is liable to imprisonment for 10 years.

(2) A person who—

- (a) while committing an offence under this Act, is armed with any firearm or other weapon; or
- (b) while being so armed, is found with any goods liable to forfeiture under this Act,

is guilty of an offence and is liable to imprisonment for 7 years.

(3) A person who—

- (a) while committing an offence under this Act is disguised in any way with intent to mislead any officer; or
- (b) while being so disguised, is found with any goods liable to forfeiture under this Act,

is guilty of an offence and is liable to imprisonment for 2 years or to a fine not exceeding \$5,000 or to both such fine and imprisonment.

(4) A person who—

- (a) staves, breaks, destroys, or throws overboard from any aircraft, ship, or vehicle, any goods or documents relating thereto for the purpose of preventing the seizure thereof;
- (b) rescues, staves, breaks, destroys, or throws overboard from any aircraft, ship, or vehicle, any goods or documents relating thereto for the purpose of preventing the securing of such goods after they have been seized; or
- (c) rescues any person arrested for any offence under this Act,

is guilty of an offence and is liable to a fine not exceeding \$5,000 or imprisonment for 2 years or to both such fine and imprisonment.

#### ***Protection of witnesses***

125. A witness on behalf of the Comptroller in any customs prosecution shall not be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

#### ***Penalty for assembling to contravene provisions of the customs laws***

126. A person who assembles with other persons for the purpose of contravening the provisions

of the customs laws is guilty of an offence and is liable to imprisonment for one year.

***Unlawful assumption of character of an officer***

127. If, for the purpose of obtaining admission to any building or other place or to any aircraft or ship, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, a person, not being an officer, assumes the name, designation or character of an officer, he shall, in addition to any other punishment to which he may have rendered himself liable, be guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for 2 years or to both such fine and imprisonment.

***Conduct of officers***

128.—(1) The Comptroller, any officer or any person authorised by the Comptroller to discharge any duty relating to this Act shall—

- (a) maintain the secrecy of all matters relating to the Act which come to his knowledge and shall not, either while he is or after he ceases to be an officer of the Customs, communicate any such matters to any person except for the purpose of carrying into effect this Act or any other enactment imposing customs or excise duties payable to the Government; and
- (b) before he begins to perform any official duty as an officer of the Customs, make a declaration of fidelity and secrecy in the approved form.

(2) If the Comptroller or any officer or any person authorized by the Comptroller to discharge any duty relating to this Act—

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is otherwise unlawful, being an act or thing relating to this Act, he is guilty of an offence.

(3) If a person—

- (a) directly or indirectly gives to the Comptroller, any officer or any person authorised by the Comptroller to discharge any duty relating to this Act, any payment or other reward; or
- (b) proposes or enters into an agreement with the Comptroller, any officer or person authorized as aforesaid,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is unlawful, being an act or thing relating to the customs laws, or otherwise to take any course contrary to his duty, he is guilty of an offence.

(4) A person who commits an offence under this section is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

***Provisions as to detention, seizure and forfeiture***

129.—(1) An officer or other person authorized in that behalf by the Comptroller may at any time seize or detain any goods liable to forfeiture under the customs laws or any goods which such officer or other person has reasonable grounds to believe are liable to forfeiture thereunder.



- (2) The following goods are liable to forfeiture and may be seized or detained as aforesaid:
- (a) all goods which are smuggled;
  - (b) all prohibited goods and any restricted goods which are dealt with contrary to any condition regulating their importation, exportation or carriage coastwise;
  - (c) all goods found in any aircraft or ship after arrival in any port and not being specified in the inward manifest or parcel list and not being baggage belonging to the master, crew or passengers and not being satisfactorily accounted for;
  - (d) all uncustomed goods;
  - (e) all goods which, being subject to the control of the Customs, are moved, altered or interfered with except by the authority of and in accordance with the provisions of this Act;
  - (f) all goods in respect of which any entry, invoice, declaration, answer, statement or representation which is false or incorrect in any material particular has been delivered, made or produced;
  - (g) all goods falsely described either in the manifest of the aircraft or ship or other document by which importation is authorized;
  - (h) the cargo of any ship which hovers within Fiji and does not depart after being required by an officer to do so;
  - (i) all goods, not being baggage belonging to the master, crew or passengers, found on an aircraft or ship after clearance and not specified or referred to on the outward manifest, and not accounted for to the satisfaction of the Comptroller;
  - (j) all dutiable goods concealed in any manner;
  - (k) any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer;
  - (l) save as may be prescribed by the Minister, all dutiable goods found in the possession or the baggage of any person who has landed from any aircraft or ship and has denied that he has any dutiable goods in his possession or who, when questioned by an officer, has not fully disclosed that such goods are in his possession or baggage;
  - (m) any imported goods found, whether before or after delivery, not to correspond with the entry made thereof.

***Forfeiture of ships, etc., used in connection  
with goods liable to forfeiture***

130.—(1) Without limiting any other provision of this Act, if any goods or things have become liable to forfeiture under the customs laws—

- (a) any ship, aircraft, vehicle, living creature, container (including any article of passenger's baggage) or anything whatsoever which has been used for the carriage, handling, deposit or concealment of the goods or things so liable to forfeiture either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
- (b) any other thing mixed, placed or found with the goods or things so liable, is also liable to forfeiture.

(2) Where a ship, aircraft, vehicle or living creature has become liable to forfeiture under the customs laws, whether by virtue of the last preceding subsection or otherwise, all tackle, apparel or furniture thereof is also liable to forfeiture.

***Ships, etc., constructed for concealing goods***

131. Any aircraft or ship which is found to be engaged in or to be about to depart on a flight or voyage while constructed, adapted, altered or fitted in any manner for the purpose of concealing

goods, is liable to forfeiture.

***Ships jettisoning cargo***

132.—(1) If any part of the cargo of a ship is thrown overboard, or staved or destroyed to prevent seizure after the ship has been summoned to bring to by any ship employed in the enforcement of the customs laws, the ship from which such cargo was thrown overboard or on which such cargo was staved or destroyed, is liable to forfeiture.

(2) For the purposes of this section and section 133, a ship shall be deemed to have been properly summoned to bring to if the ship making the summons did so by means of an international signal code or other recognised means and while flying the customs flag.

***Special provision as to forfeiture of larger ships and of aircraft***

133.—(1) Notwithstanding any other provision of this Act, a ship of 250 or more tonnes register, or an aircraft, is not liable to forfeiture under or by virtue of any provision of this Act unless the offence in respect of or in connection with which the forfeiture is claimed—

- (a) was substantially the object of the flight or voyage in connection with which the offence was committed; or
- (b) in the case of a ship, was committed while the ship was under chase by a ship employed in the enforcement of the customs laws after failing to bring to when properly summoned to do so.

(2) The exemption from forfeiture of an aircraft or ship under this section shall not affect any liability for forfeiture of goods carried therein.

***Various penalties associated with owners of aircraft and ships***

134.—(1) The owner of—

- (a) an aircraft or ship used in smuggling or knowingly used in the unlawful importation, exportation or conveyance of any prohibited or restricted imports or exports;
- (b) a ship hovering within Fiji and not departing after being required by an officer so to do;
- (c) an aircraft or ship from which any goods are thrown overboard, staved or destroyed to prevent seizure by the Customs;
- (d) an aircraft or ship found within any port with cargo on board, and afterwards found light or in ballast or with the cargo deficient, and the master of which is unable lawfully to account for the deficiency;
- (e) an aircraft or ship found within a port or within Fiji having false bulkheads, bows, sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole, pipe or other device adapted for the purpose of smuggling goods; and
- (f) an aircraft or ship found within any port having on board or in any manner attached thereto or conveying or having conveyed, any goods in a manner such as to be in contravention of the provisions of the customs laws, or any other laws of Fiji, whenever a responsible officer of such aircraft or ship is implicated either actually or by neglect,

is guilty of an offence and is liable to a fine not exceeding \$2,000 and the aircraft or ship may be detained until the penalty is paid or until security is given for its payment.

(2) For the purpose of paragraph (f) of subsection (1)—

- (a) responsible officers of a ship include the master, mates and engineers and where the ship is carrying passengers, the purser and chief steward;
- (b) responsible officers of an aircraft include the commander, a pilot, a navigator, the chief engineer and the chief steward; and
- (c) the expression "neglect" includes cases where goods not owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised reasonable care at the time of the loading of the aircraft or ship, or of the coming on board the aircraft or ship of the crew, or subsequently.

***Collusive seizure, etc. penalty***

135. An officer who—  
(a) makes a collusive seizure;  
(b) delivers up or makes an agreement to deliver up, or not to seize an aircraft or ship or goods liable to forfeiture;  
(c) conspires or connives with any person to import or export; or  
(d) is in any way concerned in the importation or exportation of any goods for the purpose of seizing any aircraft or ship or goods and obtaining any reward for such seizure,  
is guilty of an offence and is liable to a fine not exceeding \$2,000 or to imprisonment for 2 years or to both such fine and imprisonment.

***Removal or destruction of dutiable goods***

136. A person who—  
(a) removes goods from a warehouse or a customs area without paying the duty; or  
(b) wilfully destroys any dutiable goods,  
is guilty of an offence and is liable to a fine not exceeding \$2,000.

***Customs offences***

137. A person who—  
(a) prepares, passes, presents or causes to be prepared, passed or presented as genuine any document required to be produced under any customs law which is not in fact a genuine document or which is untrue or incorrect in any material particular;  
(b) makes any entry, which is false, or incorrect in any material particular;  
(c) makes, in any oral declaration to an officer or in any document produced to an officer, any statement which is untrue or incorrect in any material particular, or produces or delivers to an officer any declaration or document containing any such statement;  
(d) misleads an officer in any material particular likely to affect the discharge of his duty;  
(e) refuses or fails to give to an officer his correct name or correct address;  
(f) without the authorisation of the Comptroller previously obtained, sells or exposes for sale or has in his possession for sale or for any purpose of trade on board an aircraft or ship in a port, any goods;  
(g) delivers, removes or withdraws any goods from an aircraft or ship, wharf or other place, where such goods are under customs control, previous to their examination by an officer or without the authority of an officer;  
(h) unlawfully conveys or has in his possession any smuggled goods; or  
(i) refuses or fails to stop or neglects to stop any means of conveyance when called upon to do so by an officer or police officer,  
is guilty of an offence and is liable to a fine not exceeding \$2,000.

***Penalty for making false statements***

u 137A.—(1) If—  
(a) a person, either knowingly, recklessly or otherwise—  
(i) makes a statement to an officer that is false or misleading in a material particular; or  
(ii) omits from a statement made to an officer any information without which the statement is misleading in a material particular; and  
(b) the amount of duty properly payable on particular goods exceeds the amount of

duty that would have been payable on those goods if the statement was not false or misleading,

the Comptroller may, within 12 months after the statement was made, by written notice, require the owner of the goods to pay, within 90 days after service of the notice, a penalty equal to twice the excess amount of the duty, or a penalty of \$50, whichever is the greater.

(2) A notice under subsection (1) must be served on the owner of the goods or on the agent of the owner.

(3) If an amount required to be paid in accordance with subsection (1) is not paid after 90 days, the amount due becomes a debt to the Government and may be recovered in a court of competent jurisdiction.

(4) For the purpose of subsection (1), an entry, or a claim for refund or drawback, communicated to the Customs in any period is to be treated as a statement made to the Comptroller.

(5) If the Comptroller serves a notice under subsection (2) in relation to a statement or an omission from a statement made by any person, proceedings under section 137 must not be instituted in relation to that statement or omission.

***Application for remission of penalty***

u 137B.—(1) If a penalty is payable under section 137A by an owner of any goods as a result of a statement or an omission from a statement by any person, the Comptroller may, on written application made by the owner to the Comptroller, within 30 days after the notice was served under subsection 137A(2), remit the whole or any part of the penalty on one or more of the grounds provided for by section 137C or may refuse to remit the penalty.

(2) In making a decision on a application for remission of a penalty, the Comptroller must have regard to the grounds for remission provided for by section 137C, and only those grounds.

***Grounds for remission of penalty***

u 137C. The grounds for remission of a penalty under section 137B(1) are that the person who made the entry or claim—

- (a) voluntarily disclosed an error or omission to the Customs or sought written advice from the Customs before the Customs notified the person in writing that—
  - (i) the goods to which the entry or claim relates had been selected for examination by Customs;
  - (ii) the documents relating to the entry or claim were required to be presented to the Customs; or
  - (iii) the Customs intended to conduct an audit or investigation relating to a selection of entries or claims including the entry or claim, or relating to entries or claims made over a period of time including the time the entry or claim was made;
- (b) satisfies the Comptroller that the relevant facts stated pertaining to the entry or claim, although incorrect, were reasonable to state having regard to the information available to the person at the time the entry or claim was prepared;
- (c) has relied on a Customs ruling in relation to specific goods or a specific matter and, as a result, has not paid the amount of the duty that, but for the ruling would be payable on

- the goods; or
- (d) took all reasonable steps to ensure that the information provided was complete and correct.

***Obligation to pay penalty not suspended by appeal***

- 137D. The obligation to pay, and the right to receive and recover, any penalty imposed under section 137A are not suspended by any appeal to the Court of Review or any other legal proceedings.

***Counterfeiting documents, etc.***

138. A person who—
- (a) counterfeits or falsifies any document which is required under the customs laws or which is used for the transaction of any business relating to customs;
- (b) knowingly accepts, receives or uses any document so counterfeited or falsified;
- (c) alters any document which is required under the customs laws or which is used for the transaction of business relating to the customs after it has been officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of or used by any officer for the verification of such a document or for the security of goods or for any other purpose relating to the customs,

is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for 2 years or to both such fine and imprisonment.

***Penalty for fraudulent evasion of duty***

139. Without limiting any other provision of this Act, a person who—
- (a) with intent to defraud the Government of any duty payable thereon, acquires possession of or is in any way concerned in dealing with goods which have been unlawfully removed from a bonded warehouse or customs warehouse or which are chargeable with a duty which has not been paid;
- (b) is, in relation to any goods, in any way knowingly concerned in a fraudulent evasion or attempt at evasion of any duty chargeable thereon;
- (c) unlawfully and with guilty intent imports any prohibited or restricted import; or
- (d) unlawfully and with guilty intent exports any prohibited or restricted export,

is guilty of an offence and is liable to a fine not exceeding 3 times the value of the goods or \$5,000 whichever is the greater or to imprisonment for 2 years or to both such fine and imprisonment and the goods, if any, which are the subject matter of the offence are liable to forfeiture.

***False scales, etc.***

140.—(1) If a person required under the customs laws to provide scales for any purpose of those laws provides, uses or permits to be used, scales which are false, he is guilty of an offence.

(2) Where goods are, or are to be, weighed, counted, gauged or measured for the purpose of the taking of an account or the making of an examination by an officer or any person mentioned in subsection (1), and any person by whom or on whose behalf the goods are weighed, counted, gauged or measured, does anything either before, during or after the weighing, counting, gauging or measuring, whereby the officer or other person is or might be prevented from, or hindered or deceived in taking a just account or making a due examination, he is guilty of an offence.

(3) A person who commits an offence under the provisions of this section is liable to a fine not exceeding \$2,000 and any false scales and any goods in connection with which the offence was committed are liable to forfeiture.

(4) In this section the expression "scales" includes weights, measures and weighing and measuring machines or instruments.

***Aiders and abettors***

141. A person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act, is deemed to have committed such offence and is liable to be punished accordingly.

***Attempts***

142. An attempt to commit an offence against this Act is an offence against this Act.

***General penalty***

143. A person who is guilty of an offence against this Act for which no special penalty is imposed, is liable to a fine not exceeding \$2,000 and the goods, if any, which are the subject matter of the offence are liable to forfeiture.

***Interference with system***

- u 143A.(1) A person who knowingly—
  - (a) falsifies any record or information stored in a system;
  - (b) damages or impairs a system; or
  - (c) deletes, damages or impairs any duplicate tape or disk or other medium on which any information obtained from a system is held or stored, except with the permission of the Comptroller,commits an offence and is liable on conviction to a fine of \$5,000 and to imprisonment for 2 years.

***Offences in relation to security of, or unauthorised use of identifiers***

- u 143B. —(1) A registered user of a system or an employee or agent of a registered user who fails to comply with any conditions imposed by the Comptroller relating to the security of the registered user's identifier commits an offence and is liable on conviction to the penalties provided by section 143.
  - (2) A person who—
    - (a) not being a registered user, uses an identifier without the authority of the registered user; or
    - (b) being a registered user, uses the identifier of any other registered user,commits an offence and is liable on conviction to the penalties provided by section 143.

**PART XIX - AGENTS**

***Licensing of agents***

144.—(1) The Comptroller may, on application, license such persons as he thinks fit to act as customs agents for transacting business relating to the entry or clearance of any aircraft or ship, goods or baggage.

- (2) The Comptroller may, at any time, limit the number of persons to be licensed under

subsection (1).

- (3) The Comptroller may, by order, revoke the licence issued to any person—
- (a) if that person has been guilty of fraud or misconduct either as regards the Customs or his employers;
  - (b) if that person, being a natural person, is unable efficiently to act as agent by reason of mental or physical incapacity; or
  - (c) for any other reasonable cause.

#### ***Licence***

145. The licence referred to in section 144 shall—
- (a) be in such form as may be prescribed;
  - (b) authorise the person named therein to operate as a customs agent from the place of business and at the ports or airports named in the licence;
  - (c) be subject to the payment of the prescribed fee and shall expire on 31 December in each year; and
  - (d) be personal to the licensee named therein and not transferable.

#### ***Security***

146. A licence for a customs agent shall not be issued until the person who applies for the licence has furnished, in such form as the Comptroller may require, security in the sum of \$1,000 or such other sum as may be prescribed, for the faithful and uncorrupt conduct of such person and of any clerk or employee assisting him, both as regards the Customs and his employers.

#### ***Revocation of licence***

147. Whenever a copy of an order made by the Comptroller setting forth the reason for which a licence is revoked is delivered to the person concerned or to his appointed clerk at his usual place of abode or business, such licence shall cease to have effect.

#### ***Agents for principals***

148. In this Part, the expression "agents" does not include aircraft or shipping agents entering or clearing the aircraft or ships of their principals in the discharge of their duties as agents or proxies.

#### ***Appointment of clerks***

149.—(1) A person licensed to act as a customs agent or any importer or merchant may, with the approval of the Comptroller, appoint a clerk to assist him in transacting his business.

(2) A clerk so appointed shall not assist any person other than the person appointing him.

(3) If an appointed clerk commits any fraud or misconduct, the Comptroller may, by notice in writing to such clerk and to the agent, importer or merchant employing him, withdraw his approval of the appointment of that clerk, and the appointment shall thereupon cease to have effect.

(4) Any person who contravenes subsection (2) is guilty of an offence and is liable to a fine not exceeding \$2,000.



***Clerk or agent may be authorised to sign documents***

150. Any person, firm or company doing business in Fiji may, on a form to be from time to time approved by the Comptroller, grant an authority to any clerk employed by such person, firm or company to sign at any port specified in such form any declaration, bond or other document relating to the clearance of any aircraft or ship, goods or baggage, required under this Act, and any declaration, bond or other document so signed shall be valid and binding on the person, firm or company as aforesaid, and any such authority issued to any clerk shall remain in full force and effect until notice of its withdrawal has been received in writing by the proper officer.

***Entry of goods by unauthorised persons not permitted***

151. If—

- (a) any person not duly licensed under this Act to act as a customs agent for transacting business relating to the clearance of any aircraft or ship, goods or baggage;
- (b) any person not being the appointed clerk to any duly licensed customs agent, importer or merchant; or
- (c) any person who, whether or not so licensed or appointed, shall make or cause to be made entry of any goods without being duly authorised for that purpose by the importer or consignee of those goods,

every such person is guilty of an offence:

Provided that the provisions of this section shall not extend to any merchant, importer or consignee of any goods, acting for himself in respect thereof or to any clerk or servant exclusively employed by him or by any such person in co-partnership.

***Authority of agent may be required***

152. Whenever a person makes an application to an officer to enable such person to transact business on behalf of any other person, it shall be lawful for that officer to require the person so applying to produce a written authority from the person on whose behalf the application is made and in default of the production of such authority, to reject the application.

***Liability of duly licensed agent***

153. A duly licensed customs agent or person who performs any act on behalf of the owner of any goods shall, for the purposes of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duties to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under the provisions of this Act:

Provided that:

- (a) nothing contained in this section shall relieve the owner of such goods from any such liability;
- (b) the liability of the agent or other person under this section shall not extend to the payment of any such duties which become payable, or the performance of any such act which falls to be performed, after the agent or other person has ceased, in respect of those goods, to

be the agent of the owner.

***Liability of owner for acts of duly licensed agent or his own employee***

154. An owner of goods who authorises a licensed customs agent or appointed clerk to act for him in relation to such goods for any of the purposes of this Act shall be liable for the acts and declarations of such duly authorised agent or appointed clerk and may accordingly be prosecuted for an offence committed by such agent or appointed clerk in relation to any such goods as if such owner had himself committed the offence:

Provided that:

- (a) an owner shall not be sentenced to imprisonment for any offence committed by his duly authorised agent or appointed clerk unless such owner actually consented to the commission of the offence; and
- (b) nothing herein contained shall relieve the duly authorised agent or appointed clerk from any liability to prosecution in respect of any such offence.

**PART XX - SETTLEMENT OF CASES BY THE COMPTROLLER**

***Power of Comptroller to compound offence by agreement***

155.—(1) Subject to such procedure as may be prescribed, the Comptroller may, where he is satisfied that a person has committed an offence against this Act in respect of which a pecuniary penalty is provided or in respect of which any goods are liable to forfeiture, compound such offence and may order such person to pay such sum of money, not exceeding the maximum amount of the pecuniary penalty to which such person would have been liable if he had been prosecuted and convicted for the offence, as he may think fit; and he may order any goods liable to forfeiture in connection therewith to be condemned:

Provided that the Comptroller shall not exercise his powers under the provisions of this section unless such person in writing admits that he had committed the offence and requests the Comptroller to deal with such offence under the provisions of this section.

- (2) Where the Comptroller makes an order under the provisions of subsection (1) then—
  - (a) such order shall be put into writing and shall have attached to it the request to the Comptroller to deal with the matter;
  - (b) such order shall specify the offence which such person committed and the penalty imposed by the Comptroller;
  - (c) a copy of such order shall be given to such person if he so requests;
  - (d) the person against whom the order is made shall not be liable to any further proceedings or prosecution in respect of the offence; and if he is in custody he shall be discharged;
  - (e) such order shall be final and shall not be subject to appeal; and
  - (f) if the sum of money so ordered to be paid or any part thereof is not paid, it shall be lawful for the Comptroller to send a copy of his order to a court of competent jurisdiction which shall thereupon make an order for the enforcement thereof in the same manner as if the penalty has been imposed by the court.

(3) The Minister may delegate to any officer all or any of the powers of the Comptroller under the provisions of this section and may impose such limitations and conditions upon such delegation as he considers appropriate.

- u (4) This section does not apply to any offence based on a statement which has been the subject of a penalty notice under section 137A(1).

## **PART XXI - LEGAL PROCEEDINGS**

### ***Notice of seizure to be given***

156.—(1) If goods have been seized as being liable to forfeiture under this Act, then, unless such goods were seized in the presence of the owner thereof or, in the case of an aircraft or ship, of the master thereof, the Comptroller shall give notice in writing of such seizure and the reasons therefor to the owner thereof or, in the case of an aircraft or ship, to the master thereof.

(2) If goods have been seized in the presence of a person coming within the definition of owner for the purposes of this Act, then it is not necessary for the Comptroller to give notice of the seizure thereof to any other person coming within such definition, and a notice given to any person coming within the definition of owner is deemed to be notice to all other persons coming within such definition.

(3) Where no person coming within the definition of owner is known, then it shall not be necessary for the Comptroller to give notice of the seizure to any person.

(4) If goods seized are of a perishable nature or are living creatures, they may forthwith be sold in accordance with the provisions of section 63 by the Comptroller either by public auction or private treaty and the proceeds of the sale be retained by the Comptroller and dealt with as if they were such goods.

### ***Notice of claim***

157.—(1) Where goods liable to seizure under the provisions of this Act have been seized, the owner thereof or, in the case of an aircraft or ship the master thereof, may within 3 months of the date of the seizure or of the date of any written notice of seizure, as the case may be, by notice in writing to the Comptroller claim the goods.

(2) If no claim is made within such period of 3 months in accordance with the provisions of subsection (1), the goods are deemed to have been condemned.

### ***Procedure after notice of claim***

158.—(1) If a notice of claim has been given to the Comptroller in accordance with the provisions of section 157, then the Comptroller may within a period of 2 months from the receipt of such claim, either—

- (a) by notice in writing to the claimant, require the claimant to institute proceedings for the recovery of the goods within 2 months of the date of such notice; or
- (b) himself institute proceedings for the condemnation of the goods.

(2) If the Comptroller fails within such period of 2 months either to require the claimant to institute

proceedings, or himself to institute proceedings, in accordance with the provisions of subsection (1) then such goods shall be released to the claimant.

(3) If the Comptroller, in accordance with the provisions of subsection (1), requires the claimant to institute proceedings within the period of 2 months and the claimant fails to do so, then on the expiration of such period the goods are deemed to have been condemned.

#### ***Custody of seized goods***

159. All goods which are seized as being liable to forfeiture under the provisions of this Act shall be delivered into the custody of the Comptroller, and after they have been condemned by a competent court shall be forfeited to the Government and may be sold or otherwise disposed of by the Comptroller in the prescribed manner:

Provided that it shall be lawful for the Minister to direct that, in lieu of being sold, such goods shall be reserved for the public service.

#### ***Serving of notice of seizure***

160. A notice of seizure is deemed to have been duly served on the person concerned—

- (a) if delivered to him personally; or
- (b) if addressed to him and left or forwarded by registered post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office.

#### ***Bail may be given for goods seized***

161.—(1) Where goods have been seized as being liable to forfeiture under this Act, it is lawful for the Comptroller to order the delivery of such goods on security by bond, with two sufficient sureties to be first approved by him, being given for double the value of the goods, and such bond shall be delivered and kept in the custody of the Comptroller.

(2) If the goods referred to in subsection (1) are condemned, the value thereof only shall be paid into the hands of the Comptroller who shall thereupon cancel the bond.

#### ***Security to abide by decree of competent court***

162.—(1) If in any proceedings instituted by the Comptroller the court delivers judgement ordering the return of any goods to the owner or claimant thereof, the execution of the judgement shall not be stayed pending the appeal if the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the court for the restitution of the goods, or the payment of the full value thereof, in case the judgement is reversed by the appellate court.

(2) The full value of the goods for the purposes of subsection (1) shall either be ascertained by agreement between the parties or, if the parties cannot agree, by appraisalment under the authority of the court.

#### ***Protection of officers, etc., in relation to seizure and detention of goods, etc.***

163.—(1) If, in any proceedings for the condemnation of any goods seized as liable to forfeiture under the customs laws, judgement is given for the claimant, the court may, if it sees fit, certify that

there were reasonable grounds for the seizure.

(2) If any proceedings, whether civil or criminal, are brought against the Comptroller or any person authorised under the provisions of this Act to seize or detain any goods liable to forfeiture, on account of the seizure or detention of any goods, aircraft or ship, or pursuant to any act done by any officer in the execution or intended execution of his duty under any law relating to customs, and judgement is given for the plaintiff or prosecutor, then if either—

- (a) a certificate relating to the seizure has been granted under the provisions of subsection (1); or
- (b) the court is satisfied and so declares that there were reasonable grounds or probable cause for such seizure or act,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant or person who effected the seizure or performed the act shall not be liable to any punishment and shall be immune from all proceedings whether civil or criminal, on account of such seizure or act:

Provided that nothing in this subsection shall affect any right of any person to the return of the goods seized or detained or to compensation in respect of any damage to or loss in value of the goods or in respect of the destruction thereof.

(3) A certificate under the provisions of subsection (1) may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

#### ***Averment of prosecutor sufficient***

164.—(1) In any Customs prosecution the averment of the prosecutor or plaintiff contained in the information, complaint, declaration, claim or other originating process shall be *prima facie* evidence of the matter or matters averred.

- (2) This section shall apply to any matter so averred although—
  - (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
  - (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

- (4) The foregoing provisions of this section shall not apply to—
  - (a) an averment of the intent of the defendant;
  - (b) proceedings for an offence directly punishable by imprisonment unless the defendant does not appear at the trial.
- (5) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

#### ***Evidence of officers***

165. If in any proceedings relating to the customs the question arises whether any person is an officer, his own evidence thereof shall be deemed sufficient unless the contrary is proved.

***Customs records of electronic transmissions admissible in evidence***

165A.—(1) The Customs must keep a record of all electronic transmissions made by the system for a period of 5 years after the transmission is communicated to or by the Customs.

- (2) In any proceedings under this Act, a record retained by the Customs under this section—
- (a) is admissible in evidence; and
  - (b) is *prima facie* evidence—
    - (i) if the record purports to be a record of a transmission made to the Customs, that the person whose identifier was used for the purpose of the transmission made the statements contained in the transmission; and
    - (ii) if the record purports to be a record of a transmission made by the Customs, that the Customs made the statements contained in the transmission.

***Action by or against the Comptroller***

166. Where under the provisions of this Act any proceedings are brought by or against the Comptroller in his representative capacity and—
- (a) any sum or costs are recovered by the Comptroller, then such sums shall be paid to the Fiji Revenue and Customs Authority; and
  - (b) any damages or costs are ordered to be paid by the Comptroller, then such damages or costs shall be paid by the Fiji Revenue and Customs Authority, and the Comptroller shall not be personally liable therefor.

***Limitation of proceedings***

167.—(1) Any proceedings for any offence against this Act may be commenced and anything liable to forfeiture under this Act may be seized, within 5 years from the date of the commission of the offence.

(2) Any proceedings for the recovery of any duty or other charges shall be instituted in the name of the Comptroller and shall be commenced within a period of 5 years from the date when such duty or charge became due and payable.

***Special application of Evidence Act***

168. In any criminal proceedings relating to the customs laws the provisions of section 4 of the Evidence Act shall apply to markings contained on goods, bags, boxes or containers as though such marks were statements contained in documents and the goods, bags, boxes or containers were documents.

***Proof of certain documents, etc.***

169.—(1) If in any court any book or document in the official custody of the Comptroller or any officer is required to be used as evidence as to the transactions to which it refers, copies thereof or extracts therefrom certified by the Comptroller or the proper officer shall be admissible for that purpose, without production of the original.

(2) In any proceedings under the customs laws, certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs or of Customs and Excise in a British possession or commonwealth country or of any overseas representative of Fiji or any British Consul or Vice-Consul in any foreign country, shall be sufficient evidence of the matters therein stated unless the contrary is proved.

(3) In any proceedings under the customs laws, the production of a certificate purporting to be signed by a Government analyst, or assistant Government analyst, shall be sufficient evidence of all the matters therein stated unless the contrary is proved.

## **PART XXII - GENERAL PROVISIONS AS TO LEGAL PROCEEDINGS**

### ***Place of offence***

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

### ***Comptroller may levy on goods in his possession***

171. When any pecuniary penalty adjudged against any person is unpaid, the Comptroller may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

### ***Jurisdiction of resident magistrates***

172.—(1) If any resident magistrate hears and determines any prosecution for any offence under the customs laws, then, notwithstanding anything contained in any other Act, he shall have jurisdiction to impose any fine or any sentence of imprisonment which may be imposed under the customs laws on any person convicted of the offence.

(2) Without prejudice to the powers of any other court of competent jurisdiction, any proceedings for condemnation or for the recovery of any duty or other sum payable under the customs laws may be heard and determined, without limit of amount, by a resident magistrate.

### ***Incidental provisions as to legal proceedings***

173.—(1) Where liability for any offence under the customs laws is incurred by 2 or more persons jointly, those persons shall each and every one be liable for the full amount of any fine and may be proceeded against jointly or severally.

(2) In any proceedings for an offence or for the condemnation of anything as being forfeited under the customs laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition, in respect of the non payment of which or non compliance with which the proceedings are instituted, shall not be a defence.

(3) Where under any provision of the customs laws a punishment is prescribed for an offence and any person is convicted in the same proceedings of more than one such offence, that person shall be liable to that punishment for each such offence of which he is convicted.

(4) Where a fine for any offence under the customs laws is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be

expected to have fetched, after payment of any duty chargeable thereon, if they had been sold in the open market in Fiji at or about the date of the commission of the offence for which the fine is imposed.

A certificate as to the value of such goods under the hand of an officer shall be accepted as proof of such value, and shall be conclusive unless challenged by the person charged, in which event the court may proceed to hear evidence of value.

(5) Where an offence under the customs laws which has been committed by a company or other body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of such company or other body corporate or any person purporting to act in any such capacity, he, as well as the company or other body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. For the purpose of this subsection, "officer" shall include any director, manager, secretary or other similar officer of a company and any member, manager, secretary or other similar officer of a body corporate other than a company.

(6) Where, in any proceedings for an offence under the customs laws, any question arises as to the duty or the rate thereof chargeable on any goods, and it is not possible to ascertain the relevant time of importation or exportation, that duty or rate shall be determined as if the goods had been imported or exported, as the case may be, without entry at the time when the proceedings were commenced.

## **PART XXIII - APPEALS**

### ***Establishment of Court of Review***

174. The Minister may appoint a person of legal knowledge and experience for the purpose of hearing and determining appeals from the decisions of the Comptroller upon any of the matters specified in the Schedule, and the person so appointed shall hold a court to be called the Court of Review, and the said Court of Review shall, for the purpose of hearing and determining the appeals under this Act referred to it, have powers and authority similar to those vested in the Supreme Court as if such appeal were an action between the appellant and the Comptroller.

### ***Rules of court***

175. The Chief Justice shall have the power to make rules of court generally for regulating any matters relating to the practice and procedure of the Court of Review or the fees to be charged, the forms to be used and the costs of proceedings therein.

### ***Court sittings***

176. The Court of Review shall fix the date and place of hearing of appeals and shall notify the parties accordingly:

Provided that the hearing of the appeal by the Court of Review shall commence before the expiration of one month from such notification as aforesaid.

### ***Court of Review to decide***

177.—(1) The Court of Review, after hearing any evidence adduced and upon such other inquiry as it considers advisable, shall determine the matter and confirm or amend the decision of the Comptroller accordingly.



(2) The Court of Review shall send a copy of its decision by registered post to the Comptroller and to the appellant or his agent.

***Proceedings ex parte***

178. If the appellant fails to appear either in person or by agent the Court of Review may proceed *ex parte* or may defer the hearing.

***Costs***

179. In any case where the appeal is unsuccessful, the Court of Review may direct that the appellant shall pay the costs or part of the costs of such appeal, and if such appeal is successful, the Court of Review may direct that the costs or any part thereof be paid by the Government.

***Appeal to Supreme Court***

180. If the appellant is dissatisfied with the decision of the Court of Review he may, within one month after the date of such decision, give a written notice to the Comptroller in the form prescribed by the Chief Justice under the provisions of section 175, that he desires to appeal from the decision. If the appellant gives such notice, or if the Comptroller is dissatisfied with the decision, the Comptroller shall refer the matter to the Supreme Court for hearing and determination whereupon the Comptroller shall notify the appellant by registered letter that he had made such reference. On any such reference the Supreme Court shall hear and consider such matter upon the papers and evidence referred and upon any further evidence which the appellant or the Comptroller produces under the direction of the said court.

**PART XXIV - MISCELLANEOUS**

***Commissioned aircraft or ships to be reported***

181. The person in command of any aircraft or ship holding commission from Her Majesty or from any foreign state and having on board any goods, other than aircraft or ship's stores, laden outside Fiji shall—

- (a) deliver to the proper officer an account in writing of the quantity of such goods, the marks and numbers thereof and the names of the shippers and consignees and declare to the truth thereof; and
- (b) answer all questions relating to such goods.

***Commissioned aircraft or ships may be boarded and searched***

182. Aircraft or ships under commission from Her Majesty or from any foreign state having on board any goods, other than aircraft or ship's stores laden outside Fiji, may be boarded and searched by any officer specially authorised by the Comptroller in the same manner as other aircraft or ships, and the officer may bring any such goods ashore and place them in a customs warehouse.

***Commanding officer responsible for due observance  
of customs laws***

183. The officer in command of any aircraft or ship holding commission from Her Majesty or any foreign state shall be responsible for the due performance of all acts required under the provisions of this Act in relation to any goods carried by or landed or discharged from such ship and shall be liable to any penalty or fine provided for non compliance with the provisions of this Act.

**Comptroller may pay rewards**

184. The Comptroller, on the condemnation of any goods, on the apprehension of any parties or on the recovery of any duties or penalties under any law relating to the Customs, may direct that a reward shall be paid to any person or officer through whose information or means the seizure of the goods shall have been made or the duties or penalties recovered or the offender apprehended:

Provided that a reward exceeding \$200 shall not be paid to any officer without the prior approval of the Minister.

**Application of penalties**

185. All moneys recovered by way of penalties, the sale of goods seized and compounded fines recovered under this Act shall be paid into the Consolidated Fund.

**Sales under customs laws**

186. Any Act relating to the licensing of businesses shall not apply to sales under the customs laws when conducted by an officer authorised by the Comptroller to conduct such sales.

**Value of goods sold**

187. When the duty on any goods sold at any Customs sale shall be stated to be *ad valorem*, the value of such goods shall, if approved by the Comptroller, be taken to be the value as shown by the sale.

**Service of notices**

188. Every notice or document required by this Act to be served on any person may be served personally upon such person, or may be served by sending such notice or document to such person by registered post at his usual or last place of abode, and, in the latter case, shall be deemed to have been served on him at the time at which it would have been delivered to him in the ordinary course of the post.

**Presentation and passing of entries**

u 189.—(1) Imported goods, other than goods in transit or for transhipment, and goods intended for export, shall be entered on the appropriate prescribed forms or by means of an electronic message transmitted to the system.

(2) If more than one entry is presented at any Customs House for payment of duties and charges, such entries shall be accompanied by a schedule showing the amount of money due on each entry.

u (3) An entry is not deemed to have been made until a lodgement number has been allocated either manually or electronically.

**Abandoned goods and sweepings**

190.—(1) Where an importer intends to abandon any goods for the duty thereon, he shall so inform the Comptroller in writing without delay and give full particulars of the goods in question.

(2) All abandoned goods and any other goods for destruction or disposal shall be destroyed or disposed of in the presence of an officer at the expense of the owner of the goods.

(3) Any goods stored in a bonded warehouse and abandoned by an importer shall be removed by such importer at his expense to a customs warehouse, or such other place as the Comptroller may direct.

(4) Any application made by the agent of an importing aircraft or ship for the delivery of "sweepings" or remnants of the cargo without the payment of duty will be granted only when duty has already been paid in full on all manifest consignments of which the "sweepings" or remnants are satisfactorily proved to be part.

### ***Regulations***

191.—(1) The Minister may make regulations generally for the purpose of carrying out the provisions of this Act and in particular such regulations may provide for—

- (a) the flag to be flown by the Customs, and a customs seal;
- (b) the powers, duties and hours of attendance of any officer or other person employed in carrying out the provisions of this Act;
- (c) the services for which charges or fees shall be payable on account of the attendance of officers on aircraft or ships or in any port, warehouse or other place, and the conditions applicable to such services;
- (d) the conduct of all matters relating to the assessment and collection of customs duties, including the time of payment thereof;
- (e) the days and hours during which aircraft and ships may arrive and depart from ports and the procedure in connection therewith, and the procedure in connection with the embarkation and disembarkation of passengers, the discharge, landing and loading of goods from and in aircraft and ships, and with regard to aircraft stores and ship's stores;
- (f) the conditions under which temporary importation of goods may be permitted;
- (g) the conditions under which bonded warehouses may be approved and for the control and regulation of bonded warehouses;
- (h) the control and regulation of customs warehouses, export warehouses, customs areas, customs sheds and other customs establishments;
- (i) the manner in which goods may be transhipped or goods in transit may be moved;
- (j) the conditions for the licensing of the carriage of goods under customs control;
- (k) the procedure for the examination of postal parcels and postal packets for the purposes of the customs laws, and for the collection of any duty chargeable on the importation or exportation of goods contained in postal parcels or postal packets;
- (l) the conditions under which refunds of duty may be made on goods purchased locally by particular bodies or authorities;
- (m) the conditions under which drawback shall be allowed and the determination and variation of the rates of such drawback;
- (n) the nature, size, material and marking of packages and the minimum or maximum weight which may be contained in any one package;
- (o) the forms, bills and documents necessary for the carrying out of the provisions of this Act;
- (p) the issue of licences;
- (q) the charging of rent, fees and other charges and the amounts thereof;
- (r) the manner in which goods may be sold in accordance with the provisions of this Act;
- (s) the conditions for the denaturation of spirits;
- (t) the procedure under which samples may be taken and the methods of accounting for such samples and disposing thereof;
- (u) any other matter which may be prescribed under the provisions of this Act.

- (2) Such regulations made under this section may provide—
- (a) that any breach thereof shall be punishable by a fine not exceeding \$2,000;
  - (b) that goods, if any, being the subject of the contravention shall be liable to forfeiture; and
  - (c) that forms, certificated and other documents to be used for the purposes of this Act may be such as may be approved by the Comptroller.

(3) Regulations made under this section may provide for the Comptroller to exercise a discretion in respect of any matter or for the requirement of his approval in respect of any matter.

***Repeal, savings and transitional provisions***

192.—(1) The Customs Act is repealed.

(2) Without prejudice to section 18 of the Interpretation Act, notwithstanding the repeal of the Customs Act by subsection (1), any instrument made or any other thing done under the provisions of the Customs Act shall continue in force and shall, so far as it could have been made or done under this Act, have effect as if made or done under the corresponding provision of this Act.

(3) The repeal of the Customs Act by subsection (1) shall not affect the terms and conditions subject to which any person held any office immediately before the commencement of this Act, and any officer appointed under the provisions of the repealed Act and holding office immediately before the commencement of this Act is deemed to be an officer for the purposes of this Act.

(4) The Minister may by regulations make provision for any other savings or transitional matter connected with the coming into force of this Act.

**SCHEDULE**  
**(Section 174)**

***Matters in respect of which appeals may be heard by  
The Court of Review***

Decisions of the Comptroller on—

- (i) the interpretation of the customs tariff;
- (ii) the classification of goods under the customs tariff;
- u (iii) any penalty imposed under section 137A;
- ◆ (iv) any amended assessment imposed under section 101A.

Passed by the House of Representatives this eighth day of May,  
in the year of our Lord one thousand, nine hundred and eighty-six.

Passed by the Senate this twenty-sixth day of May, in the year of our Lord one thousand, nine  
hundred and eighty-six.