

[LEGAL NOTICE NO. 108]

CUSTOMS ACT 1986

(Act 11 of 1986)

CUSTOMS REGULATIONS, 1986

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CUSTOMS REGULATIONS, 1986

IN exercise of the powers conferred upon me by section 191 of the Customs Act, 1986, I have made the following Regulations—

PART I - PRELIMINARY

Short title

1. These Regulations may be cited as the Customs Regulations, 1986.

Interpretation

2. In these Regulations, unless the context otherwise requires, "Act" means the Customs Act, 1986.

Penalty

3. A person who commits an offence against these Regulations for which no specific penalty is provided is liable to a fine not exceeding \$2,000.

PART II - ADMINISTRATION

Customs flag

4. The Customs flag shall be the Fiji ensign with the addition in the fly of the letters and word "H.M. Customs" in bold white characters.

Working days and hours

5. The working days of customs officers are every day except for a Saturday, Sunday or public holiday.

Working hours

- 6.—(1) Subject to this regulation, the working hours for the transaction of business with the Customs shall be as follows:

(a) Indoor—

Monday to Thursday	0800 to 1300 hours 1400 to 1630 hours
Friday	0800 to 1300 hours 1400 to 1600 hours

Provided that revenue and other charges may be paid at any customs house only between the following hours:

Monday to Thursday	0830 to 1230 hours 1400 to 1600 hours
Friday	0830 to 1230 hours 1400 to 1530 hours

(b) Outdoor—

Monday to Thursday	0800 to 1700 hours
Friday	0800 to 1600 hours

(c) Customs warehouse—

Monday to Thursday	0800 to 1300 hours 1400 to 1630 hours
Friday	0800 to 1300 hours 1400 to 1600 hours

(2) For the purpose of this regulation "outdoor" includes—

- (a) boarding of ships and aircraft;
- (b) clearing of passengers and passengers' baggage;
- (c) landing and shipping operations, including the clearing of cargo; and
- (d) entry inwards and clearance outwards of ships and aircraft.

(3) Subject to regulation 7, no work shall be permitted on a Saturday, Sunday, or public holiday.

(4) The Comptroller may vary the hours of general attendance of officers to meet any exceptional circumstances.

(5) The Comptroller shall exhibit at a port or place appointed and specified under section 4 of the Act, a notice specifying the hours of general attendance of officers at that port or place.

Work on holidays, etc.

7.—(1) If the attendance of an officer is required on Saturdays, Sundays, public holidays, or at any time outside the working hours specified in regulation 6 or for any special service within those hours, the person requiring such attendance shall make application to the Comptroller or other proper officer on the approved form (C.1) and shall undertake to pay the prescribed fee on demand. The Comptroller or other proper officer may, at his discretion, prior to allowing such attendance, demand a deposit of an amount sufficient to cover the charges that may be incurred and the travelling expenses, if any.

(2) Every application under subregulation (1) shall be made before 1200 hours on any weekday and shall specify the extra period during which the attendance is required and the nature of the work to be performed. The number of officers required for such work shall be determined by the Comptroller.

(3) Any special attendance given at the request of any person during the working hours prescribed by regulation 6 shall be paid for at the rate of \$16.50 per hour for each officer employed.

(4) In subregulation (3) "special attendance", in respect of an officer, means attendance by that officer other than for the purpose of carrying out a routine inspection of goods or premises in the normal course of his duties under the Act.

Overtime

8. Whenever, for the purpose of carrying out any provision of the customs laws, an officer attends at any time outside working hours, the person who makes application under regulation 7 (1), or, if no application is made, the master or owner of an aircraft or ship, importer, exporter or other person concerned shall pay, in respect of each officer, a charge calculated at the following rates

- (a) at any time on a * Saturday (*Inserted by Legal Notice 111 of 1988*), Sunday or a public holiday, \$22.00 for each hour or portion of an hour;
- (b) outside working hours on any other day, \$16.50 for each hour or portion of an hour:

Provided that—

- (i) in respect of the attendance of an officer at any time on a Saturday, Sunday public holiday or between the hours of 2000 and 0600 hours on any weekday, a minimum charge shall be made equivalent to the charge for 3 hours attendance; and
- (ii) in respect of each entry inwards or clearance outwards of an aircraft and its passengers, cargo and stores at an airport on a Saturday, Sunday, public holiday or outside working hours on any other day, the charge shall be ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$22.00 per aircraft for each such entry or clearance, except where both such entry and clearance are completed within one period of 3 hours, in which case only one charge shall be made.

Expenses of officers

9. Whenever, for the purpose of carrying out any provision of the customs laws, it is necessary that any travelling or other expenses be incurred by an officer, the Comptroller may require those expenses to be paid by the master or owner of an aircraft or ship or by the importer, exporter, warehousekeeper, remover or other person concerned.

Attendance required at places other than a port or airport

10. Where an officer is required to attend for any work connected with the customs at any place other than a port or an airport, the charges set out in regulation 8 shall not be payable and the following amounts shall be charged for such attendance—

- (a) the actual cost incurred by the Government for the transportation of the officer to and from such place for such attendance;
- (b) the amount of any subsistence allowance or out-of-pocket expenses paid by the Government to the officer in respect of his absence from his normal station for such attendance; and
- (c) a fee of \$165.00 for each period of 24 hours or part thereof during which the officer is necessarily absent from a port for such attendance.

Mode of charge

11. The unit of time for the purpose of calculating overtime shall be one hour, and any portion of one hour shall count as a complete unit.

Exemption from charges

12. Notwithstanding the other provisions of these Regulations, no overtime fees shall be charged in respect of the attendance of officers in connection with any military aircraft or ship of war or any other aircraft or ship approved for this purpose by the Minister.

Fees, etc. to be paid into Consolidated Fund

13. All fees, charges and expenses payable under these Regulations shall be paid into the Consolidated Fund.

Remuneration of officers

14.—(1) There shall be paid to all officers below the rank of Collector, for duty performed outside or in excess of the hours specified in regulation 6, overtime allowances at such rates as the Comptroller, with the approval of the Minister, may permit.

(2) In the case of an officer who is working the hours set out in paragraphs 6(1) (a) and (c) no overtime shall be paid for work performed between 1630 and 1700 hours from Monday to Thursday.

(3) A minimum of 3 hours of overtime shall be paid to officers for—

(a) work performed between 2000 hours and 0600 hours on weekdays; and

(b) work performed on Saturdays, Sundays and public holidays.

(4) If an officer is required to attend at a place other than a port or airport, the rates for overtime which may be paid under the provisions of subregulation (1) shall, for work outside the normal hours performed by such officer at such place, be increased by 25 per cent.

(5) Notwithstanding any other provisions of these Regulations the Comptroller may—

(a) require any officer to work 7½ hours from Mondays to Thursdays and 7 hours on

Fridays, within times other than those prescribed in regulation 6, and without being liable to pay any overtime for such work;

(b) in special cases grant a consolidated overtime allowance to officers in lieu of the

hourly overtime rates which may be paid under subregulation (1);

(c) refuse the payment of overtime allowance to any officer; and

(d) grant leave of absence in lieu of overtime.

Officers not eligible for overtime when travelling on duty

15. An officer shall not be eligible for overtime for the time spent in travelling on duty.

Forms

16.—(1) Forms shall be as may from time to time be approved by the Comptroller.

(2) Where a form approved by the Comptroller contains by way of note or otherwise, a clear direction or indication of any requirement as to the colour, size or manner of use thereof, the requirements so directed or indicated are deemed to be prescribed.

(3) Specimens of all forms referred to in these Regulations shall be available for inspection on application at any ~~customs house~~ (Amended by Legal Notice 135 of 1997) Customs House.

***Comptroller may require additional copies of forms
or additional particulars***

17. The Comptroller may require that he be provided with copies of any approved form, and he may require to be shown on any form information additional to that required by such form if he decides that the furnishing of the additional information is necessary.

Forms to be completed in typewriting or ~~in ink~~ computer printing

(Amended by Legal Notice 135 of 1997)

18.—(1) Except where the Comptroller otherwise permits, all documents presented to the Customs shall have the necessary particulars typewritten or ~~inserted in ink~~ *(Amended by Legal Notice 135 of 1997)* generated by a computer printing process but copies other than the original may be prepared by carbon or other duplicating process.

(2) The Comptroller may refuse to accept any document which is not legible.

PART III - ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS

Information as to time of arrival

19. The master, owner or agent of a ship shall, not less than 24 hours before the expected arrival of the ship at any port in Fiji, inform the proper officer at that port of the expected time of arrival.

Report of ships and cargo

20.—(1) The inward report by the master of a ship arriving from a port outside Fiji shall be in the approved form (C.2) and signed by the master or the authorised agent. The report shall be made to the proper officer at the port or place of arrival. The master of a ship shall if required by the proper officer produce the certificate of registry of the ship at the time of making his report.

(2) An inward manifest shall in the like manner be declared and shall be on the approved form (C.3).

(3) All packages for which no bill of lading has been issued shall be declared on the Parcels List on the approved form (C.4) which shall be produced with the goods to the officer boarding the ship on arrival.

Report of aircraft

21.—(1) The inward report by the master of an aircraft arriving from outside Fiji shall be in the approved form (C.5) and shall be made to the proper officer at the airport or place of arrival.

(2) The report of the cargo of an aircraft shall be made in the approved form (C.6) and shall be attached to the approved form (C.5) of the inward report. A report of consumable stores on board the aircraft shall be submitted in the approved form.

(3) The proper officer may permit the master of a private aircraft not carrying cargo and operated for pleasure and recreation only, with a pilot who is not flying for reward or remuneration or operating for business purposes, to make a report in the approved form.

Manifest: aircraft and ships

22.—(1) The bill of lading or airway bill number shall be shown against each item on the manifest or cargo report of every aircraft or ship.

(2) On one of the copies of the manifest or cargo report the particulars of cargo to be landed shall be shown on one side of the sheet only.

List of passengers, report of stores and crews' declaration

23.—(1) The master of an aircraft arriving from a place outside Fiji shall, immediately on demand, present to the proper officer a list in the approved form (C.7) of those passengers

disembarking and those remaining on board, a statement of the stores of the aircraft in the approved form (C.8) and a declaration in the approved form (C.9) by each member of the crew of all dutiable goods in their possession.

(2) The master of a ship arriving from a place outside Fiji shall, immediately on demand, present to the proper officer a list in the approved form (C.10) of those passengers disembarking and those remaining on board.

(3) If the proper officer so requires, a stores list in the approved form (C.11) and a declaration in the approved form (C.12) by each member of the crew, of all dutiable goods in his possession, shall be delivered by the master of every ship arriving from a place outside Fiji.

Arrival at two or more ports

24. When an aircraft or ship calls at more than one airport, port or place in Fiji, as the case may be, a separate report shall be made at each airport, port or place.

Ballast

25. Aircraft and ships not having on board any goods other than stores and passengers' baggage shall be reported "in ballast".

Weight or measurement of cargo to be reported

26. The report of every ship shall show the weight or cubic measurement of the cargo reported according to which freight has been charged, or if no freight has been charged, the weight or measurement normally chargeable for the like kind and quantity of goods.

Description of cargo reports

27. The contents of every package and of all cargo in bulk intended for discharge at an airport, port or place in Fiji, shall be reported in accordance with the description thereof in the relevant bill of lading or freight note, as the case may be.

Reporting cargo for other ports in Fiji

28.—(1) Cargo intended for discharged at other airports, ports or places in Fiji shall be shown separately in the inward report in the following manner:

"The undernoted cargo is hereby reported for discharge at other ports or places in Fiji.....
tonnes."

(2) If the proper officer so requires, cargo for discharge at other ports and places in Fiji shall be reported in the same manner as cargo to which the provisions of regulation **27** apply.

Discharge of goods during working hours

29. The proper officer may require that the discharge of goods subject to the control of the Customs shall cease at any time during working hours to enable goods which have been discharged to be received, before the conclusion of working hours, into an examining place, transit shed or other place of security.

Breaking of bulk before report

30. Application to break bulk prior to making report and to unload goods prior to entry shall be made to the proper officer in the approved form (C.13).

Cargo remaining on board

31. Cargo remaining on board an aircraft or ship for exportation may be reported as "General cargo remaining on board for exportation.....tonnes", unless the proper officer in any particular case otherwise directs.

Declaration of aircraft and ship's stores

32.—(1) The master of every aircraft arriving from a place outside Fiji shall, if required to do so by the proper officer, make a declaration in the approved form (C.8) to the officer who boards the aircraft on arrival of all such unconsumed stores of the aircraft as may be specified by the form.

(2) The master of every ship arriving from a place outside Fiji shall make a declaration, in the approved form (C.11), to the officer who boards the ship on arrival, of all such unconsumed stores of the ship as may be specified by the form.

(3) The term "stores" in these Regulations includes unconsumed liquor, tobacco goods, provisions and other goods carried by an aircraft or ship for consumption by the master, passengers and crew.

Stores to be produced

33. All stores which are required for the use of the crew and passengers of an aircraft or ship during its stay in Fiji shall, on request, be produced separately to the proper officer.

Allowance for the master and crew

34. The master and members of the crew may be allowed to retain for their own consumption on board a ship whilst in Fiji without payment of duty thereon the following quantities of—

	Tobacco in any form (per day)	Potable Spirits (per day)	Wine and Beer (per day)
The Master	25 grams	1 litre	2 litres
Officers	25 grams	250 millilitres	2 litres
Other members of the crew	25 grams	nil	2 litres

or such quantity as the Comptroller, in special circumstances, may allow.

Security of stores

35.—(1) The master of every aircraft or ship shall provide on board a suitable store for the security of any goods which the proper officer may require to be placed under seal.

(2) The proper officer may secure and seal any quantities of dutiable goods in excess of the scale set out in Regulation **34**, and any stores which, subsequent to the arrival of the aircraft or ship, are loaded on board from a bonded warehouse or are under drawback or on which a remission, rebate or refund of excise duty has been or will be claimed:

Provided that the proper officer may permit any stores to remain unsealed if he is satisfied that due precaution has been taken against the smuggling of stores so left unsealed.

(3) Subregulation (2) shall, *mutatis mutandis*, apply to the securing and sealing of dutiable goods and stores on board an aircraft.

Amending inward reports

(Amended by Legal Notice 94 of 1991)

36.—(1) Where cargo reported for discharge at an airport, port or place in Fiji is found to be in excess or short of that stated in the report, the master or his agent may make application to the proper officer for permission to amend the report.

(2) The application referred to in subregulation (1) shall be on the approved form (C.14) and shall set out the reasons for the discrepancies and shall be accompanied by the fee prescribed in subregulation (3) of this regulation.

(3) A fee of \$11.00 per application * per bill of lading or airway bill (*Inserted by Legal Notice 6 of 1992*) shall be payable to the Comptroller.

Conditions precedent to amendment of the report

37. Before the proper officer permits the amendment of a report pursuant to regulation **36**, the master or agent shall satisfy him in the case of goods found to be short of that stated in the report, that such goods—

- (a) were not shipped;
- (b) were discharged and landed at a previous port or place;
- (c) were overcarried and landed at a subsequent port or place;
- (d) having been overcarried, have been returned to and landed at an airport or port in
Fiji on the return voyage, or by some other aircraft or ship which loaded them at the port or place to which they were overcarried;
- (e) were lost at sea; or
- (f) were stolen or destroyed before the aircraft or ship arrived within Fiji:

Provided that the proper officer may, subject to the production of such documentary evidence as the Comptroller may direct, permit the amendment of a report where the master or agent is unable to comply with the aforesaid requirements.

PART IV - THE LANDING AND LOADING OF GOODS

Sufferance wharves and unapproved places

(Amended by Legal Notice 94 of 1991)

38.—(1) If the master of an aircraft or ship wishes to proceed to a sufferance wharf or any place other than an approved place of loading or unloading for the purpose of loading or unloading cargo, he shall apply to the proper officer for permission in the approved form (C.15).

(2) Applications referred to in subregulation (1) shall be accompanied by the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$11.00 per application shall be payable to the Comptroller.

Accommodation and transport to be provided

39.—(1) Upon application under regulation **38**, the proper officer may grant such permission subject to such conditions and directions as he may see fit to impose.

(2) If permission is granted under subregulation (1), the master or his agent shall provide or pay the cost of accommodation and such travel expenses as the proper officer decides, of each officer required at such sufferance wharf or other place.

(3) The proper officer may, if he thinks fit, require the master of an aircraft or ship proceeding to a sufferance wharf or other place pursuant to permission granted under this regulation to deposit with him in advance a sum sufficient to cover the said expenses.

Goods not to be unloaded at a sufferance wharf until entered

40. No goods shall be unloaded at a sufferance wharf or any place other than an approved place of unloading until they have been entered:

Provided that the Comptroller may generally in regard to any particular sufferance wharf or other place or in any particular case waive or modify this requirement.

Boat or tally note

41.—(1) If goods are discharged from an importing aircraft or ship into another aircraft or ship to be landed, the master or agent of such importing aircraft or ship shall sign and transmit with each shipment an account of the goods, and before any such goods are discharged from such importing ship or aircraft, the account shall be delivered to the proper officer at the place at which the goods are to be landed:

Provided that the Comptroller may dispense with the furnishing of such an account either generally or in any particular case if he shall see fit so to do.

(2) In the case of transshipment cargo the account referred to in sub-regulation (1) shall be headed "Transshipment cargo only".

Permission to leave place of unloading

42. An aircraft or ship to which the provisions of regulation **41** apply which has arrived at any place of unloading, shall not depart therefrom except with the permission of the proper officer; and where any goods remain on board any such aircraft or ship so permitted to depart, the person in charge of such aircraft or ship shall observe such directions as the proper officer may give.

Permit to re-land goods

43. Before any goods which have been put into any aircraft or ship may be re-landed, the owner shall apply in writing to the proper officer and obtain permission to unload the goods, and shall thereupon land such goods and dispose of them as directed by the proper officer.

Certificate of landing

44. The proper officer may issue to any person who satisfies him that he is so entitled a certificate of landing of any goods in the approved form (C.16) or in such other form as may be required by the authorities in the country requiring the certificate.

Landing and stacking

45. The master of an aircraft or ship, or his agent or other person discharging cargo, shall land and store the same at the place specified by the Comptroller, and the goods shall be stacked according to their marks and in such manner as will readily enable a complete check of all packages to be made.

The goods shall be rearranged or re-stacked whenever required by the proper officer and transshipment cargo or cargo marked for another port shall be kept entirely separate from any cargo for Fiji.

Transit sheds

46.—(1) Every building used as a transit shed shall be constructed and secured to the satisfaction of the Comptroller.

(2) In addition to any fastening which may be affixed by the Customs to any building used as a transit shed, the doors of such building shall be secured by one or more locks by the master or agent of the aircraft or ship responsible for the goods stored in such building.

PART V - ENTRY, EXAMINATION AND DELIVERY

Forms of entry

(Amended by Legal Notice 94 of 1991)

47.—(1) Imported goods, other than goods in transit or for transhipment which are not entered for warehousing, shall be entered on whichever of the undermentioned approved forms is appropriate—

- (a) import for home consumption form (C.18);
- (b) provisional import for home consumption form (C.17); and
- (c) import for warehousing form (C.19) for normal or provisional warehousing or warehousing for transhipment.

(2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved forms is appropriate—

- (a) perfecting provisional import for home consumption form (C.20); and
- (b) perfecting provisional import for warehousing form (C.19)

(3) Subject to subregulation (4) of this regulation a fee of ~~\$5.00~~ *(Amended by Legal Notice 6 of 1992)* \$5.50 per entry, per lodgement, shall be payable to the Comptroller for each entry lodged and processed by Customs.

(4) In addition to the fee prescribed in subregulation (3) of this regulation, the agent, importer, exporter or owner as the case may be, shall pay to the Comptroller an additional fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 per entry, if entries are not claimed and collected within ~~7~~ *(Amended by Legal Notice 135 of 1997)* 10 working days after lodgement.

(5) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within ~~7~~ *(Amended by Legal Notice 135 of 1997)* 10 days from the date of lodgement, to the Comptroller that the documents are no longer required due to goods being over-carried, shortlanded etc., the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

Disembarkation of persons

48.—(1) No person shall land from any aircraft or ship except at a place appointed under section 4 of the Act.

(2) The following persons on landing at any airport, port or place from an aircraft or ship which has arrived from or called at a place outside Fiji shall proceed forthwith to the baggage room or other place set aside for the examination of baggage—

- (a) any person who is disembarking at such airport, port or place;
- (b) any person who has any uncustomed goods in his possession whether upon his
person or in his baggage;
- (c) the crew of any aircraft or ship who are leaving such aircraft or ship, either temporarily or otherwise, and wish to remove their baggage, or any part thereof, from the aircraft or ship;
- (d) any passenger who is temporarily leaving the aircraft or ship and wishes to remove his baggage, or any part thereof, from the aircraft or ship; and
- (e) any other person who may be required by the proper officer so to do.

(3) A person who contravenes any of the provisions of this regulation commits an offence.

Simplified entry procedure

49. Where a notice headed "HOW TO GO THROUGH CUSTOMS" is displayed a person entering Fiji shall proceed through the appropriate channel according to the notice and shall make orally to the proper officer the declaration required under section **116** of the Act.

Access to baggage room

50.—(1) No person shall enter the baggage room or other place set aside for the examination of baggage, except the persons specified in regulation **48**, those required by the Customs to enter it, the proper officers, and such other persons permitted by the proper officer.

(2) Any person who contravenes this regulation commits an offence.

Baggage to be taken to examination place

51.—(1) The baggage and any uncustomed goods in the possession, whether upon his person or in his baggage, of any person to whom regulation **48** applies shall be taken without delay to the nearest place appointed for the examination of baggage, or such other place as the proper officer may direct, and shall not be removed therefrom, except by the Customs, until the baggage or goods have been examined and passed by, and any duty due thereon paid to, the proper officer.

(2) No person shall remove any baggage or goods out of the baggage room or other place until the proper officer authorises its removal.

(3) A person who contravenes this regulation commits an offence.

(4) In the case of a person referred to in regulation **48**(2) (c) or (d), the baggage and uncustomed goods which are to be dealt with pursuant to this regulation are such only as are removed from the aircraft or ship.

Baggage examination

52. Except in the case of unaccompanied baggage or baggage which is short shipped, the proper officer may refuse to attend to any person until the whole of that person's baggage is presented to him in one place, or, where the baggage belongs to more than one person, until all the owners thereof are present before him.

Unclaimed baggage

53. All baggage unclaimed or uncleared after one day shall be removed by the master or agent of the aircraft or ship to a customs warehouse.

Unaccompanied baggage declaration

54. The owner of any passenger's unaccompanied baggage shall make a declaration in the approved form (C.22) of such baggage and the articles contained therein.

Passengers' baggage shipped separately

55. —(1) Passengers' personal unmanifested baggage shall be unshipped from an aircraft or ship only when authorised by the proper officer, and shall be landed only at a place approved by a proper officer and shall not be removed from the place of examination except by the authority of a proper officer.

(2) The personal unmanifested baggage of each passenger shall be landed immediately on the arrival of the aircraft or ship at the port of destination of that passenger and shall not be permitted to remain on board pending the convenience of the passenger.

(3) Each passenger arriving from a place outside Fiji shall when required to do so make an oral declaration to an officer of any personal unmanifested baggage:

Provided that should the proper officer consider it necessary he may require the passenger to make a written declaration in the approved form (C.22) to this effect.

Goods delivered in special circumstances

(Amended by Legal Notice 94 of 1991)

56.—(1) If, in any special circumstances, the owner of perishable or other goods wishes to take delivery of such goods prior to the entry being passed or prior to the goods being examined, he shall apply to the proper officer on the approved form (C.26) and furnish such security as may be required, in such amount as the proper officer may decide. Where goods have not previously been entered, the importer shall enter the goods within 48 hours of taking delivery of the goods.

(2) Applications referred to in subregulation (1) of this regulation shall be accompanied by the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$20.00~~ *(Amended by Legal Notice 6 of 1992)* \$22.00 per application * per bill of lading or airway bill *(Inserted by Legal Notice 135 of 1997)* shall be payable to the Comptroller.

Goods delivered in special circumstances under customs control

57. Any goods authorised for delivery in special circumstances under the provisions of regulation **56** are deemed to be under customs control and the owner of such goods shall be responsible to the Customs until the goods have been entered and duty thereon paid and, where required by the proper officer, the goods have been examined and duly released.

Seizure or detention of goods delivered in special circumstances

58. Where a proper officer has a reasonable ground to believe that any goods to which the provisions of regulation **56** or **57** apply are liable to forfeiture, he may seize or detain such goods and cause such goods to be removed to a customs warehouse or to such other place as he may approve, at the expense of the owner of such goods.

PART VI - PROVISIONS RELATING TO BONDED WAREHOUSES

Appointment of bonded warehouses

59. An application for the approval of a building, storage tank or enclosure as a bonded warehouse shall be made in the approved form (C.38).

Unsuitable premises

60.—(1) Premises situated in a private yard except under special circumstances shall not be accepted as suitable for a bonded warehouse.

(2) Subject to subregulation (1), the doors of all bonded warehouses must open into a street or public thoroughfare and be at all times accessible for the examination of the locks and fastenings without passing through other doors or gates.

Construction

61.—(1) Bonded warehouses shall be constructed of substantial materials to the satisfaction of the Comptroller.

(2) No person shall make any alteration or addition to any bonded warehouse without first obtaining the permission of the Comptroller.

(3) A person who contravenes this regulation commits an offence.

Locks

62. Every bonded warehouse shall, if required by the Comptroller, have two sets of locks, one provided by the Customs and the other by the warehousekeeper. The keys of the Customs locks shall be kept in the custody of the proper officer, and the keys of the other locks shall be kept in the custody of the occupier of the warehouse.

Bonded warehouse licence fee

63.—(1) The licence fee payable for each bonded warehouse shall be a minimum of \$1,100.00 per year, and if the building, storage tank or enclosure in respect of which such licence is issued has a capacity of more than 50 cubic metres the amount to be paid for such licence shall increase at the rate of \$1.00 for every additional cubic metre of storage space above 50 cubic metres but shall not in any one case exceed \$1,540.00 for the whole of one year.

(2) A licence shall expire on the 31st December in each year. Whenever an annual licence fee has not been paid by the 7 January in any year following the year in which such licence was first granted, the Comptroller may refuse to allow any transactions to take place in the warehouse, enclosure or tank in respect of which the fee may be due, until such fee has been paid.

(3) Where a licence for a bonded warehouse is issued under the provisions of section 38 of the Act during the second, third or fourth quarter of any year, the fee therefor shall be respectively, three-quarters, one-half or one-quarter, of the full annual fee.

(4) A licence for a bonded warehouse shall be in the approved form (C.28).

Bonded warehouses to be numbered

64.—(1) Bonded warehouses shall be distinguished by numbers allocated by the Comptroller.

(2) The words "Bonded Warehouse" and the number allocated to the warehouse shall be clearly marked on the principal entrance to the warehouse or elsewhere as the proper officer shall approve and shall be removed when the warehouse ceases to be licensed as a bonded warehouse.

(3) A person who contravenes this regulation commits an offence.

Obligations of warehousekeeper

65.—(1) Every warehousekeeper shall at his own expense—

(a) provide at his bonded warehouse such office accommodation and weights, scales,

measures, and other facilities for examining and taking account of goods and for securing them as the proper officer may reasonably require;

(b) keep a record of all goods warehoused in his bonded warehouse and shall keep

such record at all reasonable times available for examination by the proper officer.

(2) Any warehousekeeper who contravenes any of the provisions of this regulation or any requirement of the Comptroller under this regulation commits an offence.

Only approved goods in a bonded warehouse

66. A warehousekeeper shall not without the authorisation of the Comptroller allow goods of a dangerous nature to be stored in a bonded warehouse which has been approved for general

merchandise and when any bonded warehouse has been approved for the deposit of special goods, shall not allow any other goods to be deposited therein.

Warehousekeeper to keep packages in repair

67. A warehousekeeper shall maintain in a proper state of repair the packages in which warehoused goods are contained.

Goods refused for warehousing

68.—(1) If goods to be warehoused are found by the officer examining them to be insecurely packed, he may refuse to permit them to be warehoused.

(2) If, in accordance with the provisions of the Act, an officer refuses to permit goods to be warehoused, the warehousing entry shall be deemed to be void, and the goods shall be deemed to be unentered. If the goods have been removed from a transit shed or a customs area, they shall be returned thereto without delay by, or at the expense of, the owner, unless the proper officer allows them to be entered for home consumption forthwith.

(3) The owner shall be responsible for any loss or damage which may take place between the time the goods are removed from, to the time they are returned to, a transit shed or a customs area and examined by the proper officer.

Clearance of warehoused goods - minimum quantities

69. The minimum quantities of the classes of goods enumerated in the table which may be entered for warehousing, or entered for removal from a bonded warehouse on any one of the relevant approved forms, shall be—

Beer, in bottle or can	5 cartons
Cigarettes, cigars or snuff	4.5 Kg
Spirits, in bottle—	
(a) Bitters, cordials or liqueurs	1 case
(b) Other kinds	45 litres
Spirits, in bulk	45 litres
Tobacco	4.5 Kg
Wine, in bottle	9 litres
Wine, in bulk	45 litres
Other goods	in such quantities that the duty payable thereon will be not less than \$100:

Provided that goods may be cleared for export for ship's stores or otherwise in such quantities as the Comptroller may approve.

Time during which goods may be removed for warehousing

70. Unless the proper officer in any special circumstances otherwise allows, goods shall not be removed from a transit shed or a customs area to a bonded warehouse, or from one bonded warehouse to another, unless the warehousing of the goods can be completed during the working days and hours prescribed in regulation 6.

Conditions of repacking in warehouse

(Amended by Legal Notice 94 of 1991)

71.—(1) Permission to repack warehoused goods may be granted on application being made to the proper officer on the approved form (C.27), and accompanied by the fee prescribed in subregulation

(2) to this regulation, by the owner of the goods, who shall observe all the requirements of the officer in regard to opening, removing, marking, stacking, sorting, weighing, measuring and closing the packages in which the goods to be repacked are, or are to be, contained, and as to the payment of duty on any part of such goods.

(2) A fee of ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$11.00 shall be payable to the Comptroller in respect of each application under subregulation (1) of this regulation.

Transfer of ownership of goods

(*Amended by Legal Notice 94 of 1991*)

72.—(1) When the owner of any goods deposited in a bonded warehouse desires to transfer ownership of those goods to another person, he and the person to whom it is desired to transfer the goods shall each complete and sign in the appropriate places a form of transfer in the approved form (C.39).

(2) The completed approved form shall be accompanied with the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$11.00 shall be payable to the Comptroller in respect of each application under subregulation (1) of this regulation.

Entries for warehoused goods

(*Amended by Legal Notice 94 of 1991*)

73.—(1) Warehoused goods shall be entered in whichever of the undermentioned approved forms is appropriate—

(a) ex-warehouse for home consumption form (C.23);

(b) removal from warehouse to warehouse form (C.24);

(c) export or transhipment ex-warehouse form (C.25); * and (*Inserted by Legal Notice*

135 of 1997)

(d) import warehousing form (C.19) for re-warehousing.

(2) Subject to subregulation (3) of this regulation a fee of ~~\$5.00~~ (*Amended by Legal Notice 6 of 1992*) \$5.50 per entry, per lodgement, shall be payable to the Comptroller for each entry lodged and processed by Customs.

(3) In addition to the fee prescribed in subregulation (2) of this regulation, the agent, importer, exporter or owner as the case may be, shall pay to the Comptroller an additional fee of ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$11.00 per entry, if entries are not claimed and collected within 7 (*Amended by Legal Notice 135 of 1997*) 10 working days after lodgement.

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 7 (*Amended by Legal Notice 135 of 1997*) 10 days from the date of lodgement, to the Comptroller that the documents are no longer required due to goods being over-carried, shortlanded etc., the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

Acceptance by warehousekeeper

74. Entries for goods for warehousing or for removal from warehouse to warehouse or for re-warehousing, other than entries in respect of goods to be warehoused or to be removed to another warehouse or to be re-warehoused in a bonded warehouse of which the owner of such goods is the licensed warehousekeeper, shall not be accepted by the proper officer unless the warehousekeeper signifies thereon in writing that he agrees to accept such goods into the warehouse for which they are entered.

Goods to be consigned to the proper officer

75.—(1) All goods entered—

- (a) for warehousing at an airport or port for removal to a bonded warehouse; or
- (b) for removal from a bonded warehouse at one airport or port to a bonded warehouse at another airport or port,

shall be consigned care of the proper officer at the airport or port at which the goods are to be so warehoused, and the relative consignment note in the approved form (C.30) relating to the movement of such goods shall be delivered to the proper officer.

(2) The goods referred to in subregulation (1) shall not be delivered to any person without the authority of the proper officer.

PART VII - PROVISIONS RELATING TO CUSTOMS WAREHOUSE

Customs warehouse charges

76.—(1) Rent shall be charged on all goods deposited in a customs warehouse at the rate of ~~20~~ (Amended by Legal Notice 68 of 1991) 55 cents per tonne or cubic metre or part thereof, per day or part thereof:

Provided that rent shall not be charged on seized or detained goods or on passengers' baggage if such goods or baggage is removed within 8 days of the date of deposit in a customs warehouse.

(2) Rent payable on goods under this regulation and all other charges due to the Customs on goods deposited in a customs warehouse shall be paid to the proper officer before the delivery of the goods.

(3) Where the rent calculated by weight differs from the rent calculated by measurement, the higher rent shall be charged.

(4) Measurement of a package shall be calculated by multiplying together the greatest length, width and depth of the package.

(5) For the purposes of this regulation "day" includes Saturdays, Sundays and public holidays.

(6) Goods deposited in a customs warehouse pursuant to a warehouse entry shall be charged with rent from the date on which the relevant entry was passed.

(7) Goods other than those referred to in subregulation (6) which are removed to or stored at a customs warehouse shall be charged with rent as from the date the proper officer directs that such goods shall be so removed or stored.

Comptroller may waive rent in certain cases

77. If the Comptroller is of the opinion that the strict enforcement of the regulations regarding the payment of rent on any goods would cause hardship owing to the nature of the goods or to any emergency or to the fact the goods have been seized or detained or to any other exceptional cause, he may waive the whole or any part of the rent.

Damaged packages to be repaired

78.—(1) The external packing of any goods for storage in a customs warehouse must be in good condition and if damaged, the package shall be repaired, wired and sealed by the agents of the aircraft or ship from which the goods were landed before the package is removed to the warehouse. The proper officer may refuse to accept for storage, packages which in his opinion are not in good condition.

(2) Whenever goods are removed from a customs warehouse a receipt for the goods must be given to the proper officer by the importer or his agent.

Customs houses or customs offices deemed to be customs warehouses

79. If at any airport, port or place in Fiji where an officer is stationed, a building has not been specifically approved by the Comptroller for use as a customs warehouse, the customs house or a customs office shall be deemed to be a customs warehouse.

PART VIII - ENTRY OUTWARDS AND LOADING OF AIRCRAFT AND SHIPS

Entry outwards of ships

80.—(1) A ship's report outwards and the outward manifest shall be in the approved forms (C.30) and (C.31) respectively.

(2) The master of any ship reporting outwards shall, immediately on demand, present to the proper officer a list of passengers embarking and of stores shipped in the appropriate approved forms (C.10) and (C.11), together with such other documents or further particulars as the proper officer may require in connection with the voyage on which the ship is about to embark.

Entry outwards of aircraft

81.—(1) An aircraft report outwards and the outward manifest shall be in the relevant approved forms (C.5) and (C.6) respectively.

(2) The master of any aircraft reporting outwards shall, immediately on demand, present to the proper officer a list of passengers embarking and stores shipped in the appropriate approved form (C.7) or (C.8), together with such other documents or further particulars as the proper officer may require in connection with the flight on which the aircraft is about to depart.

Entries for exportation

(Amended by Legal Notice 94 of 1991)

82.—(1) Goods for exportation, other than—

- (a) warehoused goods;
- (b) goods under drawback; or
- (c) goods for transshipment,

shall be entered in the approved form (C.32).

(2) Subject to subregulation (3) of this regulation a fee of ~~\$5.00~~ *(Amended by Legal Notice 6 of 1992)* \$5.50 per entry, per lodgement, shall be payable to the Comptroller for each entry lodged and processed by Customs.

(3) In addition to the fee prescribed in subregulation (2) of this regulation, the agent, importer, exporter or owner as the case may be, shall pay to the Comptroller an additional fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 per entry, if entries are not claimed and collected within ~~7~~ *(Amended by Legal Notice 135 of 1997)* 10 working days after lodgement.

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 7 (*Amended by Legal Notice 135 of 1997*) 10 days from the date of lodgement, to the Comptroller that the documents are no longer required due to goods being over-carried, shortlanded etc., then Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

Place of embarkation

83.—(1) No person shall embark on any aircraft or ship, except at a place appointed under section 4 of the Act, nor, in the case of a passenger, until permission to embark has been granted by the proper officer.

(2) The baggage of passengers of an aircraft or ship proceeding to a place outside Fiji shall be loaded at such place as the proper officer may direct, and unless the proper officer otherwise allows, shall not be loaded until it has been examined and passed by him for shipment.

(3) A person who contravenes any of the provisions of this regulation commits an offence.

Loading before entry

(Amended by Legal Notice 94 of 1991)

84.—(1) Where, under the provisions of the Act, the proper officer permits the loading, prior to entry, of goods, whether liable to or free of export duty, application shall be made by the exporter on the approved form (C.47) and in the case of goods liable to export duty such security as the proper officer requires shall be provided.

(2) Applications referred to in subregulation (1) of this regulation shall be accompanied by the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$20.00~~ (*Amended by Legal Notice 6 of 1992*) \$22.00 shall be payable to the Comptroller in respect of each application per bill of lading or airway bill referred to in subregulation (1) of this regulation.

Cargo landed in error

85. Where goods have been unloaded in error, the master or agent of the aircraft or ship shall arrange for such goods to be reloaded or immediately added to the inward report of such aircraft or ship.

Transfer of stores

(Amended by Legal Notice 94 of 1991)

86.—(1) The master of an aircraft or ship who desires to transfer stores from one aircraft or ship to another shall make application to the proper officer on the approved form (C.33).

(2) The application to transfer stores shall be accompanied with the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$10.00~~ (*Amended by Legal Notice 6 of 1992*) \$11.00 shall be payable to the Comptroller in respect of each application under subregulation (1) of this regulation.

(4) Stores subject to import duty shall not be transferred from one aircraft or ship to another until a bond has been given on the approved form (C.34).

(5) A person who contravenes any of the provisions of this regulation commits an offence.

Conditions of loading or transfer of stores

87. The loading or transfer of stores shall be subject to the observance by the applicant of any conditions imposed by the proper officer and shall not commence until the appropriate entry has been passed or approval has been granted.

Production of stores before loading

88.—(1) All stores shall be produced to the proper officer before being put on board an aircraft or ship, and upon being put on board (except in the case of commissioned ships) shall not be taken into use while the aircraft or ship is within Fiji without the express permission of the proper officer:

Provided that stores on which duty has been paid and on which a drawback of duty or a remission, refund or rebate of duty is not claimed and stores which are not liable to duty may be taken into immediate use.

(2) A person who contravenes any of the provisions of this regulation commits an offence.

Shipment of stores from bonded or customs warehouse

89. Goods may be shipped from a bonded warehouse or a customs warehouse free of import duty as stores for the use of the master, crew and passengers of an outward bound aircraft or ship, provided that—

(a) a requisition has been made by the master or agent on the approved form (C.35);

(b) a bond in the approved form (C.34), has been given for the due exportation of the goods as

stores in accordance with the provisions of section **80**;

(c) an export entry in the approved form (C.25) has been passed for stores allowed on the requisition.

Restriction as to quantity

90.—(1) Tobacco, wine and spirits may be shipped free of duty as stores in such quantities as will bring the quantity on board an aircraft or ship up to the maximum authorised for the voyage about to be undertaken.

(2) No limitation will be placed on the quantity of other goods delivered free of duty as stores from a bonded warehouse or a customs warehouse unless the Comptroller has reason to believe that the goods are being exported as merchandise under the guise of aircraft or ship's stores.

Transshipment entry and bond

(Amended by Legal Notice 94 of 1991)

91.—(1) Goods reported for transshipment shall be entered on the approved form (C.19) and the owner or the agent thereof shall enter into such security as the proper officer may require for the due observance of the provisions of the customs laws and shall pay the fee prescribed in subregulation (2) of this regulation.

(2) A fee of ~~\$5.00~~ *(Amended by Legal Notice 6 of 1992)* \$5.50 per entry shall be payable to the Comptroller in respect of each lodgement made.

(3) In addition to the fee prescribed in subregulation (2) of this regulation, the agent, importer, exporter or owner as the case may be, shall pay to the Comptroller an additional fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 per entry, if entries are not claimed and collected within 10 working days after lodgement.

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 10 days from the date of lodgement, to the Comptroller that the documents are no longer required due to goods being over-carried,

shortlanded etc., the Comptroller may at the Comptroller's discretion, refund or remit in whole in part the fee paid or payable pursuant to this Regulation.

(5) Goods which have not been reported for transshipment and have been unloaded may be entered for transshipment in accordance with this regulation if—

(a) they have not been entered under the customs laws; and

(b) the master or agent applies for and obtains the permission of the proper officer to

amend the inward report of the importing aircraft or ship.

Transshipment direct

92. Goods entered for transshipment may, with the permission of the proper officer and subject to such conditions as he may impose, be transhipped direct from an importing aircraft or ship to an exporting aircraft or ship, if such goods are reported by the master for such importing aircraft or ship for transshipment.

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PART IX - DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS

Form of clearance of aircraft and ships

93. The certificate of clearance of aircraft and ships departing to a place outside Fiji shall be in the approved form (C.29).

Shipment short or in excess of manifest

(Amended by Legal Notice 94 of 1991)

94.—(1) On application being made on the approved form (C.14) and subject to payment of the prescribed fee, the proper officer may allow the master or agent of an aircraft or ship to amend the cargo manifest in the appropriate approved form (C.3) or (C.6) in respect of any goods found to have been shipped short or in excess of the manifest.

(2) A fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 shall be payable to the Comptroller in respect of each application per bill of lading or airway bill made under subregulation (1) of this regulation.

PART X – CARRIAGE OF GOODS COASTWISE

Transire

(Amended by Legal Notice 94 of 1991)

95.—(1) The proper officer may, if he sees fit, and subject to payment of the prescribed fee, grant to the master or owner of any ship a general transire, in the approved form (C.40), which shall empower such ship to make coasting voyages for any period not exceeding 3 months without being required to enter or clear at a port.

(2) A fee of ~~\$20.00~~ *(Amended by Legal Notice 6 of 1992)* \$22.00 per application shall be payable to the Comptroller in respect of each application made under subregulation (1) of this regulation.

(3) The holding of the general transire referred to in subregulation (1) shall not relieve such master or owner from any liability or responsibility placed upon him by any law for the time being in force.

(4) The transire may, for good cause shown, be withdrawn by the proper officer at his discretion.

PART XI - RE-IMPORTED GOODS

Export certificate for goods intended for re-importation

96.—(1) Any person desiring to export goods temporarily and intending to re-import them in accordance with the Act shall produce them for examination to the proper officer at the port or place of exportation.

(2) If the proper officer is satisfied that on re-importation it will be possible to identify the goods by reason of marks or numbers indelibly marked thereon or by affixing a customs seal thereto, he shall issue an export certificate in the approved form (C.48).

(3) On re-importation, the goods shall be produced to the proper officer at the airport, port or place of importation together with the certificate of export for examination and identification of the goods; and if the proper officer is satisfied that the goods are the same goods as those exported, he may authorise importation under the provisions of the Act.

PART XII - TEMPORARY IMPORTATION, ETC.

Privileged goods

97.—(1) For the purpose of this Part of the Regulations, "privileged goods" means—

- (a) goods for display or use at exhibitions, fairs, meetings or similar events;
- (b) goods for alteration or repair;
- (c) goods imported by bona fide tourists for their own use while in Fiji;
- (d) goods which are imported solely for use in connection with some particular project or occasion;
- (e) goods of a specialised nature or which are of a kind covered by approved international convention concerning temporary importation;
- (f) traveler's samples.

(2) The Comptroller may in his absolute discretion allow goods to be entered as privileged goods.

Application to import privileged goods

(Amended by Legal Notice 94 of 1991)

98.—(1) Any person desiring to import privileged goods shall, if required by the proper officer, make application in writing in the approved form (C.21) to the proper officer at the port of importation giving such information as the proper officer may require.

(2) Applications made under subregulation (1) of this regulation shall be accompanied with the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 shall be payable to the Comptroller in respect of each application made under subregulation (1) of this regulation.

Examination and marking of goods

99. Privileged goods shall be examined upon importation or exportation and such identification marks may be made thereon as may reasonably be deemed necessary by the proper officer.

Deposit of duty

100. The proper officer may require security to be given for the payment of duty on privileged goods or may, in his discretion, require that the duty payable on such goods be deposited with him.

Time for re-exportation of privileged goods

101.—(1) Privileged goods shall be exported from Fiji within 3 months from the date of release from customs control or within such further period not exceeding 12 months from the date of importation as the Comptroller in his absolute discretion may allow:

Provided that the Comptroller may waive the requirements of this sub-regulation on payment by the importer of the full amount of duty payable on the goods.

(2) Privileged goods when exported shall be in the same condition as when imported, reasonable wear and tear and approved alterations excepted.

Refund of deposits, etc.

102.—(1) Any deposit paid in respect of privileged goods shall be refunded or if security is given, that security shall be surrendered or cancelled when the privileged goods are exported in accordance with the provisions of these Regulations.

(2) If privileged goods are dealt with in a manner contrary to these Regulations, or if a condition imposed with respect to those goods is breached then the duty deposited shall be forfeited or the security accepted in respect of the privileged goods shall be enforced.

Goods by post or airfreight for persons about to leave Fiji

103. Goods arriving by post or air freight for passengers departing on aircraft or ships about to leave Fiji may be placed on such aircraft or ship's bond under such conditions as the Comptroller may direct.

Re-exportation by post of goods under bond, etc.

104. Goods under bond or under drawback may, subject to the Post Office Regulations, be exported by post. The wrapper of all such goods shall be distinctly marked "underbond" or "under drawback", as the case may be, and the goods shall not be delivered from a Post Office to any person within Fiji without authority being first obtained from an officer.

Entries and securities for privileged and re-exported goods

105. Entries and securities required for privileged goods or goods dealt with under the provisions of regulation **103** or **104** shall be in such form as the Comptroller may direct.

Firearms and ammunition

106.—(1) Every person importing firearms or ammunition in his baggage shall deliver the firearms or ammunition to the proper officer for detention until he receives the necessary permit to enable delivery to be taken of such firearms or ammunition. The proper officer shall issue to every such person a receipt for the firearms or ammunition left in his charge.

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

PART XIII - APPLICATION OF DUTIES

Delivery of declaration, invoices and other documents with entry

107.—(1) For the determination of the value of goods for the purpose of the customs laws, there shall be delivered to the Comptroller—

- (a) the entry of such goods;
- (b) a declaration of terms and conditions under which the goods have been imported
or exported, as the case may be, on whichever of the approved forms (C.45) or (C.46) is appropriate;
- (c) a commercial invoice, if goods have been the subject of a bona fide sale at the time of importation or exportation, as the case may be;
- (d) such documents as the Comptroller may deem necessary, showing the commercial
circumstances in which the goods are to be marketed or put to use by the consignee, if goods have not been the subject of a sale at the time of importation or exportation, as the case may be;
- (e) such documents as the Comptroller may reasonably deem necessary.

(2) All invoices, declarations and other documents shall contain the particulars specified in regulation 108 and the Comptroller may refuse to accept any invoice, declaration, certificate or other document which does not contain these particulars.

(3) There shall also be delivered, if the Comptroller so requires, the original invoice, bill of lading, bill of parcel, policy of insurance, letter and other documents showing the value of the goods at the place at which they were purchased, together with freight, insurance and other charges on the goods.

Particulars on invoices

108.—(1) Any invoice delivered to the Comptroller, shall be from the seller of goods, stating—

- (a) the invoice date, number or other identifying particulars;
- (b) the name and address of the seller or consignor of the goods;
- (c) the name and address of the buyer or consignee of the goods;
- (d) the name of the aircraft or ship in which the goods are shipped if it is known at the
time the invoice is made out;
- (e) the country of origin of the goods;
- (f) a description of the goods;
- (g) the quantity of the goods;
- (h) the number of packages containing the goods and the marks and numbers of each
package containing the goods;
- (i) the selling price of the goods to the purchaser of the goods, or the actual price for
which the consignors would, on the date of exportation, have been prepared to sell the goods to an importer in Fiji;
- (j) the terms of delivery (ex-factory, FOB, CIF, etc.);
- (k) the costs, charges and expenses specified in clause 6 of Schedule 1 to the Customs

Tariff Act, 1986.

(2) If the information specified in subregulation (1) is contained in any packing list or other documentary evidence produced to the satisfaction of the proper officer it shall not be necessary for such information to be included in the invoice.

Powers of Comptroller in special cases

109. If the Comptroller is satisfied in any special case or class of case that it is not possible for the importer to produce an invoice as prescribed in respect of imported goods or in any case in which he considers it necessary, he may examine the goods and assess the amount of duty leviable thereon. The amount of duty so assessed shall be deemed to be the proper duty payable and shall be paid together with all expenses connected with the examination of the goods.

Production of books of account and other documents

110. The Comptroller may require the owner or any person concerned with the importation of any goods liable to duty ad valorem to produce, at that person's premises or at such other place as he may require, all or any books of account or other documents of whatsoever nature relating to the purchase, importation or sale of the goods.

PART XIV - DRAWBACK, REFUND, REMISSION AND REBATE

Basis of drawback

111.—(1) Drawback shall be payable according to the actual quantity of goods exported or shipped for use as stores, as the case may be.

(2) For the purpose of assessing the amount of drawback of duty payable on any goods on which drawback is claimed, the value of such goods shall be calculated to the nearest dollar, so that in any value an amount being 50c or less shall be disregarded and in any value an amount in excess of 50 cents shall be taken to be \$1.

When drawback is not payable

112. Drawback shall not be allowed on any goods—

- (a) if such goods are prohibited by any law from being exported;
- (b) unless perfect entry of the goods has been made and the relative invoice deposited
 - with the proper officer;
- (c) unless the person claiming drawback enters the goods for exportation on the approved form (C.36) and establishes the claim to drawback by completion of the relevant certificate thereon prior to the passing of the entry;
- (d) unless the Comptroller is satisfied that they are being re-exported from Fiji for use
 - for trade, commerce or industry;
- (e) unless security by bond or in such other form as the proper officer may require has
 - been given that the goods shall be shipped and exported, or otherwise accounted for to the satisfaction of the proper officer;
- (f) which are damaged or spoiled;
- (g) which after importation were used in local manufacturing or production, except as
 - otherwise provided in any regulations concerning drawback of duty on goods;
- (h) unless such goods are produced to the proper officer for examination at the

approved place of examination prior to exportation and also, if required by a proper officer, on board the aircraft or ship on which they are to be exported;

- (i) unless such goods are conveyed directly and without delay from the place of examination to the aircraft or ship in which they are to be exported.

Provided that the proper officer may, in his discretion, allow any goods to remain in official custody for a reasonable time at the risk and expense of the exporter in which case drawback shall not be allowed unless the goods are thereafter conveyed directly and without delay to such aircraft or ship;

- (j) unless the proper officer certifies on the export entry that the goods have been exported;

- (k) unless the person claiming drawback on the goods entered for exportation produces, if required, within the time allowed by the proper officer, a certificate in respect of the landing of such goods from the competent authority at the port or place of discharge.

Documents required in relation to drawback

113. The owner of any goods intended to be cleared for drawback shall submit an export notice of claim for drawback on the approved form (C.36) to the proper officer together with—

(a) the export invoice relating to the goods;

(b) a working slip;

(c) a copy of the relevant import entry, where applicable, on which the goods being exported

were originally imported into Fiji, together with a copy of the invoice tendered with such entry when such goods were entered for importation; and

(d) an export licence, where applicable.

Packing in relation to drawback

114.—(1) Goods upon which drawback is not claimed shall not be packed with goods exported under drawback.

(2) All external packages shall to the satisfaction of the proper officer be of sound condition and clearly and permanently marked "EXPORTED UNDER DRAWBACK".

Delivery of goods under drawback for shipment and examination

115.—(1) Subject to such exceptions as the Comptroller may allow for the purposes of drawback—

(a) goods shall be delivered to the place of loading for export not less than one and

not more than 4 working days prior to the expected time of departure of the ship on which the goods are to be exported; and

(b) notice of not less than one working day shall be given to the proper officer for the

purpose of obtaining the attendance of an officer for examination of the goods at the time of delivery for shipment.

(2) The place and time of examination shall be determined by the proper officer.

Repacking of goods under drawback

116. The repacking of goods under drawback shall be performed in such manner as to enable the goods to be clearly identified against the drawback entry, the export invoice and the invoices and other documents relevant to the importation of such goods into Fiji.

Identification of goods under drawback

117.—(1) Where sizes, brands, trade marks, reference numbers, colours, patterns, country of manufacture or origin or other distinctive details form identification of the repacked goods under drawback in the normal course of trade, the goods shall bear such details as are necessary to establish clear identification of such goods against the same details quoted on invoices or other documents relevant to the importation of such goods into Fiji.

(2) To establish the identity of any goods exported under drawback, the exporter shall produce with the export entry, a copy of the original import entry and invoice.

Unidentifiable goods for the purposes of drawback

118. Unless the contrary is proven, goods shall be deemed to be not identifiable for the purposes of drawback where identification details shown on goods are not shown on invoices or other documents relevant to the importation of such goods into Fiji or where identification details are shown on such invoices and other documents but not on the goods.

Charges for services of an officer for examination of goods under drawback

119. There shall be paid to the proper officer before any goods are exported under drawback a charge of \$16.50 per hour or part thereof during the time that any officer is employed in the examination of any goods for export under drawback, together with any other expenses incurred by the Customs in respect of such examination as certified by the proper officer.

Goods under drawback to be secured and sealed

120. When the repacking of goods under drawback is completed, the packages shall be secured by the exporter and sealed by an officer and shall be forthwith conveyed to the place of shipment, there to be shipped under the immediate superintendence of the proper officer, or, if not so forthwith conveyed and shipped, the packages shall be removed at the risk and expense of the exporter to a customs warehouse, or to some other place of security approved by the proper officer.

Drawback goods to be examined prior to shipment

121. No claim to the payment of drawback on any goods which have been re-exported shall be accepted unless the goods have been examined by the proper officer prior to shipment.

Application by exporter for drawback on goods

(Amended by Legal Notice 94 of 1991)

122.—(1) Any exporter or his agent claiming drawback shall, after the departure of the exporting aircraft or ship, apply for the drawback on the approved form (C.37) and shall pay the fees prescribed in subregulation (2) of this regulation.

(2) A fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 per application, per entry, shall be payable to the Comptroller in respect of each application made under subregulation (1) of this regulation.

Articles on which no drawback shall be allowed

123. Drawback shall not be allowed on the following—

- (a) cigars;
- (b) cigarettes;
- (c) tobacco;
- (d) liqueurs;
- (e) spirits and spirituous compounds;

- (f) wines;
- (g) other alcoholic beverages; and
- (h) cinematograph films for public exhibition except films banned by the censors and not exhibited.

Drawback on goods used for manufacture in Fiji

124.—(1) Subject to the provisions of this Part, on the export to any country of any goods manufactured or produced in Fiji from any articles or materials imported into Fiji, a drawback of the duty paid on such materials shall be granted to the manufacturer or producer of such goods to the extent approved by the Comptroller.

(2) The Comptroller may, after consultation with any manufacturer or producer, determine the quantity of any article or material required for the purpose of manufacturing or producing any goods in respect of which drawback may be granted and the quantity so determined shall be presumed, in the absence of evidence to the contrary, to have been used in the manufacture or production of such goods.

(3) The Comptroller may require any manufacturer or producer of any goods upon which drawback is claimed, to produce at the premises of such manufacturer or producer or at such other place as he may require, all or any books of account or other documents of whatsoever nature relating to the manufacture or the production of the goods on which drawback is claimed.

Refund, remission or rebate

(Amended by Legal Notice 94 of 1991)

125.—(1) Application for refund of duty, fee or other charge shall be made on the approved form (C.44).

(2) Application for remission or rebate of duty shall be made in such form as the Comptroller may direct and shall be accompanied with the fee prescribed in subregulation (3) of this regulation.

(3) A fee of ~~\$10.00~~ *(Amended by Legal Notice 6 of 1992)* \$11.00 shall be payable to the Comptroller in respect of each application made under subregulation (1) of this regulation.

Alleged error in packing or alleged misdescription or omission

126.—(1) No refund of or exemption from duty shall be allowed unless any alleged shortage in a package has been verified by an officer prior to the removal of the package from the control of the Customs:

Provided that—

(a) if the proper officer receives from the owner of any package an allegation in writing within one month of such package being cleared that an error in packing has been made by the exporter thereof, the proper officer shall cause such package to be examined and if it is proved to his satisfaction that the error as alleged by the owner has occurred a refund or adjustment of the duty involved shall be made;

(b) if the proper officer reports that the goods in question cannot be identified, no refund or adjustment shall be made.

(2) No refund of duty shall be allowed for any misdescription of goods or because of the omission in the invoice of any discount or other matter or thing which might have the effect of reducing the quantity or value of such goods for duty unless the proper officer receives from the owner of the goods within one month of such goods being cleared a notification in writing of any alleged misdescription or omission. The proper officer on receiving any such notification may cause all evidence and particulars to be examined and if necessary cause the goods to be examined and if it is proved to his satisfaction that a misdescription or omission has occurred as

alleged, may allow an adjustment to be made in accordance with the provisions of section 96 of the Act.

(3) No claim for refund of duty on goods entered for trade, commerce or industry shall be made under this regulation if the amount claimed is less than \$2.

PART XV - SEIZURES AND COMPOUNDING OF OFFENCES

Seizure notice

127. The notice of seizure of any aircraft, ship, vehicle, goods or other thing shall be in the approved form (C.49).

Request for compounding of offence

128. The written request by a person that a contravention of the customs laws be dealt with by the Comptroller under the Act shall be in the approved form (C.50).

PART XVI - CUSTOMS AGENTS

Customs agent's licence

129.—(1) A licence for a customs agent shall be in the approved form (C.41).

(2) The licence fee payable by a customs agent shall be \$220.00 per annum.

(3) The security to be given by a customs agent pursuant to section 146 of the Act shall be by way of bond in the approved form (C.51).

(4) Whenever any annual licence fee has not been paid by the 7 January in any year, the Comptroller may refuse to allow any customs transaction or business to be carried out by the agent until such fee is paid.

Application to appear for Customs Agents' & Clerks' Examination

(Legal Notice 135 of 1997)

129A.— The Comptroller may, upon written application, grant an approval to any person to appear for the Customs Agents' and Clerks' Examination:

Provided that—

(a) the application is made to the Comptroller; and,

(b) a fee of \$22 per candidate for each examination shall be paid to the Comptroller.

PART XVII - CUSTOMS CARRIERS

Customs carriers

130. The Comptroller may, upon written application, grant a licence to any person approved by him to act as a customs carrier, whether by water or by land, and any such licence may be revoked by the Comptroller by notice in writing at any time.

Security by carrier

131. Before any customs carrier's licence is granted, the person applying for the licence shall, when the Comptroller so requires, give security in the approved form (C.42) to the satisfaction of the Comptroller.

Customs carrier's licence

132.—(1) A customs carrier's licence shall be issued by the Comptroller in the approved form (C.43) and shall expire on the 31st day of December of the year of issue unless previously revoked.

(2) An annual fee of \$110.00 is payable for each carrier's licence.

Licences for vehicles and boats used by carrier

133. Each vehicle or boat employed for the carriage of goods subject to customs control shall be separately licensed for such purpose and the customs carrier concerned shall pay an annual fee of \$22.00 in respect of each such vehicle or boat.

Name of licensed carrier, etc., to be marked on vehicles and boats

134. No vehicle or boat shall be used by any customs carrier in the carriage of goods subject to the control of the Customs, unless the licensee's name and the letters "H.M.C" are painted thereon to the satisfaction of the Comptroller together with the number for each individual vehicle or boat, as specified by the Comptroller.

Conditions of customs carrier's licence

135.—(1) In addition to any special conditions which the Comptroller may impose on any customs carrier, each customs carrier's licence shall be subject to the following general conditions—

- (a) the licensee shall not use a licensed vehicle or boat in contravention of any law relating to the Customs;
- (b) when the vehicles or boat is being used in the conveyance of goods subject to the control of the customs, the driver or operator shall proceed to his destination as quickly and directly as possible, and shall hand over the goods to the proper officer together with any customs documents handed to him in connection therewith;
- (c) the proper officer may, should he deem it necessary, give directions as to the route to be followed by any licensed vehicle or boat conveying goods under the control of the Customs;
- (d) the licensee shall be responsible for the duty, if any, on any deficiency between the quantity of goods loaded on, and that delivered from, the vehicle or boat;
- (e) all entrances to the hold of a licensed customs carrier's boat shall be capable of being firmly secured, and locks and fittings approved by the proper officer shall be supplied and fitted to such boat at the expense of the licensee.

(2) Any licensed carrier who fails without just cause to carry out a direction given under regulation 135(1)(c) by the proper officer shall be guilty of an offence.

Return, etc. of licence

136. If a licensee sells or loses his vehicle or boat, or if such vehicle or boat is rendered unfit for the purpose for which it is licensed, the licence issued for such vehicle or boat shall be returned to the proper officer and shall be revoked.

PART XVIII - MISCELLANEOUS

Forms

137. All persons doing business with the Customs which necessitates the use of any form which is prescribed or required under the provisions of any law relating to the Customs shall provide the necessary form at their own expense.

Making of entries

138. Entries of imported or exported goods shall be made by the delivery of the approved forms and the payment of the prescribed fees by or on behalf of the importer or exporter to the Comptroller and any person making any entry shall, if so required by the Comptroller, answer questions relating to the goods referred to in the entry. *(Amended by Legal Notice 94 of 1991)*

Passing of entries

139. Entries shall be processed and, where they are found to be satisfactory, shall be passed by the Comptroller and, on the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed shall be the warrant to the proper officer for dealing with the goods in accordance with the entry.

Fees for certificates, etc.

(Amended by Legal Notice 66 of 1991)

140. The following certificates or copies of any documents may be issued by the Comptroller to any entitled person, upon payment of the following fees:

- Landing certificate, for each original bill of entry on which goods are entered ~~\$10.00~~
(Amended by Legal Notice 94 of 1991) \$11.00
- Certificate of examination and verification of the contents of packages, per package
\$11.00
- Certificate of weight for each consignment \$11.00
- Any other certificate issued by the Customs \$11.00
- ~~Motor vehicle import licence, per licence—\$11.00~~ *(Deleted by Legal Notice 144 of 1993)*
- Certification of exports, per certificate \$11.00
- EUR-1 certificates and similar certificates, per certificate 11.00
- Certified copy of any document (for each ~~400 words~~ *(Amended by Legal Notice 135 of 1997)* page or part thereof); and 5.50

Provided that the Comptroller may, in his discretion, remit any such fee entirely.

Smoking, etc. in customs areas

141.—(1) The Comptroller may prohibit smoking, the lighting of fires or the use of naked lights in any part of a customs area.

(2) Any person who should reasonably be aware that a prohibition under the provisions of subregulation (1) is in force in any part of a customs area, smokes, lights a fire or uses a naked light in such part of a customs area shall be guilty of an offence.

Damage to building, etc. in customs areas, customs warehouses, etc.

142. Any person who causes any damage to any customs warehouse or other building or equipment in the possession of the Customs shall pay the cost of such damage and such person, if the damage was caused wilfully, shall be guilty of an offence.

Unauthorised persons not to board ships

143. Subject to the provisions of the Act, no person shall without the permission of an officer, board or leave any ship arriving from outside Fiji until the ship has, with the permission of such officer, come alongside a wharf or landing place or until after the expiry of such further time as may be required by the officer for the inspection and examination of the passenger and crew.

Loitering in customs area, etc.

144.—(1) If the proper officer considers that any person in any customs area is not engaged in any legitimate business connected with customs, port or marine matters, he may interrogate such person and if not satisfied with any explanation given by such person concerning his presence, he may direct that person to leave the customs area.

(2) If such person fails to comply promptly with any such direction given by the proper officer he shall be guilty of an offence.

Entrances and exits

145. All vehicles, other traffic and pedestrians shall enter and leave any customs area through such gates and entrances and exits as the proper officer may direct and any person failing to comply with any such directions shall be guilty of an offence.

Goods delivered from customs areas and from customs control

146.—(1) All goods removed from customs areas or from customs control shall be accompanied by a permit or pass in such form as the Comptroller may direct. The permit or pass shall be delivered to the proper officer on duty at places of exit.

(2) A person contravening the provisions of this regulation shall be guilty of an offence.

Methylated spirits

147. The importer of any spirit purporting to be methylated spirit or in respect of which the rate of duty charged for methylated spirit is sought to be paid shall, unless he produces to the proper officer on demand a certificate signed by an officer of Customs in the country from which such spirit has been exported to the effect that such spirit has been denatured to the standard prescribed, be required at his expense to have such spirit denatured as provided in regulation **148**.

Standard of denaturing

148. The prescribed standard of denaturing in relation to methylated spirits shall be that the spirit before methylation shall contain not less than 94.09% by volume of alcohol and shall be methylated by the addition of either—

(a) one-fifth per cent of wood naphtha, one-half percent of pyridine, and one-half per cent of

either petrol, gasoline, petroleum benzine, petroleum naphtha, coal tar naphtha or shale naphtha;

- (b) one-fifth per cent of wood naphtha, one-quarter per cent pyridine, two to twenty per cent
of benzine, and one-quarter per cent of a solution of aniline violet or blue dye;
- (c) one-quarter per cent of methanol, one-eighth per cent of pyridine and one per cent of
petroleum; or
- (d) 6.6 parts per million (W/W) Bitrex (denatonium benzoate) one-quarter per cent
(W/W)
methyl isobutyl ketone and one part per million (W/W) fluorescein.

Standard for motor fuel

149. The prescribed standard of denaturation for use as motor fuel shall be that the spirits before methylation shall contain not less than 94.09% by volume of alcohol and shall be methylated by the addition of one-fifth per cent of wood naphtha, one-half per cent pyridine and not less than two per cent of one of the following—
petrol, gasoline, petroleum benzine, petroleum naphtha, coal tar naphtha, shale naphtha, benzole, sulphuric ether or the like substances.

Persons authorised to denature spirits

- 150.**—(1) The Comptroller or any person appointed in writing by him may denature any spirit imported into Fiji purporting to be methylated spirit or in respect of which the rate of duty charged for methylated spirit is sought to be paid.
- (2) Any person, other than the Comptroller or a person appointed in writing by him, who denatures any such spirit as aforesaid shall be guilty of an offence.

Bonds and securities

151. Whenever the Comptroller shall require a bond or other form of security, such bond or security shall be furnished on the approved form.

Sale prohibited in customs area, and goods to be advertised before sale

- 152.**—(1) Except with the authorisation of the Comptroller, no goods shall be exposed or offered for sale in any customs area or bonded warehouse.
- (2) Abandoned goods or goods of a perishable nature may be sold by the Comptroller at any time by private treaty or, when he deems it to be practicable, by public auction.
- (3) Subject to the Act, all other goods which may be sold under the provisions of the Act shall be sold by public auction after 2 weeks notice of sale has been given in the Gazette.
- (4) If any goods liable to be sold cannot be sold for a sufficient sum to cover the duty and other charges due on them, such goods may be destroyed or otherwise disposed of as the Comptroller may direct.
- (5) Goods advertised for sale by public auction in the Gazette may in exceptional circumstances, at the sole discretion of the Comptroller, be withdrawn from sale if he receives a written notice from the owner of the goods requesting withdrawal not less than 48 hours before the sale is due to take place. The owner of any goods withdrawn from sale under this regulation shall pay all duties and charges due on such goods and remove them from customs control within 48 hours from the day on which they were to be sold.
- (6) The purchaser of any goods at any customs sale shall pay the purchase price and remove the goods from customs control within 48 hours of the time and date of sale.
- (7) The Comptroller shall not be liable to compensate any person in respect of any sale made pursuant to the Act.

Comptroller may waive underpayments

153. The Comptroller may in his discretion waive collection of underpayment of duty made in error, if the amount underpaid does not exceed \$2.

Revocation and saving

154.—(1) The Customs Regulations are revoked.

(2) Without prejudice to section 18 of the Interpretation Act, notwithstanding the revocation of the Customs Regulations by subregulation (1) and unless the contrary intention appears in these Regulations—

(a) all persons, things and circumstances appointed or created by or under the Customs Regulations or existing or continuing under those Regulations immediately before the commencement of these Regulations shall, under and subject to these Regulations, continue to have the same status, operation and effect as they respectively would have had as if the Customs Regulations had not been revoked; and

(b) in particular and without affecting the generality of paragraph (a), the repeal of the

Customs Regulations shall not affect licences, permits, bonds securities, appointments, orders and rules issued, executed, given or made under or by virtue of those Regulations in force immediately before the commencement of these Regulations; and those licences, permits, bonds, securities, appointments, orders and rules shall remain in force, until replaced or revoked by a licence, permit, bond security, appointment, order or rule made under or by virtue of these Regulations.

(3) The Comptroller's Directions – Baggage Examination - Passengers Entering – Self Selection and General, made under section 156 of the repealed Customs Act, and published at page 38 of the subsidiary legislation to the Customs Act, Chapter 196 in the 1978 Revised Edition of the Laws of Fiji, are hereby revoked.

(4) The Customs (Repacking for Drawback) Rules published as Legal Notice No. 139 of 1968 are hereby revoked.

(5) The Delegation of Comptroller's Powers to Compound Offences published as Legal Notice No. 131 of 1968 is hereby revoked.

***Comptroller may remit or waive fees and charges
in certain circumstances***

155. The Comptroller may, in his discretion, and having regard to any special or exceptional circumstance remit, refund, or exempt any fee or charge paid or payable, pursuant to these Regulations. (*Inserted by Legal Notice 139 of 1992*)

Made at Suva this 30th day of October 1986.

M. QIONIBARAVI
MINISTER OF FINANCE