



**THE FOLLOWING LEGISLATION
HAS BEEN REPEALED
BY**

ACT NO. 30 OF 2011

CHAPTER 293**CUSTOMS MANAGEMENT**

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CHAPTER 293

CUSTOMS MANAGEMENT

An Act to provide for the management and administration of customs, the licensing and controlling of warehouses, the liability to, the determination, recovery and remission of customs duties and for connected purposes.

[Assent 30th June, 1976]

[Commencement 26th August, 1976]

**TITLE I
PRELIMINARY**

1. This Act may be cited as the Customs Management Act.

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

“aircraft” includes all flying machines of any description;

“airport” means any area of land or water equipped, set apart or commonly used for the landing and departure of aircraft;

“approved place of loading” and “approved place of unloading” means any quay, jetty, wharf or other place within a port or any part of a customs airport, appointed by the Minister under section 6 of this Act to be a place where goods may be loaded or unloaded;

“boarding station” means any place appointed by the Minister under section 6 of this Act to be a place for aircraft or vessel arriving at or departing from any port or place to bring to for the boarding by or the disembarkation of customs officers;

“bonded warehouse” means any warehouse appointed by the Minister under section 23 of this Act for the deposit of dutiable goods on which duty has not been paid and which have been entered to be warehoused;

4 of 1976
S.I. 118/1976
15 of 1983
5 of 1987
S.I. 29/1998
16 of 1990
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25 of 1991
39 of 1992
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22 of 1996
4 of 1998
39 of 1999
16 of 2008
8 of 2009
20 of 2009
33 of 2009

Short title.

Interpretation.

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- “cargo” includes all goods imported, exported or carried coastwise in any aircraft or vessel other than such goods as are required as stores for consumption or use by or for that aircraft or vessel, its crew and passengers, and the *bona fide* personal baggage of such passengers;
- “Comptroller” means the Comptroller of Customs appointed under section 3;
- “Customs” or “the Customs” means the Customs Department;
- “customs area” means any place appointed by the Minister under section 6 of this Act for the deposit of goods subject to Customs control;
- “customs laws” includes this Act and any enactment relating to the Customs or to the importation, exportation, or carriage coastwise, of any goods, and any subsidiary legislation made under the authority of this Act or any such enactment;
- “customs officer” means any officer appointed under section 3;
- “customs revenue” means any amounts collectible by the Customs in accordance with the customs laws;
- “customs warehouse” means any place approved by the Minister for the deposit of unentered, unexamined, detained, or seized goods, for the security thereof or of the duties due thereon;
- “duty” includes any cess, levy, imposition, tax or surtax imposed by any customs law;
- “entered”, in relation to goods imported, warehoused, put on board a ship or aircraft as stores or exported, means the acceptance and signature by the proper officer of an entry, specification or shipping bill, and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the Crown in respect of the goods, in the case of dutiable goods (except on the entry for warehousing of imported goods), the payment by the importer or exporter to the proper officer of the full duties thereon, or else, where permitted, the deposit of a sum of money or giving of security for the duties as provided by law, or, in the case of goods for which security by bond is required on the exportation, putting

16 of 2008, Third
Schedule.

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- on board a ship or aircraft as stores or removal of such goods, the giving of such security;
- “export” with its grammatical variations and cognate expressions means to take or cause to be taken out of The Bahamas;
- “foreign” means any place beyond the limits of The Bahamas;
- “goods” includes all kinds of articles, wares, merchandise, livestock and electrical energy, and, where any such goods are sold under the provisions of this Act, the proceeds of such sale;
- “goods under drawback” means any goods in relation to which a claim for drawback has been or is to be made;
- “Government” means the Government of The Bahamas;
- “Government bonded warehouse” means a bonded warehouse provided by the Government;
- “import” with its grammatical variations and cognate expressions means to bring or cause to be brought into The Bahamas;
- “light aircraft” means an aircraft of which the maximum total authorised weight as defined in the Colonial Air Navigation Order, 1961, does not exceed 12,500 lbs;
- “master” includes any person for the time being having or taking charge or command of any aircraft or vessel;
- “Minister” means the Minister of Finance;
- “name” includes the registered mark of an aircraft;
- “owner” in respect of —
- (a) an aircraft, vessel, or vehicle, includes every person acting as agent for the owner, or who receives freight or other charges payable in respect of, or who is in possession or control of, the aircraft, vessel, or vehicle;
 - (b) goods, includes any person other than a customs officer acting in his official capacity being or holding himself out to be the owner, importer, exporter, consignee, agent, or the person in possession of, or beneficially interested in, or having control of, or power of disposition over, the goods;
- “package” includes every means by which goods for conveyance may be cased, covered, enclosed, contained, or packed;

U.K. S.I. 1961.
No. 2316.

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- “port” means any place, appointed by the Minister under section 6, to be a port for the purpose of the customs laws; and in relation to aircraft, means a customs airport;
- “postal article” includes any letter, postcard, newspaper, book, document, pamphlet, pattern, sample packet, small packet, parcel, package or other article whatsoever, in course of transmission by post;
- “prescribed” means prescribed by regulations made under this Act;
- “prohibited goods” means any goods the importation, exportation, or carriage coastwise of which is prohibited under the customs laws;
- “proper officer” in relation to any power or duty under this Act means a customs officer who, by instruction, or with the concurrence, of the Comptroller exercises or performs that power or duty;
- “restricted goods” means any goods the importation, exportation, or carriage coastwise of which is prohibited, save in accordance with any conditions regulating such importation, exportation or carriage coastwise, and any goods the importation, exportation or carriage coastwise of which is in any way regulated by or under the customs laws;
- “smuggling” with its grammatical variations and cognate expressions means the importation, exportation, carriage coastwise of goods, or their removal between the Port Area of Grand Bahama and any other part of The Bahamas, with intent to defraud the customs revenue, or to evade any prohibition of, restriction on, regulation or condition as to, their importation, exportation, carriage coastwise or removal;
- “sufferance wharf” means any place, other than an approved place of loading or unloading at which the Minister may, subject to such conditions as he may either generally or in any particular case impose, allow any goods to be loaded or unloaded;
- “tons register” means the tons of a ship’s net tonnage as ascertained according to the tonnage register regulations applicable to Bahamian registered ships;

“trans-shipment” with its grammatical variations and cognate expressions means the transfer, either directly or indirectly, of goods from an aircraft or vessel arriving in The Bahamas from a foreign port to an aircraft or vessel departing to a foreign port;

“transit shed” means any building appointed by the Minister under section 6 for the deposit of goods subject to customs control;

“uncustomed goods” means dutiable goods on which the full duties due have not been paid and goods, whether dutiable or not, which are imported or in any way dealt with contrary to the customs laws;

“vehicle” includes any conveyance for the transport of persons or goods by land;

“voyage” includes flight by aircraft;

“warehoused” means deposited in a bonded warehouse with the authority of the person in charge of such warehouse;

“warehouse keeper” means the holder of a valid warehouse keeper’s licence granted under section 24.

(2) For the purposes of this Act —

(a) goods shall be deemed to be entered when the entry, made and signed by the owner in the prescribed manner, is accepted and signed by the proper officer at the port or place of importation or exportation, as the case may be, and when any duty due or deposit required under this Act in respect of the goods has been paid, or security has been given for compliance with this Act;

(b) the time of importation of any goods other than goods imported by post shall be deemed to be the time when the vessel carrying the goods comes within the limits of the port at which such goods are unloaded, or where the goods are brought by air, the time when the aircraft carrying the goods lands at the airport at which such goods are unloaded;

(c) the time of exportation of any goods other than goods exported by post shall be deemed to be the time at which the aircraft or vessel departs from its final position, anchorage or berth at the port at which such goods are loaded for exportation.

TITLE II ADMINISTRATION

Customs
authorities.

3. (1) There shall be appointed a Comptroller of Customs and such other customs officers as may be necessary for the administration of this Act and the efficient working of the Customs Department.

(2) The Comptroller shall, subject to the control and direction of the Minister, be responsible for the administration of this Act.

(3) The Comptroller may authorise any officer appointed or deemed to be appointed under this Act to exercise any of the powers conferred or to perform any of the duties imposed by this Act upon the Comptroller, either in place of the Comptroller or concurrently with him.

5 of 1987, Sch.

(4) Any person appointed as a customs officer before the commencement of this Act, and serving on that date, shall be deemed to have been appointed under this section.

(5) Every person who is appointed to any permanent office or employment in the Customs Department shall, on his appointment thereto, make and subscribe before a magistrate, justice of the peace, or commissioner for oaths, a declaration in such form as may be prescribed.

20 of 2009, s. 2.

(6) For the avoidance of doubt and notwithstanding any other statutory or other provision contained in this Act or in the Hawksbill Creek Agreement, the Comptroller shall be a person designated by the Minister to carry out any and all powers contained in clause 2(4)(f) of the Agreement.

Offence involving
customs officers.

4. (1) Any customs officer who —

- (a) in connection with any of his duties directly or indirectly asks for or takes any payment or other reward whatever, 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 customs revenue is or may be defrauded, or which is contrary to the customs laws or the proper execution of his duty; or
- (c) discloses any information acquired by him in the performance of his duties relating to any person, firm or business of any kind, except for the purposes of this Act or when required to do so as a witness in any court or with the approval of the Minister,

commits an offence and shall on conviction on information be liable to a fine of ten thousand dollars or to imprisonment for three years or to both such fine and imprisonment.

- (2) Any person who —
 - (a) directly or indirectly officers or gives to any customs officer any payment or reward whatever, whether pecuniary or otherwise, or any promise or security for any such payment or reward; or
 - (b) proposes or enters into any agreement with any customs officer,

in order to induce him to do, abstain from doing, permit, conceal, or connive at, any act or thing whereby the customs revenue is or may be defrauded, or which is contrary to the customs laws or the proper execution of the duty of such officer, commits an offence and shall on conviction on information be liable to a fine of ten thousand dollars, or to imprisonment for three years or to both such fine and imprisonment.

- 5. The Minister may, by notice in the *Gazette* —
 - (a) appoint a seal of the Customs which shall be officially and judicially noticed, and, until another seal is appointed by the Minister, the seal in use at the commencement of this Act shall be the customs seal;
 - (b) appoint a flag of the Customs which shall distinguish vessels employed in the service of the Customs from other vessels.

Customs seal and flag.

TITLE III

APPOINTMENT OF PORTS AND PLACES

6. (1) The Minister may, subject to such conditions as he thinks fit, by notice in the *Gazette*, appoint and specify for the purposes of this Act —

Appointment of ports, etc.

- (a) ports;
- (b) customs airports.

(2) The Minister may, subject to such conditions as he thinks fit, appoint and specify for the purposes of this Act —

- (a) places of loading and unloading within ports and airports;
- (b) boarding stations;
- (c) customs areas;
- (d) transit sheds;
- (e) sufferance wharves;
- (f) places for the landing and embarkation of persons;
- (g) places for the examination of goods (including baggage).

(3) All ports, customs airports, places of loading and unloading, boarding stations, customs areas, transit sheds, sufferance wharves, places for landing and embarkation of persons and for the examination of goods in use at the commencement of this Act shall be deemed to have been duly appointed under this section.

Restrictions on entry, etc., to customs areas.

7. (1) No person shall enter a customs area when forbidden to do so by a customs officer, nor remain therein when requested to leave by a customs officer.

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

(3) Any person who contravenes subsection (1), commits an offence and shall on summary conviction therefor be liable to a fine of five hundred dollars.

TITLE IV IMPORTATION, EXPORTATION AND COASTING TRADE

PART I CUSTOMS CONTROL OF GOODS

Goods subject to customs control.

8. 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 delivery for home consumption or until exportation whichever first happens;

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- (b) all goods under drawback from the time of the claim for drawback until exportation;
 - (c) all goods subject to export duty or to any restriction on exportation from the time when the goods are brought to any port or place for exportation until exportation;
 - (d) all goods which are stored in a customs area pending exportation;
 - (e) all goods on board any aircraft or vessel while within any port or place in The Bahamas.

9. (1) No person shall, except in accordance with this Act, interfere in any way with goods subject to customs control.

Interference with goods subject to customs control.

(2) Any person who contravenes subsection (1) commits an offence and shall on summary conviction therefor be liable to a penalty of three times the value of the goods or one thousand dollars whichever is the greater, or to imprisonment for two years or to both; and the goods in respect of which the offence is committed shall be liable to forfeiture.

PART II ARRIVAL AND REPORT OF AIRCRAFT AND VESSELS

10. (1) Subject to section 15, the master of an aircraft or vessel arriving in The Bahamas —

Procedure on arrival.

- (a) shall not, except where so allowed by the proper officer in any special circumstances, cause or permit the aircraft or vessel to land, touch at, or enter, any place in The Bahamas other than a port;
- (b) shall, on arriving at any port, cause the aircraft or vessel to come as quickly as the conditions of the port admit up to the proper place of mooring or unloading without touching at any other place;
- (c) shall, in proceeding to the proper place of mooring or unloading, bring to at the place appointed for the boarding of aircraft or vessels;

- (d) shall, after arriving at the proper place of mooring or unloading, not depart therefrom except where the aircraft or vessel proceeds directly —
- (i) to some other proper place of mooring or unloading; or
 - (ii) to some other port in The Bahamas; or
 - (iii) on a voyage to a foreign place;
- (e) shall not, after the departure of such aircraft or vessel on a voyage to a foreign place, bring to within The Bahamas except in accordance with this Act, or with the permission of the proper officer, or for some cause which the master explains to the satisfaction of the proper office.

(2) The master of a vessel arriving in The Bahamas shall, if the Comptroller so requires, provide a proper officer boarding and remaining on the vessel for the purposes of this Act with proper and sufficient food and suitable bedding accommodation, or in lieu thereof, pay such sum as the Comptroller may order.

(3) Any master who contravenes any provision of this section commits an offence.

Place of mooring,
etc,

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

Restriction on
boarding before
proper officer.

12. (1) No person, except the port pilot, the health officer, or any other public officer in the exercise of his duties and duly authorised in that behalf, shall, save with the permission of the proper officer, board any vessel before the proper officer.

(2) Any person who contravenes this section, commits an offence and shall on summary conviction therefor be liable to a fine of five hundred dollars.

Report of arrival.

13. (1) Within twenty-four hours after arrival in The Bahamas of any aircraft or vessel from a foreign port and before the unloading of any goods from such aircraft or vessel, the master or agent of the aircraft or vessel shall furnish to the proper officer a report, in such manner and

form as may be prescribed, in respect of the aircraft or vessel and of its cargo and stores and of any package for which there is no bill of lading.

(2) Every such report shall show separately any goods which are in transit, any goods for trans-shipment, any goods which are to remain on board for other ports in The Bahamas, and any goods for re-exportation on the same aircraft or vessel.

- (3) Any master or agent of an aircraft or vessel who —
- (a) fails to furnish a report in accordance with this section;
 - (b) furnishes a report which is false or incorrect in any material particular;
 - (c) except with the knowledge and consent of the proper officer, causes or permits any goods to be unloaded contrary to subsection (1); 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, destroyed, or thrown overboard, or any packages to be opened,

shall, unless a satisfactory explanation of the act or omission is given to the proper officer, be guilty of an offence; and any goods in respect of which an offence contrary to paragraph (a), (b), or (d) is committed shall be liable to forfeiture.

14. (1) The master or agent of every aircraft or vessel —

Master to furnish information, etc.

- (a) shall answer fully and immediately all such questions relating to the aircraft or vessel, its cargo, stores, baggage, crew, and passengers, as may be put to him by the proper officer for the purposes of this Act;
- (b) shall produce all such books and documents in his custody or control relating to the aircraft or vessel, its cargo, stores, baggage, crew and passengers, as the proper officer may require for the purposes of this Act;
- (c) shall, before any person disembarks, unless permitted to do so by the proper officer, furnish to the proper officer who boards the aircraft or vessel on arrival at any port or place, a correct

list in the prescribed form of the names of the passengers disembarking and of those remaining on board the aircraft or vessel, and also, if required by the proper officer, the names of the master and of the officers and members of the crew;

- (d) shall, if required to do so by the proper officer, furnish to the officer at the time of furnishing the report under section 13(1), the clearance, if any, of the aircraft or vessel from the port from which the aircraft or vessel arrived.

(2) Any master or agent who contravenes any provision of this section, commits an offence.

Master of wreck,
etc., to report.

15. (1) When an aircraft or vessel is lost or wrecked or is compelled to land or bring to within The Bahamas owing to accident, stress of weather or other unavoidable cause, the master or agent of the aircraft or vessel shall, with all reasonable speed, make report of the aircraft or vessel and of its cargo and stores to the nearest customs officer.

(2) Where an aircraft or vessel is found abandoned within The Bahamas, then, unless the master or agent thereof satisfies the Comptroller that all the provisions of this Act in relation to the aircraft or vessel and its cargo and stores have been complied with, the aircraft or vessel and its cargo and stores shall be liable to forfeiture.

(3) Any master or agent who contravenes subsection (1), commits an offence.

PART III UNLOADING AND REMOVAL OF CARGO

Unloading of
goods.

16. (1) Subject to this Act, no goods shall, save in accordance with any conditions which the proper officer may impose, be unloaded or removed from any aircraft or vessel arriving from a foreign place —

- (a) unless such goods have first been duly entered;
- (b) except at a proper place of unloading, sufferance wharf, or transit shed;
- (c) except into another vessel in order to be landed, in which case the goods shall be taken directly to and landed without delay at a proper place of unloading or at a sufferance wharf.

(2) All imported goods which have been unloaded or landed in accordance with subsection (1), shall be conveyed to a customs area and, if the proper officer so requires, shall be deposited in a transit shed, or, if the proper officer considers the goods to be unsuitable for storage in a transit shed, in such other place as the proper officer may direct, which place shall, for the purpose of such deposit, be deemed to be a transit shed.

(3) No imported goods shall be removed from any part of a customs area unless such goods have first been duly reported and entered and authority for their removal or delivery has been given by the proper officer:

Provided that the proper officer may, if he considers it necessary, direct the agent of any aircraft or vessel from which goods have been landed into any transit shed to remove such goods to some other place (which other place shall, for such purpose, be deemed to be a transit shed) selected by such proper officer and, if the agent fails to remove the goods when called upon, the proper officer may have them removed at the risk and expense of such agent.

(4) All imported goods entered for warehousing shall be removed by the importer by such routes, in such manner, and within such time, as the proper officer may direct to the warehouse for which they were entered and shall be delivered into custody of the person in charge of the warehouse:

Provided that, if the proper officer so requires, the owner shall first enter into a bond for the due warehousing of the goods.

(5) Any person who contravenes any provision of this section, or any condition or direction imposed or given by the proper officer, commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

17. For the purpose of this Act, goods which have been unloaded and landed into a customs area shall be deemed to be in the importing aircraft or vessel until they are delivered from the customs area; and as long as such goods remain in the customs area the master of the aircraft or vessel shall be responsible under this Act as if the goods had not been removed from the aircraft or vessel.

Goods in customs area, etc., deemed in aircraft or vessel.

Goods reported
to be unloaded.

18. Where goods reported for discharge at a port are not duly unloaded and deposited in a customs area, the master or agent of the aircraft or vessel shall pay the duty thereon unless he explains, to the satisfaction of the proper officer, the failure to unload and deposit the goods.

**PART IV
ENTRY, EXAMINATION, AND
DELIVERY**

Entry of cargo.

19. (1) Save as otherwise provided in the customs laws, the whole of the cargo of any aircraft or vessel which is unloaded or is to be unloaded shall be entered by the owners within five days, exclusive of Sundays and public holidays, after the commencement of discharge, or within such further period as may be allowed by the proper officer, either for

- (a) home consumption;
- (b) warehousing; or
- (c) trans-shipment.

(2) Where an entry is delivered to the proper officer, the owner of the goods shall furnish therewith full particulars supported by documentary evidence of the goods referred to in the entry.

(3) Entries for goods to be unloaded may be delivered to the proper officer for checking before the arrival at the port of discharge of the aircraft or vessel in which the goods are imported; and in any such case the Comptroller may, in his discretion, permit the goods to be entered before the arrival of the aircraft or vessel.

(4) Where goods remain unentered at the expiration of the period permitted under subsection (1) and of such further period as may have been allowed by the proper officer, then the goods shall, if the proper officer so requires, be removed to a customs warehouse by or at the expense of the agent of the aircraft or vessel in which the goods were imported.

Surplus stores
may be entered.

20. The surplus stores of any aircraft or vessel may, with the permission of the proper officer, be entered for home consumption or for warehousing:

Provided that if such stores are prohibited or restricted goods, such stores may only be entered for warehousing and shall not be further entered or removed from the warehouse otherwise than for exportation.

21. (1) Notwithstanding sections 16 and 19 —

Provisions relating to mail, personal baggage, etc.

- (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 the passengers, or members of the crew, of any aircraft or vessel may, subject to any regulations, be unloaded and delivered to such persons without entry;
- (c) the proper officer may permit the unloading and delivery to the owner of any bullion, currency notes, coin, or perishable goods, without entry subject to an undertaking being given by such owner to furnish the necessary entry within five days of the time of delivery.

33 of 2009, s. 2.

39 of 1999, s. 2.

(2) Any owner who contravenes an undertaking given under subsection (1)(c), commits an offence and shall on summary conviction therefor be liable to a fine of five hundred dollars.

22. (1) Where, for lack of sufficient documents or information, the owner of goods is unable to furnish full particulars of them for the purpose of making perfect entry, he shall make and subscribe a declaration to that effect on the prescribed bill of sight entry form.

Entry in absence of documents, etc.

(2) Where the information required to make perfect entry is obtainable by examination of the goods —

- (a) the bill of sight shall be delivered to the proper officer and upon being signed by him shall be the warrant for the landing of the goods and for their examination by the owner in the presence of the proper officer;
- (b) the owner shall endorse upon the bill of sight the details of his examination and shall within three days after the landing of the goods or within such further period as the proper officer may permit, deliver to the proper officer a perfect entry of the goods together with the bill of sight relating thereto and the goods shall be dealt with according to such perfect entry and may be delivered or warehoused as the case may be.

(3) Where the information required to make perfect entry is not obtainable by examination of the goods or any document necessary to make perfect entry is not immediately available, then —

- (a) the owner shall deliver the bill of sight to the proper officer, who may, in the case of goods entered for home consumption, require the owner to deposit, in addition to the amount estimated as the duty on such goods, such further sum as the proper officer may think fit; and such estimated duty and further sum shall be held as a deposit;
- (b) the bill of sight shall be deemed to be a provisional entry and the goods relating thereto shall be dealt with according to such provisional entry and may be delivered or warehoused as the case may be;
- (c) where the goods are provisionally entered for home consumption, the deposit made in accordance with subparagraph (a) shall be forfeited unless the owner within three months of the date of the provisional entry, or within such further period as the Comptroller may allow, produces to the proper officer the information or documents requisite to the making of a perfect entry in respect of such goods and makes perfect entry thereof;
- (d) where the owner makes perfect entry in accordance with the provisions of subparagraph (c), then —
 - (i) if the amount of the deposit is more than the full amount of the duty, the difference shall be refunded to the owner and the balance brought to account as duty;
 - (ii) if the amount of the deposit is equal to or less than the full amount of the duty, the deposit shall be brought to account as duty and the difference, if any, shall thereupon be paid by the owner to the proper officer.

PART V
BONDED WAREHOUSES

23. (1) The Minister may on application by the owner of any building or the occupier of any building with the consent of the owner, by notice in the *Gazette*, appoint such building either as —

Appointment of bonded warehouses.

- (a) a general bonded warehouse, for the warehousing of goods generally; or
- (b) a private bonded warehouse, for the warehousing only of goods which are the property of the warehouse keeper.

(2) The Minister may also appoint, by notice in the *Gazette*, any building to be a Government bonded warehouse for the warehousing of goods generally.

(3) The Minister may refuse to appoint any building as a bonded warehouse and may, at any time, revoke any appointment which has been made.

(4) All buildings appointed as bonded warehouses at the commencement of this Act shall be deemed, according to the terms of such appointments, to have been duly appointed under this Act.

(5) Any person who uses a building or permits it to be used as a bonded warehouse without such building having been appointed as a bonded warehouse under this section, commits an offence and shall on summary conviction therefor be liable to a fine of one thousand dollars.

24. (1) No warehousing business shall be carried on in an appointed bonded warehouse except by a warehouse keeper licensed under this section.

Bonded warehouse keeper's licence.

(2) The person proposing to carry on the business of a warehouse keeper in respect to a building which has been appointed as a bonded warehouse shall apply to, and obtain from, the Comptroller a bonded warehouse keeper's licence.

(3) Every bonded warehouse keeper's licence shall be in the prescribed form and shall be subject to the payment of the prescribed annual fee and shall expire on the thirty-first December in each year.

(4) The Comptroller may require the person applying for a licence to furnish such security as the Comptroller may think appropriate as a condition to the grant of the

licence; and the Comptroller may, at any time, require a warehouse keeper to furnish a new security in a different amount or on different terms.

(5) The Comptroller may, at any time, require a warehouse keeper to make such alterations or additions to the bonded warehouse as the Comptroller may consider necessary to ensure the proper security of warehousing of any goods.

(6) Any warehouse keeper who uses his bonded warehouse or permits it to be used in contravention of any of the terms of his licence, commits an offence.

Procedure on
revocation of
appointment or
expiry of licence.

25. (1) When the Minister revokes an appointment under section 23, the Comptroller shall cause a notice of revocation to be served on the warehouse keeper, and service on the warehouse keeper shall be deemed to be service on all owners of goods warehoused in the warehouse concerned.

(2) Where a warehouse keeper proposes not to renew his warehouse keeper's licence in relation to any bonded warehouse, he shall cause notice of his intention to be given to the owners of all goods warehoused therein.

(3) Where the appointment of a bonded warehouse is revoked or the warehouse keeper's licence in relation thereto is not renewed, all goods warehoused therein shall, within such time as the Comptroller may direct, be entered and delivered for home consumption, or removal to another bonded warehouse, or for exportation as the case may be.

(4) Where goods have not been entered and delivered in accordance with subsection (3), the proper officer may cause them to be taken to a customs warehouse and thereupon the goods shall be dealt with in accordance with section 43.

Provisions
relating to
Government
bonded
warehouses.

26. Except for the requirements of licensing and the furnishing of security, the provisions of this Act relating to licensed bonded warehouses apply with the necessary modifications to Government bonded warehouses.

Provisions
relating to goods
in Government
bonded
warehouses.

27. (1) Where goods are deposited in a Government bonded warehouse, the goods shall be subject to such rent and other charges as are prescribed by or under this Act;

and, if the rent or charges are not paid to the proper officer when lawfully demanded, the goods in respect of which the rent or charges are due may be sold and the proceeds thereof applied in accordance with section 43.

(2) Where goods are deposited in a Government bonded warehouse, the proper officer may —

- (a) remove them, at the expense of the Government, from that warehouse to another Government bonded warehouse;
- (b) upon giving the owner notice of not less than twenty-four hours save where immediate action is necessary, perform, in relation to the goods and at the expense of the owner thereof, all such acts as he may consider reasonably necessary for the proper custody and preservation of such goods;
- (c) by notice inform the owners of the goods that he proposes to close the warehouse at the end of such period, not being less than three months from the date of service of the notice, as may be specified in the notice; and in any such case the notice shall specify the manner in which the goods shall be dealt with on the warehouse being closed.

28. (1) The proper officer shall at any time have access to any part of the bonded warehouse and may examine any goods therein; and for the purpose of obtaining such access he may break open the warehouse or any part thereof, or any adjacent premises.

Access to
warehouse.

(2) No person, other than the proper officer or the warehouse keeper or any employee of the warehouse keeper duly authorised in that behalf, shall open any bonded warehouse or gain access to any goods therein save with the approval of the proper officer; and any person who contravenes this subsection, commits an offence and shall on summary conviction therefor be liable to a fine of one thousand dollars.

(3) No person shall enter a bonded warehouse, or any part thereof, contrary to the orders of a proper officer or shall refuse to leave any bonded warehouse, or part thereof, when directed to do so by the proper officer; and any person who contravenes this subsection, commits an offence and shall on summary conviction therefor be liable to a fine of two hundred dollars.

PART VI
WAREHOUSING PROCEDURE

Dutiable goods
may be
warehoused.

29. (1) Subject to this Act, dutiable goods may on first importation be warehoused in a bonded warehouse without payment of duty.

(2) On or as soon as practicable after the landing of goods to be warehoused, the proper officer shall take and enter into a book a particular account of the goods and the account shall, subject to sections 33 and 38, be that upon which the duties in respect of such goods shall be ascertained and paid.

Procedure on
warehousing.

30. (1) Where goods entered to be warehoused are delivered into the custody of the person in charge of a warehouse, the proper officer shall, save where the Comptroller otherwise directs, take a particular account of the goods, whether or not any account thereof has been previously taken.

(2) The proper officer shall, in taking account of the goods, enter in the book for that purpose the name of the aircraft or vessel in which the goods were imported or, in the case of postal articles, the parcel post reference, the name of the owner of the goods, the number of packages, the mark and number of each package, and the value and particulars of the goods.

(3) After the account has been taken and the goods deposited in the warehouse in accordance with the directions of the proper officer, the officer shall certify at the foot of the account that the entry and the warehousing of the goods is complete; whereupon the goods shall be deemed to have been duly warehoused and any security entered into for the warehousing of the goods may, in respect of such goods, be discharged.

(4) Subject to section 35, all goods entered to be warehoused shall forthwith be removed to the warehouse for which they are entered and deposited therein.

(5) The owner of any warehoused goods shall mark the packages or lots thereof in such manner as the proper officer may direct and shall, subject to any further such direction, keep them so marked while they are warehoused.

(6) Any person who contravenes subsection (4) or (5) commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

31. (1) Where goods entered to be warehoused are not duly warehoused by the owner, the proper officer may cause the goods to be removed to the warehouse for which they were entered.

Removal to warehouse of goods entered therefor.

(2) Where goods are removed in accordance with subsection (1) to a bonded warehouse, the warehouse keeper shall pay the cost of their removal and shall have a lien on them for such cost.

32. (1) Where goods are warehoused, the Comptroller may, subject to such conditions as he may impose —

Operations in a warehouse.

- (a) permit the goods to be inspected, bulked, sorted, lotted, packed or repacked within the warehouse;
- (b) permit samples of the goods to be taken by the owner;
- (c) permit the name of the owner of the goods in the account taken under section 29 to be changed if application therefor is made on the prescribed form and signed by both the owner and the intended owner;
- (d) permit the assembly or manufacture in the warehouse of any article consisting wholly or partly of the goods; and for this purpose the Comptroller may permit the receipt in a warehouse of duty free or locally produced articles required as components of the article to be so assembled or manufactured therein:

Provided that where the finished article is entered for home consumption, duty shall be paid on the goods forming part thereof according to the first account thereof taken upon the warehousing of the goods.

(2) Any person who contravenes any condition imposed by the Comptroller under this section, commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

33. The proper officer may, either on the direction of the Comptroller or on the application and at the expense of the owner —

Regauging and revaluation.

- (a) regauge, remeasure, reweigh, examine, or take stock of, any warehoused goods;
- (b) revalue any warehoused goods liable to duty *ad valorem* which have deteriorated in quality,

and in either case the duty on the goods shall be payable according to the result, unless the proper officer considers that any loss or deterioration is excessive or has been wilfully or negligently caused, in either of which events the duty shall, subject to such reduction, if any, as the Comptroller may allow, be payable according to the original account.

Delivery from warehouse in special circumstances.

34. (1) The Comptroller may, subject to such conditions as he may impose and to the giving of such security as he may think appropriate for the due return thereof or the payment of duties thereon, permit goods to be removed from any warehouse without payment of the duty for such purpose and period, and in such quantities, as he may think fit.

(2) Any person who contravenes any condition imposed under subsection (1), commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

Entry of warehoused goods.

35. (1) Goods which have been warehoused may be entered either for —

- (a) home consumption;
- (b) exportation;
- (c) removal to another warehouse;
- (d) use as stores for aircraft or vessels; or
- (e) rewarehousing.

(2) Where goods have been entered for warehousing, they may, before they are actually warehoused, be entered for home consumption, exportation, removal to another warehouse, or for use as stores for aircraft or vessels; and in any such case the goods shall be deemed to have been so warehoused and may accordingly be delivered for home consumption, exportation, removal to another warehouse, or for use as stores for aircraft or vessels, as the case may be, as if they had been actually so warehoused.

Removal to another warehouse.

36. (1) Where warehoused goods are to be removed to another warehouse, the proper officer —

- (a) shall require the owner of the goods to deliver an

entry thereof in such form and manner as the proper officer may direct;

- (b) shall require the owner to give security in such amount, not being less than the duty chargeable on such goods, as the proper officer may think fit for the due arrival and rewarehousing of the goods within such time as the proper officer may consider appropriate; and
- (c) shall transmit to the proper officer of the place where the goods are to be rewarehoused an account containing the particulars of the goods.

(2) The security given under this section shall not be discharged unless —

- (a) the conditions attaching thereto have been satisfied;
- (b) the full duty payable on the goods has been paid in accordance with the customs laws; or
- (c) the goods are otherwise accounted for to the satisfaction of the proper officer, and any duties due in respect of any deficiency in the goods not so accounted for has been paid.

(3) On the arrival of the goods at the other warehouse, they shall be rehoused in the same manner as if they were being warehoused on first importation.

37. (1) Where warehoused goods have been entered for exportation or for use as stores for an aircraft or vessel proceeding to a foreign place, they may be delivered for that purpose but no warehoused goods shall be entered or delivered —

Warehoused goods may be delivered for exportation or use as stores.

- (a) for exportation in a light aircraft or a vessel of less than ten tons register; or
- (b) for use as stores for a light aircraft or a vessel of less than five hundred tons register.

(2) Where warehoused goods are delivered for exportation or for the purpose of being used as stores for an aircraft or vessel, they shall forthwith be put on board the aircraft or vessel for which they are entered.

(3) Any person who deals with warehoused goods contrary to this section, commits an offence and the goods shall be liable to forfeiture.

Deficiencies on
delivery of
warehoused
goods.

38. (1) The proper officer may examine and take stock of any warehoused goods which are delivered for home consumption, exportation, removal to another warehouse, or for use as stores for aircraft or vessels, or are to be rewarehoused or sold under section 39.

(2) Where there is any deficiency between the quantity shown by the warehouse account and that ascertained pursuant to the examination of the proper officer, then, if the proper officer considers —

- (a) that the deficiency is not excessive or that it was not wilfully or negligently caused, he may allow the deficiency and direct that the duty on the goods shall be payable, or that the rewarehousing entry shall be made, on the basis of the result of his examination;
- (b) that the deficiency is excessive or that it was wilfully or negligently caused, he shall require the duty on the goods to be paid by the owner, according to the warehouse account:

Provided that —

- (i) where the goods are to be rewarehoused, the duty on the deficiency shall be forthwith paid by the owner of the goods and the rewarehousing entry shall be made according to the result of the examination;
- (ii) where the goods were warehoused in a bonded warehouse and are to be sold under section 39, the duty on the deficiency shall be forthwith paid by the warehouse keeper.

Period of
warehousing and
sale of goods.

39. (1) All warehoused goods which have not been removed from a warehouse in accordance with this Act within two years of the date on which they were warehoused, shall be entered for rewarehousing.

(2) Where goods required to be rewarehoused under subsection (1) are not so rewarehoused, then they shall be sold by public auction and the proceeds of sale thereof disposed of in the manner prescribed in section 43.

Abandonment,
etc., of
warehoused
goods.

40. (1) The Comptroller may, subject to such conditions as he may see fit to impose —

- (a) permit the owner of warehoused goods to abandon the goods to the Customs;

- (b) permit the owner to destroy the goods if, in the opinion of the proper officer, they are not worth the duty payable thereon or have become damaged, or are surplus, by reason of any operations in connection therewith carried out under section 32; and in either case the duty on the goods shall be remitted.
- (2) Where under subsection (1) warehoused goods —
 - (a) are abandoned to the Customs, then they may, at the expense of the owner, be destroyed or otherwise disposed of in such a manner as the Comptroller may direct;
 - (b) in a Government bonded warehouse are permitted to be destroyed, the owner of the goods shall nevertheless be liable to pay to the proper officer the rent and other charges due on them.

41. Where any goods remain in a warehouse for a period of more than fourteen days after they have been entered for delivery therefrom or after they have been sold in accordance with this Act, then they shall, unless the Comptroller in any special case otherwise directs, be forfeited and may be destroyed or otherwise disposed of in such manner as the Comptroller may direct.

Goods remaining in warehouse after entry, etc.

- 42.** Any person who —
- (a) takes, or causes or permits to be taken, goods from any warehouse otherwise than in accordance with this Act; or
 - (b) wilfully destroys or damages any warehoused goods otherwise than in circumstances provided for in this Act,

Penalty for unlawfully taking, etc., warehoused goods.

commits an offence and shall on summary conviction therefor be liable to imprisonment for a term of two years, or to a fine of two thousand dollars or to both.

**PART VII
PROVISIONS RELATING TO
CUSTOMS WAREHOUSES**

43. (1) Where goods deposited in a customs warehouse are not lawfully removed within two months after deposit, they may be sold by public auction after one month's notice in the *Gazette*:

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

Provided that goods which are of a perishable nature, may be sold by the proper officer without notice, either by public auction or otherwise, at any time after deposit in the customs warehouse.

(2) Where goods are deposited in a customs warehouse, their storage shall be subject to such rent and other charges as may be prescribed.

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

- (a) the duties, if any;
- (b) the expenses of removal and sale;
- (c) the rent and charges due to the Customs;
- (d) the port charges; and
- (e) the freight and any other charges.

(4) If, after the proceeds of sale have been applied in accordance with subsection (3), there is a balance, the balance shall —

- (a) if the goods were prohibited or restricted goods in relation to which there had been a contravention or if no application for the balance is made as provided for in paragraph (b) hereof, be paid into the customs revenue;
- (b) in any other case, be paid to the owner of the goods if he makes application therefor within one month of the date of the sale.

(5) Where goods offered for sale in accordance with this section cannot be sold for a sum sufficient to cover the charges referred to in subsection (3), they may be destroyed or disposed of in such manner as the Comptroller may direct.

(6) Any customs officer having the custody of goods in a customs warehouse, or place of deposit deemed to be a customs warehouse, may refuse delivery therefrom until he is satisfied that all duties, expenses, rent, freight and other charges due in respect of them have been paid.

Goods deemed to be in a customs warehouse.

44. (1) Where under this Act goods are required to be deposited in a customs warehouse, the proper officer may, in his discretion, decide that it is undesirable or inconvenient to deposit them in a customs warehouse and direct

that they be deposited in some other place; and thereupon the goods shall for all purposes be deemed to have been deposited in a customs warehouse as from the time that they are required to be so deposited.

(2) The owner of any goods deemed to have been deposited in a customs warehouse, shall, in addition to any rent or other charges referred to in section 43(2), be liable to pay such expenses incurred in the securing, guarding, and removing of the goods as the proper officer may consider reasonable, and neither the Comptroller nor any customs officer shall be liable for the loss of or damage to the goods occasioned by reason of being so deposited and dealt with.

PART VIII PROHIBITED AND RESTRICTED IMPORTS

45. (1) The goods specified in Head A of the First Schedule are prohibited goods and the importation thereof is prohibited.

Prohibited and restricted goods. First Schedule.

(2) The goods specified in Head B of the First Schedule are restricted goods and the importation thereof, save in accordance with the conditions of the relevant restriction, is prohibited.

(3) Subsections (1) and (2) shall not, save where expressly provided in the First Schedule to the contrary, apply to goods imported in transit, or for trans-shipment or as stores of any aircraft or vessel, but such goods shall be duly re-exported within such time as the Comptroller may specify; and if they are not so re-exported, then, as from the last date on which they should have been so re-exported, they shall be deemed to be prohibited or restricted goods, as the case may be, and to have been imported on that date.

46. (1) The Minister may, by order published in the *Gazette*, amend the First Schedule.

Power to prohibit, etc., imports. First Schedule.

(2) An order made under this section may specify goods, or any class of goods, either generally or in any particular manner and may prohibit or restrict the importation thereof from all places or from any particular country or place.

PART IX
ENTRY OUTWARDS AND LOADING
OF AIRCRAFT AND VESSELS

Entry outwards
of vessels.

47. (1) The master or agent of every vessel in which goods are to be exported shall make entry outwards of such vessel to the proper officer in such manner and form as may be prescribed; and save with the permission of the proper officer —

- (a) no such entry outwards of a vessel shall be made before the whole of the cargo reported in such vessel for discharge has been discharged;
- (b) no goods shall be loaded on such vessel before such entry outwards is made.

(2) Any master or agent who permits any goods to be loaded contrary to subsection (1), commits an offence.

Loading, etc.

48. (1) Subject to this Act, save with the written permission of the proper officer and subject to such conditions as he may impose —

- (a) no goods shall be put on board an aircraft or vessel departing to a foreign place unless the goods have first been duly entered;
- (b) no goods shall be put on board an aircraft or vessel departing to a foreign place except from an approved place of loading or from a sufferance wharf or from a vessel on to which they have been loaded for the purpose of being transferred on to the aircraft or vessel;
- (c) no goods shall be put on board any vessel departing to a foreign place before entry outwards of such vessel;
- (d) all goods put on board any vessel to be loaded on to any aircraft or other vessel departing to a foreign place shall be so loaded within the limits of the port.

(2) Any person who contravenes any provision of this section or any condition which may have been imposed by the proper officer, commits an offence; and any goods in respect of which the offence is committed shall be liable to forfeiture.

49. (1) Notwithstanding section 48, the proper officer may permit —

Goods which may be loaded without entry.

- (a) goods which are the *bona fide* personal baggage of the passengers, or members of the crew, of an aircraft or vessel to be put on board the aircraft or vessel and exported without entry;
- (b) goods intended for sale or delivery to passengers or members of the crew of an aircraft or vessel to be put on board the aircraft or vessel without entry, subject to such conditions as he may impose;
- (c) mail bags and postal articles in the course of transmission by post to be put on board and exported without entry;
- (d) goods to be put on board any aircraft or vessel departing to a foreign place without entry subject —
 - (i) to an application being made by the owner in such manner and form as may be prescribed;
 - (ii) to an undertaking being given by the owner of such goods to furnish the necessary entry within ninety-six hours of the departure of the aircraft or vessel or such further time as the proper officer may specify; and
 - (iii) to such security, if any, being given by such owner for the due payment of any export duties as the proper officer may consider appropriate.

(2) Any person who —

- (a) contravenes any condition imposed under subsection (1)(b); or
- (b) contravenes any undertaking given under subsection (1)(d)(ii),

commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

50. (1) No goods which have been put on board any aircraft or vessel for export, or for use as stores, or as passengers' baggage, shall, save with the written permission of the proper officer and in accordance with such conditions as he may impose, be discharged at any place within The Bahamas.

Goods for export not to be discharged.

(2) Any person who contravenes this section, or any condition imposed by the proper officer, commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

Provisions
relating to export
of certain goods.

51. (1) Before —

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

may be entered for exportation, trans-shipment, or for use as stores for aircraft or vessels, 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 vessel 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 vessels, 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 vessel 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 duly 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 —

- (a) are short-shipped, the owner thereof shall so notify the proper officer within twenty-four

hours, or such further time as the proper officer may allow, of the departure of the aircraft or vessel;

- (b) have been removed from a warehouse for delivery on board an aircraft or vessel but are not put on board the aircraft or vessel, the owner thereof shall forthwith enter the goods for warehousing, or for exportation, or for use as stores for aircraft or vessels.

(5) The owner of bonded goods which are brought to be put on board an aircraft or vessel 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,

commits an offence; and any goods in respect of which the offence is committed shall be liable to forfeiture.

(6) Any owner who —

- (a) contravenes any condition imposed on him under this section in respect of any bonded goods; or
- (b) contravenes subsection (4),

commits an offence and any goods in respect of which the offence is committed shall be liable to forfeiture.

(7) Any master who contravenes, or causes or permits the contravention of, subsection (2), commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

52. (1) Subject to this Act, a proper officer may, on application being made to him in such manner and form as may be prescribed by the master or agent of an aircraft or vessel departing to a foreign place, permit any goods, other than bonded goods, to be put on board any such aircraft or vessel for use as stores subject to such conditions as he may think fit.

Stores for aircraft and vessels.

(2) Any person who puts, or causes or permits to be put, goods on board an aircraft or vessel for use as stores in contravention of this section, or of any condition imposed by the proper officer, commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

Short-shipment
of non-bonded
goods.

53. (1) Where goods, other than bonded goods, are entered for exportation and are not exported in the aircraft or vessel for which they were so entered or are short-shipped, the owner thereof shall so notify a proper officer within forty-eight hours of the departure of the aircraft or vessel or within such further time as the proper officer may allow.

(2) Any owner who contravenes this section commits an offence and shall on summary conviction therefor be liable to a fine of one hundred dollars.

Goods liable to
export duty.

54. (1) Where goods are liable on export to duty, the amount of the duty shall be stated on the export entry of the goods.

(2) No goods liable on export to duty shall be exported until the export duty has been paid or security therefor given to the satisfaction of the proper officer.

(3) Where goods liable on export to duty are brought to be put on board an aircraft or vessel, 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 owner of the goods commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

PART X GOODS FOR TRANS-SHIPMENT

Trans-shipment.

55. (1) Subject to this Act, and to the furnishing of such security as the proper officer may require, goods may be trans-shipped from the aircraft or vessel in which they are imported, either —

- (a) directly to the aircraft or vessel in which they are to be exported; or
- (b) with the permission of the proper officer and subject to such conditions as he may impose, to another aircraft or vessel and thence to the aircraft or vessel in which such goods are to be exported.

(2) Any person who fails to comply with a condition imposed by the proper officer under this section, commits an offence; and any goods in respect of which the offence is committed shall be liable to forfeiture.

(3) No security shall be required in respect of the trans-shipment of any goods from the Freeport Container Port situated on the island of Grand Bahama and appointed as a port under the Act.

4 of 1998, s. 2.

(4) No security shall be required in respect of the trans-shipment of any crude oil from The Bahamas by the Bahamas Industrial Company Limited pursuant to section 4 of the Bahamas Industrial Company Limited (Exemption from Taxation) Act, 1975.

7 of 1975.

PART XI DEPARTURE AND CLEARANCE OF AIRCRAFT AND VESSELS

56. (1) No aircraft or vessel, whether laden or in ballast, shall depart from any place in The Bahamas to any foreign place unless a certificate of clearance has been granted in respect of such aircraft or vessel:

Clearance
required for
departure to
foreign port.

Provided that the Minister may, by regulations, and subject to such conditions as he may impose, dispense with the requirements of this section and of section 57 in respect of such descriptions of vessels as he may specify when such vessels are engaged in a voyage for pleasure and recreation only and are not carrying cargo.

(2) The master or agent of any vessel or aircraft which departs from any place in The Bahamas in contravention of subsection (1) commits an offence and shall, on summary conviction therefor, be liable to a fine of ten thousand dollars.

57. (1) The master or agent of every aircraft or vessel, whether laden or in ballast, proposing to depart to any foreign place shall apply to the proper officer for a certificate of clearance.

Grant of
clearance.

(2) Where application for a certificate of clearance is made, the proper officer shall not grant such certificate until he is satisfied that all the provisions of this Act and of any other law relating to the aircraft or vessel, its cargo, stores, baggage, crew, and passengers, have been complied with.

(3) Where the master or agent of an aircraft or vessel makes application for a certificate of clearance, he shall at the same time —

- (a) deliver to the proper officer an outward manifest in such manner and form as may be prescribed;
- (b) produce to the proper officer all documents relating to the aircraft or vessel, its cargo, stores, baggage, crew and passengers which the proper officer may require for the purposes of this Act;
- (c) answer all questions which the proper officer may for the purposes of this Act ask relating to such aircraft or vessel, its cargo, stores, baggage, crew and passengers.

(4) Notwithstanding subsection (3), where the master or agent of a vessel of five hundred tons register or more makes application for a certificate of clearance, the proper officer may grant clearance subject to an undertaking by the master or agent to deliver to the proper officer, within twenty-four hours of the grant of the certificate of clearance, the outward manifest of the vessel in such manner and form as may be prescribed, and to answer all questions which he may be asked relating to the vessel, its cargo, stores, baggage, crew and passengers.

(5) Where any aircraft or vessel in ballast is due to depart to a foreign place, then the aircraft or vessel shall be cleared in ballast, that is to say, the words “in ballast” shall be written in those parts of the forms relating to the aircraft or vessel which contain provisions for the particulars of its cargo; and for the purpose of this subsection, an aircraft or vessel shall be deemed to be in ballast when the aircraft or vessel carries, in addition to the crew and its stores, only passengers and their *bona fide* personal baggage, or, where the vessel is a fishing vessel, only the gear and tackle necessary for a fishing voyage.

(6) The proper officer may permit the master or agent of an aircraft or vessel to amend any error or omission in the outward manifest, which, in the opinion of the proper officer was the result of inadvertence, by furnishing an amended or supplementary outward manifest in such manner as may be prescribed.

(7) Where a certificate of clearance has been granted but the aircraft or vessel in respect of which it was granted has not left the limits of the port in which it was granted, then the proper officer may inform, either orally or in writing, the master of the aircraft or vessel that the certificate of clearance has been cancelled and may require the return of such certificate, and thereupon the certificate shall be deemed not to have been granted.

(8) Any master or agent who contravenes any provision of any undertaking given under subsection (4) or who refuses to return a certificate of clearance when required to do so under subsection (7), commits an offence.

58. (1) Any proper officer may board any aircraft or vessel within the territorial limits of The Bahamas after clearance and require the master thereof to produce the certificate of clearance for the purposes of this Act, and to answer any questions relating to such aircraft or vessel, its cargo, stores, baggage, crew, and passengers.

Clearance to be produced.

(2) The master of any aircraft or vessel who, on demand, fails to produce the certificate of clearance commits an offence.

59. (1) Where, on any aircraft or vessel being boarded by a proper officer, any goods or stores the particulars of which are not shown in the manifest of the aircraft or vessel, are found on the aircraft or vessel, the master thereof commits an offence; and the goods in respect of which the offence is committed shall be liable to forfeiture.

Deficiency or surplus in cargo or stores.

(2) Where, on any aircraft or vessel being boarded by the proper officer, any goods which were reported on the arrival of the aircraft or vessel as remaining on board for other ports in The Bahamas, or for re-exportation, or as stores, or which after arrival were put on board for removal under bond to another port in The Bahamas, or for exportation or use as stores, are not on board, due allowance being made in the case of stores for any goods, which might fairly have been consumed or used, then the master of the aircraft or vessel commits an offence.

60. (1) The master of every aircraft or vessel departing to a foreign place shall bring to at the boarding station for the purpose of disembarking any customs officer on board the aircraft or vessel, or for any other purpose of this Act, or when required so to do by the proper officer.

Aircraft or vessel to bring to at boarding station.

(2) Any master of an aircraft or vessel who contravenes any provision of this section commits an offence.

**PART XII
PROHIBITED AND RESTRICTED
EXPORTS**

Prohibited and
restricted goods.
Second Schedule.

61. (1) The goods specified in Head A of the Second Schedule are prohibited goods, and the exportation thereof is prohibited

(2) The goods specified in Head B of the Second Schedule are restricted goods, and the exportation thereof is prohibited save in accordance with any conditions regulating their exportation.

(3) Subsections (1) and (2) shall not, save where expressly provided in the Second Schedule to the contrary, apply to goods in transit, or for trans-shipment, or exported as stores of any aircraft or vessel, but such goods shall be duly re-exported within such time as the Comptroller may specify, and if they are not so re-exported, then, as from the last date on which they should have been so re-exported, they shall be deemed to be prohibited, or restricted, goods as the case may be.

Power to
prohibit, etc.,
exports.

62. (1) The Minister may, by order published in the *Gazette*, amend the Second Schedule.

(2) Any order made under this section may specify goods, or any class of goods, either generally or in any particular manner and may prohibit or restrict the exportation thereof either generally or specifically to any country or place.

**PART XIII
COASTING TRADE**

Meaning of
carriage
coastwise.

63. (1) Any voyage by an aircraft or vessel whether laden or in ballast, from any part of The Bahamas to any other part thereof shall be deemed to be a coastwise voyage.

(2) All goods conveyed by air or by sea from any part of The Bahamas to any other part thereof shall be deemed to be carried coastwise.

(3) Any aircraft or vessel engaged in a coastwise voyage shall be deemed to be a coasting aircraft or vessel, as the case may be.

64. (1) Where an aircraft or vessel arrives in The Bahamas from a foreign place, the proper officer may permit the aircraft or vessel to carry goods coastwise, provided that such goods are separated to the satisfaction of the proper officer from the remainder of the cargo, if any, of the aircraft or vessel.

Carriage coastwise in vessel from foreign place.

(2) Where under this section the proper officer permits any aircraft or vessel arriving in The Bahamas from a foreign place to convey goods from one port in The Bahamas to another port therein, such aircraft or vessel shall not, by virtue thereof, be deemed to be a coasting aircraft or vessel within the meaning of this Act.

(3) Where goods are carried coastwise under this section, the loading, unloading, and delivery thereof shall be subject to any regulations and to such conditions as the Comptroller may impose.

65. (1) Subject to this Act, save within the written permission of the proper officer and subject to such conditions as he may impose —

Loading and unloading of coastwise cargo.

(a) no goods for carriage coastwise shall be unloaded from or loaded on to an aircraft or vessel except at a proper place of loading or at a sufferance wharf, or on to or from another vessel used for the purpose of carrying goods between the aircraft or vessel and a proper place of loading or a sufferance wharf;

(b) all goods which have been unloaded or landed shall be conveyed to a customs area and, if the proper officer so requires, shall be deposited in a transit shed.

(2) Any person who contravenes any provision of this section, or any condition imposed by the proper officer, commits an offence and shall on summary conviction therefor be liable to a fine of one thousand dollars; and the goods in respect of which the offence is committed shall be liable to forfeiture and the coasting aircraft or coasting vessel in relation to which the offence is committed may be seized and detained until the fine is paid.

66. (1) No coasting aircraft or coasting vessel which is carrying goods coastwise in accordance with section 64 shall depart from any port or place within The Bahamas unless transire has been granted by the proper officer.

Transire required for departure coastwise.

(2) The master or agent of any aircraft or vessel to which subsection (1) applies proposing to depart coastwise shall deliver to the customs officer an account in triplicate on the prescribed form containing the particulars of all cargo taken on board for carriage coastwise; and the original thereof, dated and signed by the proper officer, shall constitute the grant of transire for the carriage of the goods specified therein and shall, in the case of a coasting aircraft or coasting vessel, be the certificate of clearance for such aircraft or vessel for the coastwise voyage.

(3) Any master or agent who contravenes any provision of this section, or who delivers an account which is false or incorrect in any material particular, commits an offence and shall on summary conviction therefor be liable to a fine of one thousand dollars and the coasting aircraft or coasting vessel in relation to which the offence is committed may be seized and detained until the fine is paid.

Transire to be delivered on arrival.

67. (1) The master of an aircraft or vessel arriving at any port or place within The Bahamas on a coastwise voyage —

- (a) shall forthwith deliver the transire to the proper officer of that port or place;
- (b) shall not, save with the permission of the proper officer and subject to such conditions as he may impose, permit any goods to be unloaded before the delivery of such transire.

(2) Any master who contravenes any provision of this section commits an offence and shall on summary conviction therefor be liable to a fine of one thousand dollars; and any goods in respect of which the offence is committed shall be liable to forfeiture, and the coasting aircraft or coasting vessel in relation to which the offence is committed may be seized and detained until the fine is paid.

Coasting vessel, etc., not to deviate from voyage.

68. The master of any coasting aircraft or coasting vessel —

- (a) which deviates from its voyage, unless forced to do so by circumstances beyond the control of the master, the proof whereof shall lie on the master; or

- (b) which, having deviated from its voyage or having taken on board any wreck or other goods or discharged any goods in the course of a voyage from one part of The Bahamas to another, does not forthwith proceed directly to the nearest port in The Bahamas and explain the circumstances thereof to the satisfaction of the proper officer and deliver any such wreck or other goods taken on board to the proper officer,

commits an offence; and any goods in respect of which the offence is committed shall be liable to forfeiture, and the aircraft or vessel in relation to which the offence is committed may be seized and detained until the fine is paid.

69. (1) The proper officer may go on board any coasting aircraft or coasting vessel in any port or place in The Bahamas, or at any period of the voyage of such aircraft or vessel, and search such aircraft or vessel and examine all goods on board such aircraft or vessel.

Examination of coasting vessel and goods.

(2) Where the proper officer goes on board a coasting aircraft or coasting vessel he may for the purposes of this Act require the master thereof to answer any questions concerning the aircraft or vessel, its cargo, stores, baggage, crew and passengers, and to produce any books and documents which are, or should be, on board the aircraft or vessel.

(3) The proper officer may examine any goods which have been unloaded from an aircraft or vessel after carriage coastwise or which are brought to be loaded on to an aircraft or vessel for carriage coastwise; and for the purposes of the examination the officer may require the owner of the goods to unpack or open them and to repack them at the expense of such owner.

- (4) A master who —
- (a) refuses to answer any questions lawfully put to him or to produce any books or documents required of him under this section; or
- (b) makes any false or incorrect reply to any such question, commits an offence and shall on summary conviction therefor be liable to a fine of five hundred dollars; and the aircraft or vessel in relation to which the offence is committed may be seized.

Power to prohibit, etc., carriage coastwise.

70. (1) The Minister may, by order published in the *Gazette*, provide that the carriage coastwise of any goods, or class of goods —

- (a) is prohibited, either generally or in relation to any area within The Bahamas, and thereupon such goods shall, for the purpose of carriage coastwise, be prohibited goods;
- (b) is prohibited, save in accordance with any conditions regulating their carriage coastwise either generally or in relation to any area within The Bahamas; and thereupon such goods shall, for the purpose of carriage coastwise, be restricted goods.

(2) Subject to this Act and to any order made under this section, where any goods are prohibited goods or restricted goods in relation to importation or exportation, they shall also be prohibited goods or restricted goods, as the case may be, in relation to carriage coastwise.

(3) Where, under the provisions of any law the carriage coastwise within The Bahamas of any goods is prohibited or restricted, then such goods shall be deemed to be prohibited goods or restricted goods, as the case may be, in relation to their carriage coastwise under this Act.

TITLE V IMPORTATION AND EXPORTATION BY POST

Entry of postal articles.

71. (1) Postal articles may be entered at such place and in such manner as the Minister 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.

72. All imported articles and postal articles intended for exportation shall, if the Comptroller so requires, be produced by an officer of the Post Office for examination either at the port of arrival in or departure from The Bahamas, as the case may be or at such other place in The Bahamas 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.

73. (1) When goods are imported in postal articles, 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.

Customs declaration forms may be accepted in lieu of entries.

(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.

74. Where a postal article, or any part of its contents is on examination found —

Postal articles imported or exported contrary to the customs laws. Ch. 300.

- (a) to be conveyed otherwise than in conformity with the Post Office Act;
- (b) 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; or
- (c) to consist of goods prohibited from being conveyed by post or from being imported or exported, as the case may be, or goods regulated by or under the customs laws 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.

75. The time of entry of any goods imported or exported by post shall —

Time of entry of postal articles.

- (a) in the case of goods imported for home consumption, be deemed to be the time when the duty thereon is assessed by the customs officer, except where actual entry is required; and
- (b) in the case of goods exported, be deemed to be the time of the posting of such goods.

**TITLE VI
DUTIES**

**PART I
LIABILITY TO DUTY**

Liability to duty.

76. (1) Subject to the customs laws, import duty shall be paid on the goods and at the rates and in the circumstances specified in the Tariff Act and in any other law enacted in respect of import duties.

Ch. 295.

(2) Subject to the customs laws, export duty shall be paid on the goods and at the rates and in the circumstances specified in any law enacted in respect of export duties.

Time of entry
determines rate
of duty.

77. (1) Subject to section 75 and to subsection (2), import duty shall be paid at the rate in force when the goods liable to such duty are entered for home consumption.

(2) Where, in accordance with section 19(3) goods are entered before the arrival, at the port of discharge, of the aircraft or vessel in which they are imported, the import duty upon them shall be paid at the rate in force at the time of the arrival of the aircraft or vessel at the port of discharge.

(3) Subject to section 75, export duty shall be paid at the rate in force at the time when the goods liable to such duty are entered for export.

Exemption from
duty of goods
remaining on
board.

78. Subject to the customs laws, goods remaining on board and exported in the aircraft or vessel in which they were imported, whether as stores or otherwise, shall be exempt from liability to import or export duties.

Exemption from
duty of goods
entered for
exportation, etc.

79. Subject to the customs laws, goods entered under bond for trans-shipment; and warehoused goods entered for exportation or for use as stores for any aircraft or vessel, and proved to the satisfaction of the Comptroller to have been duly shipped, exported or taken into use as stores, as the case may be, shall be exempt from liability to import duties.

Derelict goods,
etc., liable to
duty.

80. Goods brought or coming into The Bahamas, otherwise than as cargo, stores, or baggage carried in an aircraft or vessel, shall be liable to duty and to the customs

laws as if they were goods imported in the normal manner; and the country of origin of the goods, if in question, shall be deemed to be such country as the Comptroller may on investigation determine.

81. (1) Where goods which are liable to import duty and excise duty have been exported from and are subsequently re-imported into The Bahamas and were upon exportation produced to the proper officer at the place from which they were exported, then if the Comptroller is satisfied

Re-imported goods.
16 of 2008, Third Schedule.

- (a) that a certificate of export was issued by the proper officer in respect of the goods at the time of exportation and that on re-importation the goods have been satisfactorily identified as the same goods as those exported; and
- (b) that any import and excise duties to which the goods were liable prior to their exportation have been paid and either —
 - (i) no drawback of such duties was allowed on exportation; or
 - (ii) if allowed, such drawback has been repaid; and
- (c) that after being so exported, such goods have not been subjected to any process, or if subjected to any process, that their form or character has not been materially changed,

16 of 2008, Third Schedule.

the goods shall be exempt from liability to import duties and excise duty.

(2) Notwithstanding subsection (1), any re-imported goods —

16 of 2008, Third Schedule.

- (a) which are of the kind liable to duty *ad valorem*; and
- (b) which were, after exportation subject to any process, including repair,

shall on re-importation be chargeable with import duty and excise duty on the amount of the increase of value attributable to such process; and the increase of value shall be taken to be the cost and other charges of such process including repair together with the freight, insurance and all other charges involved in delivering the goods to the processor and in returning the goods to the importer.

16 of 2008, Third Schedule.

Exemption from import duty of temporary imports.
16 of 2008, Third Schedule.

16 of 2008, Third Schedule.

82. (1) Goods imported in accordance with this section for a temporary use or purpose may be wholly or partially exempted from liability to import and excise duties.

(2) The Minister may, by regulations —

(a) specify goods, or any class of goods, either generally or in any particular manner, which may be imported in accordance with this section;

(b) impose conditions to be fulfilled in respect of the importation or use of those goods;

(c) determine the period of time during which temporary importation shall be permitted and after which the goods shall be exported;

(d) specify, in cases of partial exemption from liability to import and excise duties, the proportion of the import and excise duties to which the goods are liable.

16 of 2008, Third Schedule.

16 of 2008, Third Schedule.

(3) Except where otherwise provided by regulation, no goods shall be exempt from liability to import and excise duties under this section unless the owner of the goods has deposited or given security for the amount of the import and excise duties to which the goods would otherwise be liable.

16 of 2008, Third Schedule.

(4) Where any condition of the importation of any goods has been contravened, the goods shall be liable to import and excise duty as from the date of their importation, and any deposit given under subsection (3) shall be brought to account as duty, or, if security therefor was given, the owner shall be required to pay duty; but if no condition has been contravened, then, on the exportation of the goods, the deposit shall be refunded or the security discharged, as the case may be.

Goods imported duty free liable to import duty on disposal.

83. (1) Where goods liable to import duty have been imported or taken out of bond free of import duty or at a reduced rate of import duty in accordance with any law relating to the Customs and are subsequently disposed of or treated in any manner inconsistent with the conditions or purposes for which they were granted relief from import duty, then, unless the Minister otherwise directs, they shall on such disposal or treatment be liable to import duty at the full rate applicable to goods of that class or description at the time of such disposal or treatment.

(2) Where it is proposed to dispose of goods to which subsection (1) applies, the person responsible for their disposal shall furnish the Comptroller with the particulars

of the proposed disposal and, unless the Minister otherwise directs, shall cause the import duty thereon to be paid.

(3) Where goods to which subsection (1) applies are disposed of or dealt with without payment of import duty to which they are liable, they shall be liable to forfeiture.

(4) Any person who knowingly disposes of or acquires any goods to which subsection (1) applies without the import duty having been paid in accordance with this section commits an offence.

PART II APPLICATION OF DUTIES

84. (1) Where any duty, or drawback, is imposed or allowed under the customs laws according to any specified weight or measure, such duty, charge or drawback shall be calculated according to the imperial weights and measures unless specific provision is made to the contrary.

Calculation of
duty, etc.
15 of 1983, s. 4.

(2) Where any duty, charge or drawback, is imposed or allowed under the customs laws according to any specified weight, measure, strength, or value, such duty, charge or drawback, shall be deemed to apply in the same proportion to any greater or less weight, measure, strength, or value, as the case may be, unless specific provision is made to the contrary in any customs law.

85. Where goods are imported or exported in a package which, in the opinion of the Comptroller —

Duty on package
in certain cases.

- (a) is not the normal or proper package for the goods; or
- (b) is designed for use, subsequently to importation or exportation, other than as a package for goods of the same or a similar nature,

then subject to any provision to the contrary in the customs laws, the package shall be liable to duty as if it were a separate article and shall, for all the purposes of the customs laws, be deemed to be a separate article.

86. The value of goods which on importation are liable to *ad valorem* duty shall be determined in accordance with the Third Schedule and any regulations made in relation thereto.

Determination of
ad valorem duty.
Third Schedule.

PART III
RECOVERY, REFUND, DRAWBACK,
REMISSION AND REBATE OF DUTY

Recovery of
duty.

87. (1) Without prejudice to any other provision of this Act, any amount due by way of duty may be sued for and recovered in the name of the Comptroller.

(2) Where an obligation has been incurred, whether by bond or otherwise for the payment of any duty, it shall be deemed to be an obligation to pay all duties which are or may become payable or recoverable under the customs laws.

Repayment of
sums overpaid.

88. In the collection and receipt of monies in respect of any duty, repayment of sums, being not less than five dollars, overpaid or paid in error may be made on proof to the satisfaction of the Comptroller that the same have been overpaid, or paid in error, provided that the claim to repayment and the evidence in support thereof is submitted to the Comptroller within two years of the date of overpayment.

Short levy or
erroneous
refund.

89. Where any duty has been short levied or erroneously refunded, the person who should have paid the amount short levied or to whom the refund has erroneously been made shall, on demand by the proper officer, pay the amount short levied or repay the amount erroneously refunded, as the case may be; and any such amount may be recovered as if it were duty to which the goods in relation to which the amount was so short levied or erroneously refunded, as the case may be, were liable:

Provided that the proper officer shall not make any demand after two years from the date of short levy or erroneous refund unless the short levy or erroneous refund had been caused by fraud on the part of the person who should have paid the amount short levied or to whom the refund was erroneously made, as the case may be.

Drawback of
duty.

90. (1) Subject to this section, drawback of import duty may on exportation or the performance of such conditions as may be prescribed, be allowed in respect of such goods, in such amount, and on such conditions, as may be prescribed.

(2) Where the owner of goods claims, or proposes to claim, drawback in respect thereof, then, as a condition to the grant of drawback, the owner shall —

- (a) enter the goods in the prescribed form and manner and produce them for examination by the proper officer before the exportation thereof or the performance of the conditions on which drawback is allowed; and
- (b) make and subscribe a declaration on the prescribed form to the effect that the conditions under which drawback may be allowed have been fulfilled and, in the case of goods exported or put on board an aircraft or vessel for use as stores —
 - (i) that the goods have actually been exported or, as the case may be, put on board for use as stores; and
 - (ii) that the goods have not been re-imported and are not intended to be re-imported into The Bahamas; and
 - (iii) that at the time of the entry of the goods for drawback he was, and continues to be, entitled to drawback; and
- (c) present his claim for drawback within a period of twelve months from the date of the exportation of the goods or the performance of the conditions on which drawback may be allowed.

(3) Drawback shall not be allowed in respect of goods —

- (a) where the import duty thereon was less than five dollars;
- (b) where they were entered for exportation in a light aircraft or a vessel of less than ten tons register;
- (c) where they were entered for exportation as stores for a light aircraft or a vessel of less than five hundred tons;
- (d) unless they are exported in the original packages in which they were imported, or unless the contents were unpacked and repacked in other packages by the authority and under the supervision of the proper officer:

Provided that in the case of goods imported in bulk the payment of drawback may be allowed under such conditions as the Comptroller may impose.

- (e) unless the proper officer is satisfied that the goods correspond to the particulars thereof contained in the entries, invoices, and other documents relating thereto;
- (f) where they are damaged except as provided under subsection (4);
- (g) which after importation were unpacked, save as provided for in paragraph (d), or were used, or exposed for sale, within The Bahamas;
- (h) unless they were produced to the proper officer for examination at the proper place of examination prior to exportation and, if required by the proper officer, on board the aircraft or vessel on which they are to be exported or used as stores;
- (i) unless they are conveyed directly and forthwith from the place of examination to the aircraft or vessel in which they are to be exported or shipped for use as stores:

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 forthwith to the aircraft or vessel in which they are to be exported or shipped.

- (j) unless they are exported, or shipped for use as stores, within twelve months from the date of the payment of the duty;
- (k) unless the proper officer has certified on the export entry that they have been exported, or shipped for use as stores;
- (l) unless the person claiming drawback on the goods entered for exportation produces, if required by the proper officer, within the time allowed by the proper officer, a certificate in respect of the landing of the goods from the competent authority at the port or place of discharge.

(4) Where the proper officer is satisfied that goods under drawback, after being duly put on board an aircraft or vessel for exportation or for use as stores —

- (a) have been destroyed by accident on board the aircraft or vessel; or
- (b) have been materially damaged on board the aircraft or vessel and in the case that the aircraft or vessel has not yet departed from The Bahamas, that the goods have, with the permission of the proper officer been discharged at any port or place within The Bahamas and abandoned to the Customs,

then drawback may be allowed in respect of the goods as if they had actually been exported or used as stores.

91. (1) Where, before the delivery of imported goods from customs control, a dispute arises as to whether any or what duty is payable on them, the importer shall pay the amount demanded by the proper officer but may, not later than six months after the date of payment, apply to the court for the determination of the matter in dispute.

Disputes, as to duty or drawback payable.

(2) Where, on any application referred to in subsection (1) it has been finally determined by a court 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.

(3) Where any dispute arises as to the amount of drawback payable in respect of goods, the exporter shall receive the amount of drawback allowed by the proper officer, but may, not later than six months after the date of the receipt of the drawback, apply to the court for the determination of the matter in dispute.

(4) Where, on any application referred to in subsection (3) it has been finally determined by the court that a greater amount was properly payable in respect of drawback, the amount underpaid shall be paid by the Comptroller.

92. Where goods are lost or destroyed by accident either —

Remission of duty.

- (a) on board an aircraft or vessel; or
- (b) in removing, loading, unloading or receiving them into, or delivering them from, any customs area or bonded warehouse or customs warehouse; or

- (c) in any customs area or bonded warehouse or customs warehouse,

before they are delivered out of customs control to the owner thereof, then, if the proper officer is satisfied that they have not been and will not be consumed in The Bahamas, he may remit the duty payable in respect of them.

Rebate of duty.

93. (1) Where goods imported into The Bahamas are damaged before being delivered out of customs control, then, subject to subsection (2), a rebate of the duty payable in respect of them may be allowed in such amount as, in the opinion of the proper officer is in proportion to the damage sustained by them.

(2) No rebate of duty shall be allowed under this section in respect of any goods, not being goods to which section 80 applies, except where the proper officer is satisfied that the carrier or insurer of the goods has made an allowance to the owner in respect of the damage; and in no case shall the rebate exceed such proportion of the duty as the amount of the allowance so made bears to the value of the undamaged goods, as calculated in accordance with section 86.

Refund of duty.

94. (1) Subject to subsections (2) and (3), the Comptroller may grant a refund of any import duty, or part thereof, which has been paid in respect of goods which have been damaged or pillaged during the voyage or damaged or destroyed while subject to customs control.

(2) No refund of duty shall be allowed under this section in respect of any goods, not being goods to which section 80 applies, which have been damaged, except where the proper officer is satisfied that the carrier or insurer of the goods has made an allowance to the owner in respect of the damage; and in no case shall the refund exceed such proportion of the duty as the amount of the allowance so made bears to the value of the undamaged goods, as calculated in accordance with section 86.

(3) No refund of any import duty, or part thereof, shall be granted unless the person claiming such refund presents such claim within a period of twelve months from the date of payment of the duty.

95. (1) Where it is shown to the satisfaction of the Comptroller —

- (a) that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract; and
- (b) that the importer with the consent of the seller either —
 - (i) returned the goods unused to the seller; or
 - (ii) destroyed the goods unused,

Remission or refund of duty on goods not in accordance with contract.

the Comptroller may remit the import duty payable on the goods, or refund any duty already paid:

Provided that application for the remission or refund is made in writing to the Comptroller either before the goods are delivered out of customs control or within two months of such delivery.

(2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or other similar terms.

TITLE VII POWERS OF CUSTOMS OFFICERS

96. (1) The master of any vessel within The Bahamas shall bring his vessel to for boarding on being signalled to do so by an vessel in the service of the Customs, or any other vessel in the service of The Bahamas.

Power to require vessels, etc., to bring to.

(2) The master of any aircraft within or over The Bahamas shall land such aircraft on being signalled to do so by a customs officer.

(3) The master of any aircraft which has landed, or of any vessel bringing to for boarding, shall facilitate by all reasonable means the boarding of the aircraft or vessel by the proper officer, and shall cause the aircraft or vessel to remain stationary for such period as the proper officer may require.

(4) Where any vessel liable to forfeiture or examination under or by virtue of this Act does not bring to when required to do so and chase has been given thereto by any vessel in the service of the Customs, or in any other service of The Bahamas and after the commander of that vessel

has hoisted the proper ensign and caused a gun to be fired as a signal, the vessel still fails to bring to, the vessel may be fired upon.

(5) Any master of an aircraft or vessel who contravenes any provision of this section commits an offence and shall —

- (a) in the case of the master of a light aircraft or a vessel of less than one hundred and fifty tons register, be liable on summary conviction to a fine of two thousand dollars; and the aircraft or vessel in respect of which the offence is committed shall be liable to forfeiture;
- (b) in the case of the master of an aircraft other than a light aircraft, or of a vessel of one hundred and fifty tons register or more, be liable on summary conviction to a fine of ten thousand dollars or on conviction on information to a fine of one hundred thousand dollars; and the aircraft or vessel in respect of which the offence is committed may be seized and detained until the fine is paid or security therefor given.

Power to board vessel, etc., and search.

97. (1) Any customs officer may, in the course of his duty, board and search any aircraft or vessel within The Bahamas and may examine, lock-up, seal, mark or otherwise secure, any goods on such aircraft or vessel; and for the purpose of the examination or security of any goods, he may require them to be unloaded, or removed, at the expense of the master of the aircraft or vessel.

(2) A customs officer acting under this section who is unable to obtain free access to any part of the aircraft or vessel or to any container therein, may enter such part or open such container, by force, if necessary.

(3) A customs officer boarding any vessel under this section may remain thereon for such time as he may consider necessary and the master of the vessel shall either provide the officer with proper and sufficient food and suitable bedding accommodation or, with the approval of the proper officer and subject to such conditions as he may impose, pay such sum as the Comptroller may order in lieu thereof, and any master who contravenes any provision of this subsection or of any condition imposed by the proper

officer, commits an offence and shall on summary conviction therefor be liable to a fine of four hundred dollars.

- (4) A master of an aircraft or vessel —
 - (a) who refuses to unload or remove any goods from the aircraft or vessel when required to do so in accordance with this section;
 - (b) who causes or permits any goods which have been locked up, sealed, marked, or otherwise secured, or the aircraft or vessel to be interfered with in any way except in accordance with the permission of the proper officer; or
 - (c) who causes or permits any lock, seal, or mark, placed on any place or goods in the aircraft or vessel in accordance with this section, to be opened, broken or altered,

commits an offence.

(5) Where, on the search of an aircraft or vessel under this section, goods are found in relation to which an offence under this Act has been committed, they shall be liable to forfeiture.

(6) Where, in an aircraft or vessel being boarded under this section, goods are found therein and on the aircraft or vessel being subsequently boarded, whether by the same or another customs officer, the goods or any part thereof are no longer therein, then, unless the master of the aircraft or vessel accounts for the missing goods to the satisfaction of the customs officer, the master commits an offence.

98. (1) A customs officer on duty may enter upon and patrol and pass freely along any property other than a dwelling-house or building.

Power to patrol freely and moor vessel, etc.

(2) A customs officer in charge of an aircraft, vessel or vehicle, employed in the prevention of smuggling, may take the aircraft, vessel or vehicle, to such place as he may consider most convenient for that purpose, and may there keep the aircraft, vessel or vehicle, for such time as he may consider necessary for that purpose.

99. (1) A customs officer may, if he has reasonable grounds to believe that a vehicle is conveying any uncustomed goods, stop and search the vehicle; and for the purposes of the search, the customs officer may require

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

any goods in the vehicle to be unloaded at the expense of the owner of the vehicle.

(2) A customs officer who is unable to obtain free access to any place or container in the course of any search of any vehicle under this section, may open such place or container by force, if necessary.

(3) A person in charge of a vehicle who refuses to stop or to permit the vehicle to be searched in accordance with this section commits an offence.

(4) Where, in the search of a vehicle under this section, goods are found in relation to which an offence under this Act has been committed, the goods shall be liable to forfeiture.

Power to question persons arriving or leaving.

100. A customs officer may, in the course of his duty, question any person who is entering The Bahamas or who is about to depart from The Bahamas, for the purpose of determining whether that person has any dutiable goods, prohibited goods, or restricted goods, in his possession, whether upon his person or in his baggage.

Power to search persons.

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

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

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

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

Power of arrest.

102. (1) A customs officer may, if he has reasonable grounds to believe that any person is committing, or has committed or has aided in the commission of, an offence under this Act, arrest that person; and the officer may, for that purpose, use all reasonable force.

(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.

103.(1) The Comptroller may issue a customs warrant in the form set out in the Fourth Schedule to this Act and under the seal of the Customs to any customs officer, not being below the rank of first grade.

Customs search
warrants.
Fourth Schedule.

(2) A customs warrant, unless sooner revoked by the Comptroller, shall remain in force as long as the person to whom it has been issued remains a customs officer whether in the same capacity or not.

(3) Subject to subsection (5), a customs officer having with him a customs warrant issued to him under this Act, may, if he has reasonable grounds to believe that there are on any premises any uncustomed goods, or any goods or documents relating to uncustomed goods, enter upon and search such premises by day or by night; and for such purpose the customs officer may use all reasonable force and may require the assistance of, and take with him, other customs officers or police officers.

(4) A customs officer acting under this section who is unable to obtain free access to any part of the premises he proposes to enter, or to any container therein, may enter such part, or open such container, by force, if necessary.

(5) Whenever a customs officer proposes to use his customs warrant for the purposes of this section, he shall first obtain the permission of his superior officer, who shall not grant permission unless satisfied that reasonable grounds exist.

(6) A customs officer acting under a customs warrant shall show his warrant on demand to the occupier of the premises that he enters or proposes to enter.

(7) Where a customs officer enters upon any premises in accordance with this section, he may —

- (a) require the owner or occupier of the premises to produce, either forthwith or at a time and place to be fixed by the customs officer, any book, document, or thing, which the owner or occupier is required to keep under the customs laws or which relates to any imported or exported goods, or to any goods to be imported or exported by the owner or occupier;

- (b) examine and take copies of any such book or document;
- (c) seize and detain any such book, document, or thing, if, in his opinion, it may afford evidence of the commission of any offence under the customs laws;
- (d) require the owner or occupier to answer any questions relating to any such book, document, or thing, or to any entry in any such book or document;
- (e) seize and carry away any uncustomed goods, or any books or documents relating to any such goods found on the premises.

Magistrates' search warrants.

104.(1) Without prejudice to any other power under the customs laws, where a customs 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, with such force as may be necessary and by day or by night, the premises, and to seize and carry away any uncustomed goods, and any books or documents relating thereto, that may be found in the premises.

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

Power to require production of books, etc., relating to smuggled, etc., goods.

105.(1) Where —

- (a) information in writing and on oath has been given to a customs officer that goods have been, or are intended to be, smuggled, or undervalued, or dealt with in any way contrary to this Act; or
- (b) anything has been seized under this Act,

the customs officer may require the owner of the goods or thing forthwith to produce all books and documents relating in any way to the goods or thing, or to any other goods imported or exported by the owner within the preceding five years.

(2) On the production of such books or documents the customs officer may inspect and take copies of any entries therein; and may seize and detain any such book or

document if, in his opinion, it may afford evidence of the commission of an offence under this Act.

(3) Any owner who fails to comply with any requirement made under this section commits an offence.

106. (1) A customs officer may, within three years of the date of importation or exportation of any goods, require the owner thereof —

General power to require production of documents, etc.

- (a) to produce all books and documents relating in any way to such goods;
- (b) to answer any question in relation thereto;
- (c) to make such declaration with respect to the weight, number, measure, strength, value, cost, selling price, origin, destination, or place of trans-shipment of such goods, as the customs officer may think fit.

(2) Where any owner fails to comply with any requirement made by the customs officer under this section, and the goods are still under customs control, the customs officer may refuse entry or delivery or prevent exportation of the goods; or may allow such entry, delivery or exportation, upon the deposit of such sum, pending the production of the books and documents, as he may think fit; and the deposit so made shall be forfeited and paid into the customs revenue if such documents are not produced within three months of the date of the deposit, or such further time as the proper officer may permit.

(3) The customs officer may retain any document produced by an owner under this section but the owner shall be entitled to a copy thereof certified under the hand of the Comptroller; and such certified copy shall be receivable in evidence in all courts and shall have equal validity with the original.

(4) Any owner who fails to comply with any requirement made under this section commits an offence.

107. Any person making a seizure or arrest in accordance with this Act may call upon any other person to assist him, and such person shall render assistance accordingly.

Power to call for aid.

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

108. (1) Where goods are subject to customs control, then any customs 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 samples so taken shall be disposed of and accounted for in such manner as the Comptroller may direct;
- (c) subject to such conditions as the Comptroller may see fit to impose, permit them to be bulked, stored, lotted, packed or re-packed.

(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, and any facilities or assistance required for, any of the purposes described in subsection (1) shall be performed or provided by the owner of the goods at his expense.

Customs officers
not liable for acts
done in good
faith.

109. No customs officer or other person acting under his direction shall be liable for any action taken by him in good faith in accordance with any provision of this Act.

TITLE VIII GENERAL OFFENCES

Offences with
violence, etc.

110. (1) Any person who —

- (a) fires upon any aircraft, vessel or vehicle, in the service of the Customs; or
- (b) shoots at, maims, or wounds, any customs officer while in the execution of his duty; or
- (c) commits with violence as defined in section 4 of the Penal Code any of the offences referred to in subsection (4),

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commits an offence and shall on conviction on information therefor be liable to imprisonment for twenty years.

(2) Any person who —

- (a) while committing any 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,

commits an offence and shall on conviction on information therefor be liable to imprisonment for ten years.

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- (3) Any person who —
- (a) while committing any offence under this Act, is disguised in any way; or
 - (b) while being so disguised, is found with any goods liable to forfeiture under this Act,

commits an offence and shall on summary conviction therefor be liable to imprisonment for two years or to a fine of two thousand dollars or to both such fine and imprisonment.

- (4) Any person who —
- (a) staves, breaks, destroys, or throws overboard from any aircraft, vessel, or vehicle, any goods for the purpose of preventing the seizure thereof; or
 - (b) rescues, staves, breaks, destroys, or throws overboard from any aircraft, vessel, or vehicle, any goods 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; or
 - (d) in any way obstructs any customs officer in the execution of his duty,

commits an offence.

111.(1) Any person who, with intent to obstruct any customs officer in the execution of his duty, warns, or does any act for the purpose of warning, any other person engaged in the commission of an offence under this Act, whether or not such other person is in a position to take advantage of such warning or act, commits an offence and shall on summary conviction therefor be liable to imprisonment for two years, or to a fine of two thousand dollars or to both such fine and imprisonment.

Offence to warn offender.

(2) Any person may prevent any other person from giving any warning referred to in subsection (1) and for such purpose may enter upon any land and shall not thereby be liable to any legal proceedings.

112. Any person, not being a customs officer, who by words, conduct, or demeanour pretends that he is a customs officer, or takes or assumes the name, designation, description or appearance, of a customs officer for the purpose of —

Offence to impersonate a customs officer.

- (a) obtaining admission to any aircraft, vessel, vehicle, premises, or place; or
- (b) doing or procuring to be done any act which he would not be entitled to do or procure to be done on his own authority; or
- (c) doing any unlawful act,

commits an offence and shall on summary conviction therefor be liable to imprisonment for two years or to a fine of two thousand dollars or to both such fine and imprisonment.

Master of vessel, etc., used for smuggling guilty of offence.

113. Any master of any aircraft or vessel, and any person in charge of a vehicle, which is within The Bahamas and —

- (a) which has any secret or disguised place adapted for concealing goods, or any device adapted for smuggling goods; or
- (b) which has in it, or in any manner attached to it, or which is conveying, or has conveyed in any manner, any goods imported, or carried coastwise, or intended for exportation, contrary to this Act; or
- (c) from or in which any part of the cargo of such aircraft, vessel, or vehicle, has been thrown overboard, destroyed, or staved, in order to prevent seizure,

commits an offence and shall —

- (i) in the case of the master of a light aircraft or of a vessel of less than one hundred and fifty tons register, be liable on summary conviction to a fine of two thousand dollars; and the aircraft or vessel and goods in respect of which the offence is committed shall be liable to forfeiture;
- (ii) in the case of the master of an aircraft, other than a light aircraft, or of a vessel of one hundred and fifty tons register or more, be liable on summary conviction to a fine of ten thousand dollars or on conviction on information to a fine of one hundred thousand dollars; and the aircraft or vessel in respect of which the offence is committed may be seized and detained until

the fine is paid or security therefor given, and any goods in respect of which the offence is committed shall be liable to forfeiture;

- (iii) in the case of the person in charge of a vehicle, be liable on summary conviction to a fine of two thousand dollars, and the vehicle and goods in respect of which the offence is committed shall be liable to forfeiture.

114. Any person who —

- (a) imports or carries coastwise —
- (i) any prohibited goods, whether or not such goods are unloaded; or
 - (ii) any restricted goods contrary to any condition regulating the importation or carriage coastwise of such goods, whether or not such goods are unloaded;
- (b) unloads after importation or carriage coastwise —
- (i) any prohibited goods; or
 - (ii) any restricted goods which have been imported or carried coastwise contrary to any condition regulating such importation or carriage coastwise;
- (c) exports, carries coastwise, or puts on board any aircraft or vessel, or brings to any customs area or place, to be so put on board, for exportation or for use as stores or for carriage coastwise —
- (i) any prohibited goods; or
 - (ii) any restricted goods contrary to any condition regulating the exportation, use as stores, or carriage coastwise of, such goods;
- (d) acquires, has in his possession, keeps or conceals, or procures to be kept or concealed, any goods which he knows, or ought reasonably to have known, to be —
- (i) prohibited goods; or

Offences relating to prohibited, restricted, and uncustomed goods.

(ii) restricted goods which have been imported or carried coastwise contrary to any condition regulating such importation or carriage coastwise; or

(iii) uncustomed goods,

commits an offence and shall on summary conviction therefor be liable to imprisonment for three years or to a fine of five thousand dollars, or to both.

Offence to import or export concealed goods.

115. Any person who imports any goods —

- (a) which are concealed in any way;
- (b) which are packed in any package, whether or not together with other goods, in a manner likely to deceive any customs officer; or
- (c) which are contained in any package of which the entry or application for shipment does not correspond with such goods,

commits an offence.

Offences relating to declarations, goods, etc.

116. Any person who, in any matter relating to the Customs —

- (a) makes an entry which is false or incorrect in any material particular;
- (b) makes or causes to be made any declaration, certificate, application, or other document, which is false or incorrect in any material particular;
- (c) when required in accordance with this Act to answer any question lawfully put to him by a proper officer, refuses to answer such question or makes any false or incorrect statement in reply thereto;
- (d) obtains any drawback, rebate, remission, or refund, of duty which to his knowledge he is not entitled to obtain;
- (e) having obtained any rebate, remission or refund of customs duties with respect to any goods specified by any item in Part B of the Fourth Schedule to the Tariff Act, and uses those goods for any purpose other than that for which the rebate, remission or refund of customs duties was granted;

39 of 1999, s. 3.

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- (f) in any way is knowingly concerned in any fraudulent evasion of the payment of any duty;
- (g) except by authority, moves, alters or in any way interferes with any goods subject to customs control;
- (h) brings into The Bahamas or has in his possession, without lawful excuse —
 - (i) any blank or incomplete invoice, bill head or other similar document capable of being filled up and used as an invoice for imported goods; or
 - (ii) more than one invoice, bill head or other similar document, or any combination thereof, relating to the same imported goods and each being identical to the other in all material particulars save in respect of the price of the imported goods; or
- (i) counterfeits or in any way falsifies or knowingly uses when counterfeited or in any way falsified, any document required or issued by or used for the purpose of the Customs,

22 of 1996, s. 2.

commits an offence and shall on summary conviction therefor be liable to imprisonment for three years, or to a fine of five thousand dollars or to both.

117. Upon a second or subsequent conviction of any person for an offence under section 114, 115 or 116 —

Second conviction under section 114, 115 or 116.
39 of 1992, s. 2.

- (a) that person shall be liable —
 - (i) for the amount of duty payable on the goods in respect of which the offence was committed; and
 - (ii) to a fine in an amount equal to the amount of duty payable on the goods in respect of which the offence was committed or to the fine prescribed in respect of an offence committed under section 114, 115 or 116, whichever is the greater; and
- (b) the court before which that person is convicted may, if the person is the holder of any licence issued under the Business Licence Act, the Liquor Licences Act or the Shop Licences Act, order (in addition to any other penalty imposed)

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that the licence shall cease to have effect from the date of the order and, upon any such order, the licence shall cease to have effect accordingly.

Prohibited
supplier.
25 of 1991, s. 2

118. (1) Subject to the provisions of this section, where the Minister is satisfied that an establishment —

- (a) is being operated outside The Bahamas for the sale of goods; and
- (b) has on more than one occasion knowingly issued a false invoice, bill head or other document which has on those occasions been the subject of offences under paragraph (h) or (i) of section 116,

the Minister may by notice published in the *Gazette* declare that establishment to be a prohibited supplier.

(2) Goods sold by an establishment named in a notice published under subsection (1) shall, when imported for commercial purposes, be deemed to be prohibited goods to which the provisions of sections 125, 126 and 128 to 133 shall apply accordingly.

Offence to refuse
to produce
documents, etc.

119. Any person who, when required in accordance with this Act —

- (a) to produce any book, document, or other thing, in his possession or under his control; or
- (b) to perform any act,

refuses or fails to do so, commits an offence.

Offence to
interfere with
customs gear.

120. Any person who cuts away, casts adrift, destroys, damages, defaces or in any way interferes with any aircraft, vessel, vehicle, buoy, anchor, chain, rope, mark or other thing used for the purposes of the Customs, commits an offence.

Offence to fail to
report finding of
uncustomed
goods.

121. Any person who, on finding any uncustomed goods on land or floating upon or sunk in the sea, fails to report his discovery to the nearest customs officer, commits an offence and the goods in respect of which the offence is committed shall be liable to forfeiture.

Offence to offer
goods for sale as
smuggled goods.

122. If any person offers any goods for sale as having been imported without payment of duty or as having been otherwise unlawfully imported, then, whether or not the goods were so imported or were in fact chargeable with duty, the goods shall be liable to forfeiture and the person so offering them for sale commits an offence.

123. Where this Act creates an offence without providing for a specific penalty, that offence shall be prosecuted summarily and the person committing it shall be liable to a fine of five thousand dollars.

General penalty.

124. Where, on conviction for an offence under this Act, any person becomes liable to a fine of a specified amount, the court may impose a fine of three times the value of the goods in respect of which the offence was committed or that specified amount, whichever is the greater; and for the purpose of determining the value of the goods —

Fine up to three times the value of the goods may be imposed.

- (a) the Comptroller shall cause them to be appraised by the proper officer;
- (b) the proper officer shall appraise them according to the rate and price for which goods of the like kind but of the best quality upon which duties have been paid were sold at or about the time of the offence or according to the rate and price for which goods of the like kind but of the best quality were sold in bond at or about the time of the offence with the duties thereon added to such rate or price in bond; and no regard shall be had to any damage or injury sustained by the goods;
- (c) a certificate of the appraised value given under the hand of the Comptroller shall be *prima facie* evidence of the value of the goods.

TITLE IX FORFEITURES AND SEIZURES

125. In addition to any other circumstances in which goods are liable to forfeiture under this Act, the following goods shall be liable to forfeiture —

Goods liable to forfeiture.

- (a) prohibited goods;
- (b) restricted goods which are dealt with contrary to any condition regulating their importation, exportation or carriage coastwise;
- (c) uncustomed goods;
- (d) goods which are imported concealed in any manner, or packed in any package whether with or without other goods, in a manner appearing to be intended to deceive any customs officer;

- (e) goods which are imported contained in any package of which the entry, application for shipment, or application to unload does not correspond with the goods;
- (f) goods subject to customs control which are moved, altered or in any way interfered with, except with the authority of a customs officer;
- (g) goods in respect of which, in any matter relating to the Customs, an entry, declaration, certificate, application, answer, statement, or representation, which is false or incorrect in any material particular has been delivered, made or produced by any person knowing the same to be false or incorrect; and
- (h) goods in respect of which any drawback, rebate, remission or refund of duty has been unlawfully obtained.

Provisions relating to goods liable to forfeiture.

126.(1) Where goods are liable to forfeiture under this Act, the package in which the goods are and all the contents of the package shall also be liable to forfeiture therewith.

(2) Where goods which are prohibited or restricted goods have been shipped for importation without knowledge by the shipper of the prohibition or restriction and, in the opinion of the Comptroller, before the expiration of a reasonable time for the information to be available at the port of shipment, then, notwithstanding this Act, the goods shall not on importation be liable to forfeiture but shall be re-exported, or otherwise disposed of, in such manner as the Comptroller may determine; and pending such re-exportation or disposal the goods shall be subject to customs control.

Aircraft, vessels, etc. liable to forfeiture.

127.(1) Any light aircraft or vessel of less than one hundred and fifty tons register, and any vehicle or other thing made use of in the importation, landing, removal, conveyance, exportation or carriage coastwise, of any goods liable to forfeiture under this Act, shall itself be liable to forfeiture.

(2) Any aircraft, other than a light aircraft, and any vessel of one hundred and fifty tons register or more made use of in the importation, landing, removal, conveyance, exportation or carriage coastwise, of any goods liable to

forfeiture under this Act, shall not itself be liable to forfeiture but the master of any such aircraft or vessel commits an offence and shall be liable on summary conviction therefor to a fine of ten thousand dollars or on conviction on information to a fine of one hundred thousand dollars; and the aircraft or vessel may be seized and detained until the fine is paid or security therefor given.

(3) Where any aircraft, vessel, vehicle or other thing is liable to forfeiture under this Act, the tackle, apparel, furniture, and all other gear, used in connection therewith shall also be liable to forfeiture therewith.

128.(1) Any customs officer or any police officer, may seize any aircraft, vessel, vehicle, goods or other thing liable to forfeiture under this Act or which he has reasonable grounds to believe is liable to such forfeiture; and any such aircraft, vessel, vehicle, goods, or other thing, may be seized whether or not any prosecution for any offence under this Act which would render such aircraft, vessel, vehicle, goods or other thing, liable to forfeiture has been, or will be, taken.

Power to seize goods, etc., liable to forfeiture.

(2) Any aircraft, vessel, vehicle, goods or other thing seized under this section, and any aircraft, vessel, or other thing, which may be seized and detained under this Act, shall be taken to a customs warehouse or to such other place of security as the proper officer may consider appropriate.

(3) Subject to the approval of the Minister, given either generally or in any special case, the Comptroller may, at any time prior to the commencement of any proceedings under this Act relating to any aircraft, vessel, vehicle, goods or other thing, which has been seized under this Act, release any such aircraft, vessel, vehicle, goods or other thing, and return it to the person from whom it was seized.

129.(1) Where any thing has been seized under this Act, then unless the thing was seized in the presence of the owner thereof or, in the case of an aircraft or vessel, of the master thereof, the proper officer shall, within one month of the seizure, give notice in writing of the seizure and of the reasons therefor to the owner thereof or in the case of an aircraft or vessel, to the master thereof:

Procedure on seizure.

Provided that no notice shall be required where —

- (a) within such period of one month either a person has been prosecuted for the offence by reason of which the thing was seized or the offence has been compounded under Title XI; or
- (b) in the case of a requirement to notify the owner, no owner can with reasonable diligence be found.

(2) Where goods which are of a perishable nature are seized, the Comptroller may direct that they be sold forthwith, either by public auction or by private treaty, and that the proceeds of the sale be retained and dealt with as if they were the goods.

(3) Where any thing liable to forfeiture under this Act has been seized, then —

- (a) if any person is being prosecuted for the offence by reason of which the thing was seized, such thing shall be detained until the determination of the prosecution and shall be dealt with in accordance with section 130;
- (b) in any other case, the thing shall be detained until one month after the date of the seizure or of any notice given under subsection (1), as the case may be; and if no claim is made therefor as provided in subsection (4) within such period of one month, the thing shall thereupon be deemed to be condemned.

(4) Where any thing liable to forfeiture under this Act has been seized, then, subject to subsection (3)(a), the owner thereof may, within one month of the date of the seizure or of any notice given under subsection (1), as the case may be, by notice in writing to the Comptroller claim it.

(5) Where a notice of claim has been given in accordance with subsection (4), the thing seized shall be detained by the Comptroller to be dealt with in accordance with this Act:

Provided that the Comptroller may permit the thing seized to be delivered to the person making the claim, hereinafter in this Part referred to as the “claimant”, subject to the claimant giving security for the payment of the value thereof, as determined by the Comptroller, in the event of its condemnation.

130. (1) Where a person is prosecuted for an offence under this Act and any thing is liable to forfeiture by reason of the commission of that offence, the conviction of the person for the offence shall, without further order, have effect as the condemnation of the thing.

Effect of conviction, etc., on things liable to forfeiture.

(2) Where a person is prosecuted for an offence under this Act and any thing is liable to forfeiture by reason of the commission of that offence, then, on the acquittal of the person, the court may order the thing either —

- (a) to be released to the person from whom it was seized or to the owner thereof; or
- (b) to be condemned.

131. (1) Where a notice of claim has been given to the Comptroller in accordance with section 129(4), the Comptroller may within a period of two months from the receipt of the claim, either —

Procedure after notice of claim.

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

(2) Where the Comptroller fails within the period of two months either to require the claimant to institute proceedings, or himself to institute proceedings in accordance with subsection (1), then the thing claimed shall be released to the claimant:

Provided that if the thing claimed is prohibited goods, or is restricted goods which has been imported, or carried coastwise, or attempted to be exported, in contravention of any regulations relating thereto, it shall not be released to the claimant but may be disposed of in such manner as the Comptroller may direct.

(3) When the Comptroller has, in accordance with subsection (1), required the claimant to institute proceedings within the period of two months and the claimant has failed to do so, then on the expiration of that period the thing claimed shall be condemned.

(4) Where proceedings have been instituted in accordance with this section, then —

- (a) if the court is satisfied that the thing claimed was liable to forfeiture under this Act, it shall be condemned;
- (b) if the court is not so satisfied, it shall be released to the claimant:

Provided that the court shall not so release the thing to the claimant unless it is satisfied that the claimant is the owner thereof or, by reason of any interest therein, is entitled to the possession thereof; and if the court is not so satisfied, the thing claimed shall be condemned as if no claim thereto had been made.

Provisions relating to condemnation.

132.(1) Where any thing has been seized under this Act as being liable to forfeiture, the condemnation of that thing shall in no way be affected by the fact that the owner of the thing was in no way concerned with the act which rendered the thing liable to forfeiture.

(2) Where any thing is condemned under this Act, then —

- (a) subject to section 133, it shall be forfeited to the Customs and may be sold, destroyed, or otherwise disposed of, in such manner as the Comptroller may think fit;
- (b) the condemnation shall have effect as from the date when the liability to forfeiture arose;
- (c) the condemnation shall, subject to any appeal in any proceedings which resulted in such condemnation, be final and, save as provided in section 133, no application or proceedings for restoration or in detinue by any person shall lie.

Restoration of seizures.

133. Where any thing has been seized under this Act, the Governor-General may, whether or not the thing has been condemned, direct that it shall be released and restored to the person from whom it was seized or to the owner thereof, upon such conditions as he may think fit.

TITLE X LEGAL PROCEEDINGS

Jurisdiction in respect of claims.

134. Without prejudice to the powers of any court, civil proceedings under the customs laws relating to any claim to anything which has been seized under the customs

laws and any claim to any duty, rent, charge, expense or other sum payable under the customs laws may be heard or determined without limit of amount before the court of the Chief Magistrate or of a stipendiary and circuit magistrate.

135. (1) Where under this Act any proceedings may be brought by or against the Comptroller, the Comptroller may sue or be sued by the name of the Comptroller of Customs and may for all purposes be described by that name; and, notwithstanding that any such action may lie in tort, the Comptroller shall be responsible for the acts and default of any customs officer or any other person performing any duty under this Act as if such officer or person were the servant or agent of the Comptroller:

Actions by or against the Comptroller.

Provided that nothing herein contained shall confer any right of action against the Comptroller in his representative capacity, whether in contract or in tort, unless such right of action is specifically provided for in this Act.

(2) Where under this Act any proceedings are brought by or against the Comptroller, costs may be awarded to or against the Comptroller.

(3) Where under this Act any proceedings are brought by or against the Comptroller and —

- (a) any sums or costs are covered by the Comptroller, such sums or costs shall be credited to the customs revenue;
- (b) any damages or costs are ordered to be paid by the Comptroller, such damages or costs shall be paid by the Government and the Comptroller shall not be personally liable therefor.

136. Save as otherwise expressly provided in the customs laws and notwithstanding any provision in any other enactment to the contrary, any proceedings for an offence under this Act shall not be commenced, and anything liable to forfeiture under this Act shall not be seized, after three years from the date of the offence or from the date on which the goods became liable to forfeiture, as the case may be.

Limitation of proceedings.

137. In any proceedings under this Act —

- (a) it shall not, unless it is expressly so provided, be necessary to prove guilty knowledge;

Provisions relating to proof, etc., in proceedings.

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- (b) the onus of proving the place of origin of any goods, or the payment of the proper duties, or the lawful importation, landing, removal, conveyance, exportation or carriage coastwise of any goods, shall be on the person prosecuted or claiming anything seized under this Act;
 - (c) the averment by the Crown or by the Comptroller —
 - (i) that any person is or was a customs officer or is or was employed in the prevention of smuggling;
 - (ii) that any goods were staved, broken, destroyed, or thrown overboard, or were so staved, broken or destroyed or thrown overboard for the purpose of preventing the seizure thereof or the securing thereof after seizure;
 - (iii) that any act was done within the limits of any port or at, in, or over, any part of The Bahamas;
 - (iv) that the Comptroller, or any proper officer, is or is not satisfied as to any matters as to which he is required to be satisfied under this Act;
 - (v) that the Comptroller has directed or requested any proceedings under this Act to be instituted,shall be *prima facie* evidence of such fact;
 - (d) a certificate purporting to be signed by the Public Analyst, or a Government Chemist, shall be receivable in evidence and shall be *prima facie* evidence of the matters recorded therein;
 - (e) the production of any document purporting to be signed or issued by the Minister, the Comptroller, or any person in the service of the Government of The Bahamas, shall be *prima facie* evidence that such document was so signed or issued;
 - (f) a copy, certified under the hand of the Comptroller, of any entry in any book or document required to be kept for the purposes of the

customs laws shall be receivable in evidence and shall be *prima facie* evidence of such entry and of the matters recorded therein;

- (g) any certificate or copy of an official document purporting to be certified under the hand and seal or stamp of office of any of the principal officers of a customs department or similar institution in any member country of the Customs Co-operation Council, or of any diplomatic or consular representative of The Bahamas in any foreign country, shall be receivable in evidence and shall be *prima facie* evidence of the matters recorded therein;
- (h) a customs officer shall be deemed to be a competent witness notwithstanding that such officer is entitled to a reward;
- (i) the fact that security has been given by bond or otherwise for the payment of any duty or for the compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are brought, shall not be a defence.

138. (1) Where a person is convicted of an offence under this Act involving intent to defraud, then the maximum fine which may be imposed on such person shall be double that otherwise provided for under this Act.

Provisions relating to penalties for offences.

(2) Where an offence under this Act is committed by a body corporate and it is proved that such offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, or any person purporting to act in any such capacity, then he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

139. (1) No witness on behalf of the Crown or of the Comptroller in any proceedings under this Act shall be compelled to disclose the fact that he received any information relating to any customs matter, or the nature of any such information, or the name of the person who gave any information.

Protection of witness.

(2) No customs officer appearing as a witness in any proceedings shall be compelled to produce any confidential information or reports made or received by him in his official capacity.

Reasonable grounds a defence in any action against customs officer.

140.(1) Where any proceedings, whether by way of prosecution or otherwise, are taken under this Act, and —

- (a) such proceedings result in a determination in favour of any person prosecuted, or in favour of any owner claiming any thing which has been seized; and
- (b) such proceedings arise out of any act done, whether by way of seizure or otherwise, by any proper officer in the execution or intended execution of his duty under this Act; and
- (c) the court before which such proceedings are determined finds that there were reasonable grounds for such act, then such court shall, on request made by or on behalf of such officer, so certify on the record; and a certified copy of such finding shall, on the request of such officer, be delivered to him and shall be receivable in evidence in any proceedings in proof of such finding.

(2) No customs officer shall be liable to any action or other proceedings on account of any act in respect of which a court has, under subsection (1), found that there were reasonable grounds for such act.

(3) Where any proceedings are brought against any customs officer on account of any act done, whether by way of seizure or otherwise, in the execution or intended execution of his duty under this Act and judgment is given against such officer, then, notwithstanding that in any proceedings referred to in subsection (1) a court has not found that there were reasonable grounds for such act, if the court before which such proceedings are heard is satisfied that there were reasonable grounds for such act, the plaintiff shall be entitled to recover any thing seized, or the value thereof; but shall not otherwise be entitled to any damages and no costs shall be awarded to either party.

TITLE XI
COMPOUNDING OF OFFENCES

141.(1) The Comptroller may, where he is satisfied that a person has committed an offence under this Act in respect of which a fine is provided or in respect of which any thing is liable to forfeiture, compound the offence and may order the person to pay such sum of money, not exceeding the amount of the fine to which the person would be liable if he were convicted of the offence, as he may think fit; and he may order any thing liable to forfeiture in connection therewith to be condemned:

Power of
Comptroller to
compound
offence by
agreement.

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

(2) Where the Comptroller makes an order under this section —

- (a) the order shall be put into writing and shall have attached to it the request made to the Comptroller to deal with the matter;
- (b) the order shall specify the offence which the person committed and the penalty imposed by the Comptroller;
- (c) a copy of the order shall be given to the offender if he so requests;
- (d) the offender shall not be liable to any further prosecution in respect of the offence; and where any such prosecution is brought it shall be a good defence for the offender to prove that the offence with which he is charged has been compounded under this section;
- (e) the order may be enforced in the same manner as an order of the court;
- (f) the order shall be published in the *Gazette* or in any other daily newspaper in general circulation in The Bahamas.

39 of 1992, s. 3.

**TITLE XII
AUTHORISED AGENTS**

Authority of
agents.

142.(1) Where under the provisions of the customs laws the owner of any goods is required or authorised to perform any act, then such act may be performed on his behalf by an authorised agent.

(2) A person shall not act as the authorised agent of an owner unless he is —

- (a) exclusively in the employment of the owner; or
- (b) a customs broker duly licensed as such in accordance with the provisions of any regulations,

and, in either case, is authorised in writing by the owner, either generally or in relation to any particular act, to perform the act on behalf of the owner.

(3) The proper officer may require from any person purporting to be the authorised agent of an owner the production of his written authority and in default of the production of such authority the proper officer may refuse to recognise the person as an authorised agent.

Liability of
authorised
agents.

143. An authorised agent 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 the goods, and shall accordingly be personally responsible for the payment of any duties to which the goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under this Act:

Provided that nothing herein contained shall relieve the owner of the goods from liability for the performance of any act or obligation under the customs laws or from prosecution under the customs laws.

Liability of
owner for acts of
authorised
agents.

144. An owner of goods who authorises an agent to act for him in relation to the goods for any of the purposes of this Act, shall be liable for the acts and declarations of the authorised agent and may accordingly be prosecuted for any offence committed by the agent in relation to the goods as if he had himself committed the offence:

Provided that —

- (a) an owner shall not be sentenced to imprisonment for an offence committed by his authorised agent unless the owner actually consented to the commission of the offence;

- (b) nothing herein contained shall relieve the authorised agent from liability to prosecution in respect of any such offence.

TITLE XIII SECURITIES

145. The Comptroller may require any person to give security for the due compliance by that person with this Act and generally for the protection of the customs revenue; and, pending the giving of any such security in relation to any goods subject to customs control, the Comptroller may refuse to permit delivery or exportation of the goods or to pass any entry in relation thereto.

Comptroller may require security.

146. (1) Where any security is required to be given under this Act, then such security may be given to the satisfaction of the Comptroller either —

Provisions relating to giving of security.

- (a) by bond, in such sum and subject to such conditions and with such sureties as the Comptroller may reasonably require; or
- (b) by cash deposit; or
- (c) partly by bond and partly by cash deposit.

(2) Where any security is required to be given under this Act for any particular purpose, then such security may, with the approval of the Comptroller, be given to cover any transactions which the person giving such security may enter into within such period as the Comptroller may approve.

(3) A bond required to be given under this Act shall be so framed that the person giving it, and any surety thereto, is bound to the Comptroller for the due performance of the conditions of the bond; and any such bond may, unless sooner discharged by the due performance of the conditions thereof, be discharged by the Comptroller on the expiration of three years from the date thereof, but without prejudice to the right of the Comptroller to require fresh security.

(4) Where any bond given under this Act is discharged, then the Comptroller shall cause such bond to be cancelled and an endorsement to that effect made thereon.

(5) A bond given under this Act shall, notwithstanding that it, or any surety to it, is given by a person under the age of eighteen years, be valid and enforceable as if it were given by a person of full age.

(6) All bonds and sureties executed under the customs laws before the commencement of this Act shall be valid and enforceable according to the tenor thereof as if executed under this Act.

Provisions
relating to
sureties.

147.(1) Without prejudice to any right of a surety to any bond given under this Act against the person for whom he is surety, a surety shall, for all the purposes of any bond, be deemed to be the principal debtor and accordingly the surety shall not be discharged, nor his liability affected, by the giving of time for payment, or by the omission to enforce the bond for any breach of any conditions thereof, or by any other act or omission which would not have discharged the bond if he had been the principal debtor.

- (2) If any person being a surety —
- (a) dies; or
 - (b) becomes a bankrupt or enters into any arrangement or composition with, or for the benefit of, his creditors; or
 - (c) departs from The Bahamas without leaving sufficient property therein to satisfy the whole amount of the bond,

the Comptroller may require the person giving the bond to enter into fresh security.

Enforcement of
bond.

148.(1) Where the conditions of any bond have not been complied with, the Comptroller may take legal proceedings for its enforcement.

(2) Where any legal proceedings are taken, then production of the bond shall, without further proof, entitle the Comptroller to judgment for the stated liability unless the person against whom proceedings are taken proves compliance with all the conditions of the bond, or that the bond or surety was not executed by him, or that he has been released from the provisions of the bond or surety, or that he has already made satisfaction for the full amount thereof.

TITLE XIV
SALES OF GOODS BY CUSTOMS

149.(1) Where any goods are to be sold under the provisions of this Act, they may be sold either by auction or by tender. Customs sales of goods.

(2) The Minister may authorise the Comptroller or any customs officer to auction goods for sale by Customs and the Auction Act shall not apply to a customs officer so authorised or to the auction sale of goods sold by such officer. Ch. 376.

(3) No bid or tender shall necessarily be accepted and should there be any discrepancy between the quantity of goods stated in the sale list and the actual quantity available for delivery, the Customs shall not be bound to deliver more than the quantity available for delivery.

(4) The purchase money shall be paid on the acceptance of the bid or tender.

150. Notice of sales of goods by Customs shall be given by — Notice of sales.

- (a) advertisement in the *Gazette*, except in the case of sales of perishable goods or live animals; and
- (b) notice posted in public view at the Customs House at the port or place where the sale will be held.

151.(1) If the owner of goods advertised for sale by Customs desires to have them withdrawn from the sale, he shall — Withdrawal of goods from sale.

- (a) not less than forty-eight hours before the date of the sale, apply in writing to the proper officer and notify him of the particulars of the goods he desires to have withdrawn;
- (b) satisfy the proper officer that he is the owner of the goods and entitled to take possession thereof.

(2) If the proper officer is satisfied, he may approve the application and may withdraw the goods from sale and, subject to the fulfilment of all requirements of the customs laws relating to such goods and the payment by the applicant of any customs warehouse rent and other charges on the goods, deliver such goods to the applicant.

Balance of
proceeds of sale.

152. Any person entitled to receive the balance, if any, of the proceeds of a customs sale of goods, shall within one month from the date of sale, make application therefor to the proper officer in the prescribed form and shall produce therewith to the satisfaction of such proper officer, proof of his entitlement to such balance.

TITLE XV MISCELLANEOUS

Regulations.

153. (1) The Minister may make regulations generally for giving effect to this Act and for the conduct of any, business relating to the Customs and, without prejudice to the generality of the foregoing, with respect to —

- (a) the working days and the hours of general attendance of customs officers, including the hours for unloading, loading for export and carriage coastwise of any goods;
- (b) the charges to be made for the attendance of customs officers;
- (c) the arrival, departure and report of aircraft and vessels;
- (d) the entry, examination and delivery of goods, including baggage;
- (e) the declaration of goods in accordance with statistical requirements;
- (f) the information to be supplied by the importer, or any other person concerned with the importation of goods, for the purpose of the proper valuation thereof, and the production of books of accounts or other documents relating to the purchase, importation, or sale of the goods;
- (g) the coastwise carriage of goods;
- (h) the conditions of warehousing and the conduct of bonded warehouses;
- (i) the provision at customs areas of suitable accommodation for customs officers, and the use of specified entrances or exits thereat;
- (j) the rents and other charges to be paid in respect of any goods warehoused or deposited in any customs warehouse, Government warehouse, transit shed, or customs area;

- (k) the application of this Act to postal articles and the powers of any officer in the service of the Post Office in relation to any goods imported or exported by post;
- (l) the conditions applicable to goods imported for a temporary use or purpose;
- (m) the conditions applicable to the payment of drawback, remission, rebate or refund of duty;
- (n) the prescribing of forms to be used for the purposes of this Act and the conditions of use of such forms;
- (o) the fees to be paid for any licence issued under this Act and the fees to be paid for providing certificates, documents or other services to the public;
- (p) the sale of goods by the Customs.

(2) Regulations made under subsection (1) may provide that any person contravening any of the provisions thereof shall be guilty of an offence and liable on summary conviction therefor to a fine of two thousand dollars.

154. Notwithstanding anything contained in this Act, the Minister may, in order to meet the exigencies of any special case —

Power of
Minister in
special cases.

- (a) permit any goods to be loaded on to or unloaded and removed from any aircraft or vessel on such days, at such times, at such places, and under such conditions, as he may direct either generally or in any particular case;
- (b) permit the entry of any goods, and the report or clearance of any aircraft or vessel, in such form and manner, and by such person, as he may direct either generally or in particular cases.

155. (1) Where any document required or authorised for the purpose of this Act contains any words not in the English language, the person producing or using such document may be required to produce therewith a correct English translation of such words.

Provisions
relating to all
documents.

(2) Where any person is required to submit any form for the purposes of this Act, the customs officer may require such person to submit as many copies thereof as the customs officer thinks necessary.

(3) Where the customs officer requires any invoice to be produced for any goods which have been imported, exported or entered in transit, he may require such invoice to be submitted in original and duplicate and he may retain both.

Rewards.

156. The Minister may award to any customs officer or person —

- (a) who has arrested or has assisted in the arrest of any other person under this Act, such reward, not exceeding two hundred dollars, as he may think fit on the conviction of such other person;
- (b) who has seized any thing under this Act, such reward, not exceeding one half the value of the thing seized, as he may think fit:

Provided that such reward may, in the case of the seizure of any prohibited goods or restricted goods, be such sum, not exceeding one thousand dollars, as the Minister may think fit;

- (c) by whose aid a conviction is obtained in any prosecution under this Act, such reward as he may think fit;
- (d) by whose aid the Comptroller is able to exercise his powers under section 141, such reward as he may think fit.

22 of 1996, s. 3.

Provisions relating to commissioned vessels.

157. Where any aircraft or vessel under commission from any state arrives in The Bahamas having on board any goods other than stores for use in such aircraft or vessel, then —

- (a) such aircraft or vessel may be boarded and searched by a customs officer in the same manner as any other aircraft or vessel and the customs officer may cause any such goods to be taken ashore and placed in a customs warehouse;
- (b) the person in command of such aircraft or vessel shall —
 - (i) deliver an account in writing of such goods and of the quantity, marks, and names of the shippers and consignees thereof; and
 - (ii) answer all questions put to him by the customs officer in relation to such goods.

FIRST SCHEDULE (Section 45)**PROHIBITED AND RESTRICTED IMPORTS***(A) Prohibited Goods*

S.I. 118/1976; 16 of 1990, s. 5; S.I. 57/1990; S.I. 25/1992; S.I. 72/1995; S.I. 20/2006; 2 of 2007, 3rd Sch.

1. All goods the importation of which is prohibited under the provisions of any law for the time being in force in The Bahamas.

2. (1) Tops and yarns made wholly or partly of goat hair; excluding —

- (a) cashmere yarns which have been bleached and dyed, mohair yarns, and dehaired China cashmere proved to the satisfaction of the Comptroller of Customs to be China cashmere; and
- (b) mohair tops originating from the United States of America or the Republic of South Africa, China cashmere (other than dehaired China cashmere), and mohair (other than Van mohair):

Provided that —

- (i) the goods are imported in unbroken packages as originally shipped from the country of origin; and
- (ii) the goods are shipped direct from the country of origin to The Bahamas, or if trans-shipped at an intermediate port, are shipped on a through bill of lading, or if shipped to The Bahamas other than from the country of origin, are proved to the satisfaction of the Comptroller of Customs, in the case of goods claimed to originate in the United States of America, the Republic of South Africa or the People's Republic of China to be of the origin claimed, or, in the case of mohair (other than Van mohair), not to be Van mohair.

(2) Goat hair, or goods mixed with goat hair, and wool or animal hair produced in or exported from or through the United Arab Republic or the Sudan or goods mixed therewith, unless it is proved to the satisfaction of the Comptroller of Customs that the goods have been satisfactorily disinfected abroad and that a sample of the goods has been tested and found to be free from anthrax.

3. Any article which bears a design in the imitation of any currency or banknote or coin in current use in The Bahamas or elsewhere.

4. Copies of works in respect of which the owner has given notice to the Comptroller under section 22 of the Copyright Act.

5. Dredges capable of being used for sponging.

6. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent or obscene articles.

7. Infected cattle, sheep or other animals and hides, skins, horns and hoofs or anything which the Governor-General may on sanitary grounds by Order prohibit to be imported.

8. Meat, provisions, fruit and vegetables and any articles intended for human food which are unfit for human consumption.

9. Oleomargarine, butterine, or other similar substitutes for butter, if invoiced, described or labelled as butter.

10. Sodium fluoracetate (a deadly poison commonly referred to as “1080”).

11. Lysergic acid diethylamide and any compound declared by the Minister by Order to be a compound related to lysergic acid diethylamide.

12. Underwater gun being any manufacture or device other than the device known as a Hawaiian sling whereby a missile may be discharged under water.

S.I. 57/1990.

13. Goods whose place of origin is either Kuwait or Iraq and not being goods of Kuwaiti origin which were exported from Kuwait prior to 2nd day of August, 1990.

(B) Restricted Goods

1. All goods the importation of which is regulated under the provisions of any law for the time being in force in The Bahamas.

2. Firecrackers and impact flash salutes, save those which in the opinion the Comptroller are not dangerous.

3. Rum, including taffia, unless imported as cargo and duly reported in aircraft or in ships of not less than thirty tons burden, and in casks or other liquid containers, of a content of not less than five gallons or in glass or stone bottles properly packed in cases or in demi-johns, each case or demi-john containing not less than one gallon.

4. Other spirits (not being cordials or perfumed or medicinal spirits) unless imported as cargo and duly reported on aircraft or in ships of not less than thirty tons burden, and in casks or other liquid containers, of a content of at least nine gallons or in glass or stone bottles, properly packed in cases, or in demi-johns, each case or demi-john containing not less than one gallon:

Provided that no whisky or brandy shall be so imported unless the importer produces in respect thereof a certificate of origin and evidence to the satisfaction of the Comptroller that such whisky or brandy has been kept in wood for at least three years since manufacture.

5. Wine, unless imported as cargo and duly reported in aircraft or in ships of not less than thirty tons burden and in casks or other liquid containers, of a content not less than fifteen gallons or bottled and packed in cases, each case containing not less than one and a half gallons:

Provided that packages of less capacity may be imported under such regulations as may be made by the Minister.

6. Trailers, being trailer caravans for use as living quarters, offices, workshops, or similar purposes and cargo containers used for purposes other than cargo delivery, unless specially authorized by the Minister.

S.I. 20/2006.

7. Mechanical games and devices set in operation wholly or partly by the insertion of a coin or token and so constructed as to return mechanically or otherwise to the person inserting the coin or token in certain circumstances, merchandise, a coin, or token, or coins or tokens of greater total value than that of the coin or token inserted; parts and accessories of such games or devices:

Provided that such games, devices and parts and accessories thereof may be imported by a person, club or organisation holding a valid licence issued under the Lotteries and Gaming Act but only insofar as the conditions and terms of such licence permit.

Ch. 387.

8. Mechanical games and devices, other than the games and devices referred to in paragraph 7 above, which are set in operation by the insertion of a coin or token and which by manual, mechanical or electronic means provide a game for play by one or more persons for amusement only, unless specially authorised by the Minister and subject to such conditions as the Minister may direct.

S.I. 118/1976.

9. Goods imported for the purposes of any business (within the meaning given thereto by section 2 of the Business Licence Act) unless the importer of the goods produces for inspection by the Comptroller —

8 of 1990, s. 5.

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- (a) a current business licence issued under the provisions of the Business Licence Act; and
- (b) proof that exchange control approval was obtained by the importer from The Central Bank of The Bahamas permitting the expenditure of foreign currency for the purchase of the goods.

10. Repealed by 2 of 2007, Third Schedule.

11. Repealed by 2 of 2007, Third Schedule.

12. All drugs which are regulated under the provisions of the Pharmacy Act provided that such drugs are imported in accordance with regulations as may be made.

8 of 2009, Third Schedule.

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S.I. 25/1992;
S.I. 29/1988;
S.I. 58/1990;
S.I. 28/1992;
S.I. 73/1995;
2 of 2007, Third
Schedule;
8 of 2009, Third
Schedule.

SECOND SCHEDULE (Section 61)

PROHIBITED AND RESTRICTED EXPORTS

(A) Prohibited Goods

1. All goods the exportation of which is prohibited under any law for the time being in force in The Bahamas.
2. Goods to Kuwait and Iraq.

(B) Restricted Goods

1. All goods the exportation of which is regulated under any law for the time being in force in The Bahamas.

S.I. 29/1988.

2. Otherwise than pursuant to an authority and in conformity with the terms of a certificate of permission of the Minister of Finance, things manufactured or produced more than 100 years before the date of exportation and being —

- (a) so manufactured or produced by the indigenous people of the former Bahama Islands; or
- (b) of zoological, botanical, mineralogical, anatomical, historical, archaeological, ethnographic or numismatic interest to the people of The Bahamas.

8 of 2009, Third
Schedule.

3. All drugs which are regulated under the provisions of the Pharmacy Act provided that such drugs are imported in accordance with regulations as may be made.

Ch. 227.

22 of 1996, s. 4.

THIRD SCHEDULE (Section 86)

BAHAMIAN STANDARD FOR THE VALUATION OF GOODS FOR CUSTOMS PURPOSES

Dutiable value.

1. (1) The value of goods which on importation are liable to *ad valorem* rates of duty shall be taken to be the price the goods would fetch at the time specified in paragraph 8 on a sale in the open market between a buyer and a seller independent of each other.

(2) The price referred to under subparagraph (1) of any imported goods shall be determined on the following assumptions —

- (a) that the goods are delivered to the buyer at the place of introduction into The Bahamas;
- (b) that the seller bears all costs, charges and expenses incidental to the sale and to the delivery of the goods at the place of introduction, which are hence included in the price the goods would fetch in the open market;
- (c) that the buyer bears any duties or taxes applicable within the territory of The Bahamas, which are hence not included in the price.

(3) For the purposes of subparagraph (2)(b) the seller of any imported goods shall show separately in any invoice, bill head or other document used as an invoice — *22 of 1996, s. 4.*

- (a) the price paid or payable, by the buyer, for the goods; and
- (b) the carriage, freight, postal and insurance charges paid or payable for the goods.

2. (1) A sale in the open market between a buyer and a seller independent of each other presupposes — Sale under open market conditions.

- (a) that the price is the sole consideration;
- (b) that no part of the proceeds of any subsequent resale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him.

(2) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property or both of them.

(3) If there is no evidence that the price is influenced by any financial or commercial relationship, whether by contract or otherwise, between the seller or any person associated in business with him, other than the relationship created by the sale itself, the sale may be considered as being made under open market conditions.

3. (1) When the goods to be valued — Rights in respect of the goods.

- (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied; or
- (b) are imported under a foreign trademark; or
- (c) are imported for sale, other disposal or use under a foreign trademark, the price referred to in subparagraph (1) of paragraph 1 shall be determined on the assumption that it includes the value of the right to use the patent, design, or trademark in respect of the goods; and this provision shall apply *mutatis mutandis* to any other right arising out of intellectual or industrial property.

(2) Where the rights referred to in subparagraph (1) belong to a person domiciled in The Bahamas, the Minister may by regulations provide that such rights shall not be taken into account in determining the price referred to in subparagraph (1) of paragraph 1.

(3) Where goods are imported for sale, other disposal or use, after further manufacture under a foreign trademark, the price referred to in subparagraph (1) of paragraph 1, shall include the value of the right to use that trademark in respect of the goods.

When right to use foreign trademark shall be included in price.

4. The full value of the right to use a foreign trademark shall be included in the price of the goods to be valued only when they are to undergo after their importation one or more of the following operations —

- (a) simple operations such as application of the mark, breaking bulk, sorting or packing; or
- (b) operations which do not contribute in any way or contribute only slightly to the essential characteristics or properties of the goods to which the trademark is to be applied.

When right to use foreign trademark shall be excluded from price.

5. The value of the right to use a foreign trademark shall be wholly excluded from the price of the goods to be valued if —

- (a) paragraph 4(a) does not apply, and
- (b) either —
 - (i) the goods as imported are of a kind in general supply, freely available in the open market, or
 - (ii) the qualification of the finished goods to bear the trademark depends not on the use of the imported goods but on the post-importation operations; or
 - (iii) the imported goods can be regarded as constituting a relatively negligible element in the product to which the Trademark is to be applied.

Definition of foreign trademark.

6. A trademark shall be treated as a foreign trademark for the purpose of this Schedule if it is the mark of —

- (a) any person by whom the goods to be valued have been grown, produced manufactured, offered for sale or otherwise dealt with outside the territory of The Bahamas; or
- (b) any person associated in business with any person referred to in subparagraph (a) above; or
- (c) any person whose rights in the mark are restricted by an agreement with any person referred to in subparagraphs (a) or (b) above.

Factors to be taken into account when valuing.
22 of 1996, s. 4.

7. (1) The price that goods would fetch on a sale in the open market shall be determined having regard to the quantity, the kind and the quality of the goods to be valued:

Provided that where the Comptroller is satisfied that —

- (a) goods similar in quantity, kind and quality were purchased, by different buyers, on the same day and from the same seller but at different prices; and
- (b) the circumstances of the respective transactions relating to the purchase of the goods were similar,

the price the goods would fetch on a sale in the open market shall be determined in accordance with the highest of the prices paid in the respective transactions.

(2) The commercial level to be taken into account when determining the price the goods would fetch on a sale in the open market, shall depend on the circumstances of the actual transaction, save that where used goods are imported, no account shall be taken of the commercial level of the person by whom the goods are imported. *22 of 1996, s. 4.*

(3) Where goods —

- (a) are not imported as articles of commerce, or are not to be industrially processed or transformed; or
- (b) are brought into The Bahamas illegally,

the price the goods would fetch on a sale in the open market shall be determined in accordance with the price such goods would fetch on the retail level.

(4) In any case where, in the opinion of the Comptroller or a proper officer — *22 of 1996, s. 4.*

- (a) goods imported into The Bahamas are used goods; or
- (b) the valuation of any goods imported into The Bahamas cannot be determined on the basis of the price paid or payable, because of the failure of the person importing the goods to produce to the Comptroller or a proper officer any invoice, bill head or other similar document evidencing that price,

the value of the goods, for customs purposes, shall be determined in accordance with the price specified in respect of such goods in an approved manual or, where no such price is so specified, then such value shall be determined in accordance with the price which goods similar in quantity, kind and quality would fetch on the retail level, having regard, nonetheless, to the physical condition of the goods which are the subject of the valuation.

(5) In subparagraph (4), “approved manual” means any catalogue, journal or other document, containing the prices of goods and approved in writing by the Comptroller as a document for use for the purposes of customs valuation. *22 of 1996, s. 4.*

8. The material time for the purposes of customs valuation shall be the time when the entry or equivalent document is passed by a customs officer; and if that time cannot be ascertained the material time shall be the time when the goods are first dealt with by a customs officer. Time element.

9. For the purpose of subparagraph (2)(b) of paragraph 1, the place of introduction into the territory of The Bahamas for goods imported by ship or by aircraft, as the case may be, shall be taken to be the first port in or airport on the territory of The Bahamas at Place of introduction.

which the goods are unloaded; and in the case of unlawful importation the place where the goods are first dealt with by a customs officer shall be considered as the place of introduction.

Costs, charges
and expenses.

10. The “cost, charges and expenses” mentioned in subparagraph (2)(b) of paragraph 1, shall include *inter alia* all of the following, that is to say —

- (a) carriage, freight and postal charges;
- (b) insurance;
- (c) loading charges;
- (d) unloading charges, in so far as these are included in the freight for goods delivered to the place of introduction;
- (e) cost, charges and expenses incurred outside The Bahamas of drawing up the documents incidental to the importation of the goods into the territory including any consular fees;
- (f) the duties of customs and other taxes chargeable outside the territory of The Bahamas other than from which the goods have been exempted or have been or will be relieved by means of refund;
- (g) cost of containers, excluding those which are to be cleared separately from the goods, being treated as separate articles for tariff purposes, cost of packing; and
- (h) commissions payable to agents, that is to say, to commercial agents, to factors and brokers, and other persons acting in similar capacities.

Treatment of
certain costs.

11. Where transport of goods imported is provided wholly or partly free of charge or the buyer’s own means of transport is used, the value for customs purposes shall be taken to include the cost of transport to the place of introduction in accordance with the rates currently charged for the mode of transport used. The same shall apply *mutatis mutandis* where it is claimed that the goods are not insured.

Invoice price as
dutiable value.

12. (1) The price paid or payable may be accepted as the value for customs purposes if —

- (a) the contract of sale is performed within the period specified in paragraph 13;
- (b) the price corresponds, at the time it is agreed upon, to prices the goods would fetch on a sale in the open market between a buyer and a seller independent of each other;
- (c) the price is adjusted, if necessary to take account of circumstances of the sale which differ from those determining the price the goods would fetch in the open market.

(2) Adjustments under subparagraph (1)(c) may in particular be required in regard to —

- (a) the cost, charges and expenses dealt with in subparagraph (2) of paragraph 1;
- (b) reductions in price granted only to sole agents or sole concessionaries or to other natural or legal persons, however described, whose activity is comparable to that of such agents or concessionaries; and
- (c) abnormal rebates and any other reduction from the price the goods would fetch in the open market.

13. (1) For the purpose of paragraph 12, the price paid or payable may be accepted where the contract is dated not more than three months before the date specified in paragraph 8.

Time tolerance for the acceptance of invoice prices.

(2) The Comptroller of Customs may extend the tolerance referred to in subparagraph (1) —

- (a) for goods of a kind usually sold for delivery more than three months after the date of the contract; and
- (b) to goods manufactured to a special order, provided the delivery is made within the contractual period.

(3) In periods of abnormal price fluctuations the periods of tolerance referred to in subparagraphs (1) and (2) may be suspended by the Comptroller.

14. (1) The following prices shall be deemed to be cash prices —

Cash price.

- (a) the price which, under the terms stipulated in the invoice or the contract, is payable between the date of despatch of the goods and the time specified in paragraph 8:
- (b) a price payable after the time specified in paragraph 8 if no discount is available for cash payment or if it is not shown to the satisfaction of the proper officer that the price for cash payment would be different.

(2) The amount of any cash discount shall not be included in the value for customs purposes if such discount is granted at a rate not exceeding 3 per cent and usually available in the branch of the trade concerned.

(3) Without prejudice to paragraph 1(a), any discount for payment in advance shall be included in the value for customs purposes.

(4) Without prejudice to paragraph 1(a), where a price is paid in advance and no discount for such payment is granted, that price shall, unless it is shown to the satisfaction of the Comptroller that the price paid corresponds to the cash price, be adjusted to an amount equal to the deemed cash price; and the payment in advance shall be deemed to have procured for the buyer a reduction price of not less than the amount of the interest he would have had to bear if he had borrowed the sum paid in advance.

Association in business.

15. Any interest accruing to a seller relating to his capital participation in the business of a buyer shall not be considered as proceeds of a subsequent resale within the meaning of paragraph 2(1)(b).

Terms of payment.

16. Subject to paragraphs 12 and 13 the price taken in order to determine the value for customs purposes of goods shall be the cash price payable at the time specified in paragraph 8.

Currency conversion.

17. Where the determination of the value or of the price paid or payable depends upon factors which are expressed in a currency other than that of The Bahamas, the foreign currency shall be converted into the currency of The Bahamas at the official rate of exchange.

Declaration for the determination of value for customs purposes.

18. (1) For the determination of the value for customs purposes of goods to be delivered for home use a declaration of value shall be presented jointly with the entry to a customs officer.

(2) The declaration of value shall be signed by the buyer within The Bahamas, or, if there is not a sale, by the consignee.

Person entitled to dispose of goods may make declaration.

19. The buyer or consignee may authorise in writing the person entitled to dispose of the goods to make the declaration of value.

Valuation in special cases.

20. Where the valuation of goods cannot be determined on the basis of the price paid or payable either because the sale was not made under usual conditions on trade or because the goods were not imported under a contract of sale, the value for customs purposes shall be determined on the basis of the expected proceeds from the sale of the goods or on the amount of anticipated rentals, as the case may be, having regard to the relevant commercial level.

FOURTH SCHEDULE (Section 103)

CUSTOMS SEARCH WARRANT

To

In accordance with the Customs Management Act, you are hereby authorised to enter and search, by day or by night, any premises, in which you have reasonable grounds to believe that there are any uncustomed goods, or any books or documents relating to uncustomed goods; and if there be any part of the premises so entered, or any container therein, to which you are unable to obtain free access, you may enter such part, or open such container, in such manner as you may think necessary; and on any such entry you may seize, detain and carry away any uncustomed goods or any books or documents relating to uncustomed goods which may be found on such premises or in such containers and

which you have reasonable grounds to believe are liable to forfeiture or may afford evidence of the commission of any offence against the customs laws; and for all such purposes you may use all reasonable force and may require the assistance of, and take with you, other customs officers or police officers.

For all of which, this shall be your sufficient warrant.

Given under my hand and the seal of the Customs, this
day of, 20.....

(Customs seal)

Comptroller of Customs.