

**THE CUSTOMS ACT 1988**  
Act No. 47 of 1988 - January 1, 1989

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# THE CUSTOMS ACT 1988

Act No. 47 of 1988

*I assent,*

V.RINGADOO  
Governor-General

29 December 1988

## An Act

To make provision relating to the administration of Customs and the collection of duty, levy and other taxes

ENACTED by the Parliament of Mauritius, as follows-

### PART I

#### INTRODUCTION

1. **Short title.**

This Act may be cited as the Customs Act 1988.

2. **Interpretation**

In this act and in any other Act relating to Customs, unless the context otherwise requires-

"**abandoned goods**" means goods which are not claimed or removed from customs control within the delay specified in section 61;

"**agent**"

(a) means a clearing and forwarding agent licensed under the Licenses Act and appointed under this Act;

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

"**aircraft**" includes balloon, helicopters, kite, glider, airship, flying machines and any other means of aerial locomotion;



**"airport"** means an airport as may be prescribed;

**"approved place of loading"** and **"approved place of unloading"** means any place approved by the Comptroller to be a place where goods may be loaded or unloaded, as the case may be;

**"bonded warehouse"** means any place whether building, store, shed, yard, dock, storage tank or other premises or place, approved by the Comptroller in which goods entered to be warehoused may be lodged, kept or secured pending payment of duty, excise duty and taxes; and includes any central bonded warehouse;

**"broker"** means a customs house broker licensed under the Licences Act and appointed under this Act;

**"by authority"** means by the authority of the Comptroller;

**"cargo"** includes all goods imported or exported in any aircraft or ship other than such goods as are required as stores for consumption or use by or for the aircraft or ship, its master, crew and passengers and the *bona fide* personal accompanied baggage of such passengers, crew and master;

**"clearance"** in relation to goods, means release of goods from Customs by the Comptroller in pursuance of the purpose for which such goods were entered;

**"coastwise trade"** means the trade by air or by sea from any one part of Mauritius to any other part;

**"commission agent"** means a person licensed as such under the Licences Act and appointed under this Act;

**"Comptroller"** means the Comptroller of Customs and Excise or any officer authorised by the Comptroller to act on his behalf;

**"container"** -

- (a) means an article of transport equipment-
  - (i) of a permanent character and strong enough to be suitable for repeated use;
  - (ii) specially designed to facilitate the carriage of goods by one or more modes

- (iii) fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;
  - (iv) so designed as to be easy to fill and empty;
  - (v) having an internal volume of one cubic meter or more; and
- (b) includes the normal accessories and equipment of the container when imported with the container;
  - (c) excludes vehicles and conventional packing;

**"country of export"** means

- (a) the country from which goods are shipped directly to Mauritius or
- (b) the country from which the goods are exported from Mauritius and passing through any other country on their voyage to Mauritius, whether transhipped in that other country or not;

**"crew"** includes every person, other than the master, employed or engaged in any capacity on board any aircraft or ship;

**"Customs"** means the Customs and Excise Department;

**"customs area"**, in respect of a port or an airport, means an area approved by the Comptroller for the landing of passengers and the deposit of goods subject to customs control;

**"customs control"** means any measure applied to ensure compliance with the laws and regulations, the enforcement of which is the responsibility of Customs;

**"customs laws"** includes this Act and any other enactment relating to Customs;

**"customs warehouse"** means any place belonging to, or rented to Government, and used as customs warehouse for the deposit of goods, including abandoned, seized or forfeited goods pending the payment of duty, excise duty and taxes or charges

payable or pending the disposal of such goods, in accordance with any enactment in force;

**"drawback"** means a refund of all or part of any duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting drawback;

**"dutiabale goods"** include all goods subject to any duty, taxes or related charges;

**"duty free shop"** means a shop at a port or airport or any other place, approved by the Minister, for the sale of goods free of duty or excise duty, taxes or related charges, to passengers arriving from or leaving for a foreign port or airport;

**"duty"**-

(a) means any customs duty leviable under any customs law;

(b) includes any special duty or customs surcharge;

**"duty free shop"** means a shop at a port or airport or any other place, approved by the Minister, for the sale of goods free of duty, excise duty, taxes or related charges, to passengers arriving from or leaving for a foreign port or airport;

**"duty paid value"** in respect of goods means the sum of

(a) the value of the goods; and

(b) the duty, excise duty and taxes payable on the goods;

**"excise duty"** means the excise duty chargeable under the Excise Act 1994 on excisable goods specified in Part I of the First schedule to that Act;

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

**"exporter"**-

(a) means any person by whom any goods, whether previously imported or not, are exported;

(b) includes the owner of such goods or any person acting on his behalf;

"**foreign port**" means any place in a country, other than Mauritius, to which aircraft or ships may have access;

"**goods**" includes, unless otherwise specified in this Act, all kinds of articles, wares, merchandise, animals and movable property of any kind whatsoever, whether for sale or not;

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

"**import**" means to bring or to cause to be brought into Mauritius from any country;

"**importer**", in relation to any goods at the time of import, includes the owner of the goods or his agent or any other person for the time being possessed of or beneficially interested in the goods;

"**manifest**" means any list of goods and passengers which is established for customs purposes, by the master of an aircraft or ship or his agent;

"**Mauritius**" means the country of Mauritius, including its territorial waters and airspace of Mauritius;

"**Mauritius Marine Authority**" means the Mauritius Marine Authority as established by the Ports Act;

"**master**", in relation to any aircraft or ship, -

(a) means the person in charge or in command of such aircraft or ship;

(b) does not include a person appointed for the conduct of ships into or out of a port;

"**Minister**" means the Minister to whom responsibility for the subject of finance is assigned;

"**name**" in respect of any aircraft or ship, includes the registration mark of the aircraft or ship;

"**occupier**", in relation to bonded warehouses, means any person licensed and authorised to warehouse goods in such approved bonded warehouses;

"**officer**" includes any officer employed in the service of Customs, excluding labourers, office attendants and, more generally, other manual workers;

"**owner**" -

(a) in respect of goods, includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent of the goods or any person possessed of or beneficially interested in or having control of or power of disposal over such goods;

(b) in respect of a ship or aircraft, includes the master or other responsible officer of the ship or aircraft and any person acting as an agent for the owner or any charterer or operator;

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

**"parcel"** means any postal packet which is posted in Mauritius and accepted by the Postmaster General as a parcel in accordance with any enactment relating to postal services, or which is received in Mauritius from abroad by parcel post;

**"person"** includes any association, partnership, trust, société or organisation, whether incorporated or not;

**"pleasure boat"** means any ship used for pleasure, sports and leisure activities;

**"port"** means a port as may be prescribed;

**"produce"** means to grow, to manufacture or to mine

**"prohibited goods"**-

(a) means any goods, the import or export of which is prohibited by law;

(b) includes any restricted goods;

**"proper officer"** means the officer instructed by the Comptroller to be the proper officer to carry out any specific provision of customs laws and of any other enactment, as the case may be;

**"proprietor"** in relation to bonded warehouses, means an owner of any duly approved bonded warehouse;

**"quay"** means a quay as may be prescribed;

**"restricted goods"** means any goods, the import or export of which is restricted by law;

**"revenue"**, for the purposes of this Act and any other enactment relating to customs, means any amount payable in accordance with the provisions of any applicable law of Mauritius;

**"Rs"** means Mauritian rupees;

**"security"** means a guarantee which is provided to the satisfaction of the Comptroller for the payment of duty, excise duty and taxes, as the case may be, on any goods;

**"ship"** includes any sea going vessel, hovercraft or boat of any kind, including yachts, pleasure boats or fishing boats, whether propelled by engine or otherwise, or towed;

**"smuggling"** means any import, introduction, export or attempted import, introduction or export with the intent-

- (a) to defraud or evade the payment of duty, excise duty, taxes and other payable charges, as the case may be; or
- (b) to evade any prohibition of, restriction on, or regulation as to, the import, introduction or export of any goods;

**"taxes"** include-

- (a) value added tax on import levied under any enactment relating to value added tax; and
- (b) any other tax the collection of which is the responsibility of Customs;

**"temporary admission"** means the import, for a specific purpose, of goods intended for re-export within a specified period and without having undergone any change except normal depreciation due to the use made of such goods;

**"time"**, in relation to import or export respectively, means-

- (a) the time at which an aircraft or ship actually lands in Mauritius or the time at which any such ship or aircraft enters Mauritius;
- (b) the time at which goods are loaded on board an exporting aircraft or ship;

**"transaction value"**, in relation to imported goods means the transaction value as determined in accordance with section 18A

**"trans-shipment"** means the transfer of goods under customs control from the importing means of transport to the exporting means of transport;

**"value"**-

(a) in respect of the computation of any duty means the value as determined in accordance with section 18 of this Act;

(b) in respect of any penalty or forfeiture imposed under this Act and based on the value of any goods, means the duty paid value of those goods at the time and place of the commission of the offence by which the penalty or forfeiture is incurred;

**"vehicle"**-

(a) means any means of conveyance of any kind, whether drawn or propelled by hand, by animal, by power or by steam;

(b) does not include any aircraft or a ship;

**"wharf"** means a wharf as may be prescribed.

## **PART II**

### **ADMINISTRATION**

#### **3. Comptroller**

There shall be a Comptroller who shall be a public officer and have the general control and administration of Customs.

#### **4. Oaths**

The Comptroller shall be entitled to administer any oath required by law in any matter relating to Customs.

#### **5. Power to hold inquiries**

(1) The Comptroller may hold any inquiry or may direct an inquiry to be held into any matter under his

responsibility and management, or into the conduct of any person employed in Customs.

(2) Whenever he thinks it necessary or desirable so to do for the purposes of this Act, by order, require any person to attend as witness and give evidence, produce any document in his possession or power or otherwise furnish information, which relates to any matter relevant to the inquiry.

(3) Where any documents are produced pursuant to sub-section (2) the Comptroller may take copies of or extracts from them or require the person producing them or any connected person to provide an explanation of such documents.

(4) Where a person is unable to produce a document he may be required to state to the best of his knowledge, where the document is.

(5) Any person who fails to comply with an order under sub-section (2) or with sub-section (3) or sub-section (4), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

(6) Any person who, when heard as a witness in any such inquiry, gives false evidence shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two years.

#### **6. Working Days and Hours.**

The working days and hours of Customs shall be such as may be prescribed and, except with the permission of the Comptroller, no work connected with the discharge, landing, loading or receipt of any cargo shall be performed outside the prescribed working days and hours.

#### **7. Overtime Charges.**

Where work is permitted by the Comptroller to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at such rates as may be prescribed.

### **PART III**

#### **COLLECTION AND MANAGEMENT OF DUTY, EXCISE DUTY AND TAXES**

##### ***Sub-part I - Computation, Payment and Recovery of Duty, Excise Duty and Taxes***

#### **8. Payment of Duty, Excise duty and Taxes**

(1) All duty, excise duty and taxes shall be paid at the rate specified upon all goods entered unless such goods are



entered to be warehoused in a bonded warehouse or are free of duty, excise duty and taxes.

(2) Notwithstanding subsection (1), payment of duty, excise duty and taxes on such type of petroleum products imported by the State Trading Corporation as may be approved by the Minister, shall be effected within a period of 30 days of the date of importation of such products or within such other period as may be prescribed.

#### **9. Duty Rate.**

(1) Subject to section 3(5) of the Revenue (Temporary Protection) Act 1999, the rate of duty applicable to any goods shall be that in force in the Customs Tariff Act, at the time the bill of entry is validated at Customs.

(2) For the purpose of sub-section (1), validation occurs when a bill of entry number is allotted at Customs and inscribed on such bill of entry.

(3) Notwithstanding sub-sections (1) and (2), in the case of goods for which no bill of entry is required, the rate of duty applicable to such goods shall be that in force in the Customs Tariff Act, at the time of the delivery or removal or export of such goods, as the case may be.

#### **10. Weights and Measures.**

Where duty is imposed according to weight or measure, the weight or measurement of the goods shall be ascertained according to the standard weights and measures established by the laws of Mauritius.

#### **11. Tare Allowance.**

Such allowance for tare shall be made as is prescribed.

#### **12. Derelict Goods Dutiable.**

All goods derelict, flotsam, jetsam or lagan which is landed or saved or which comes ashore from any wreck shall be subject to the same duty as goods of the like kind on import into Mauritius.

#### **13. Payment of Duty, Excise Duty and Taxes on Manifested Goods.**

All dutiable goods shown on the import manifest of any aircraft or ship shall be charged with duty, excise duty and taxes, as the case may be, unless it is proved, to the

satisfaction of the Comptroller, that such goods were not landed in Mauritius.

**14. Recovery of duty, Excise Duty and Taxes.**

(1) The correct amount of duty, excise duty, taxes and charges payable in respect of any goods shall, from the time when they should have been paid, constitute a debt due to Government at import or export, as the case may be, and shall be recoverable in a court of competent jurisdiction by proceedings in the name of the Comptroller.

(2) Any debt due to Government under sub-section (1) shall be secured by a special privilege and a right of retention.

**15. Payment under Protest**

(1) Subject to subsections (2) and (3) where, in respect of any goods, a dispute arises as to-

- (a) the amount of duty, excise duty, taxes or charges; or
- (b) the liability of those goods to duty, excise duty, taxes or charges, the owner of the goods may pay under protest, the sum demanded by the Comptroller and the sum so paid shall, as against the owner of the goods, be deemed to be the proper amount of duty, excise duty and taxes on such goods.

(2) Where duty has been paid in the manner specified in sub-section (1), the owner of the goods may within 28 days of the date of payment of the duty, lodge written representations with the Secretary, Assessment Review Committee in accordance with section 8E of the Unified Revenue Act 1983 for the determination of the proper duty payable in respect of those goods.

(3) Where excise duty has been paid in the manner specified in subsection (1), the owner of the goods may, within 28 days of the date of payment of the excise duty, make a claim for refund or adjustment to the Comptroller.

(4) Where as a result of the payment of duty in the manner specified in subsection (1), value added tax on import as specified in any enactment relating to value added tax is claimed to have been paid in excess of the amount due, the owner of the goods may make a claim for refund or adjustment to the Commissioner for VAT within 28 days of the date of payment of such tax.

*Sub-Part II - Valuation and Invoices*

**16. Delivery of documents with entry.**

(1) With the entry of any goods, there shall be delivered, subject to section 16B, to the Comptroller the original invoices, bills of lading, bills of parcels, price lists, policies of insurance, letters and other documents showing the value of the goods at the place at which they were purchased together with the freight, insurance and other charges on the goods.

(2) Invoices required under subsection (1) shall be submitted to the Comptroller in duplicate.

(3) All invoices and certifications shall contain such particulars as may be prescribed, and the Comptroller may refuse to accept any invoice or certification which does not comply with the prescribed requirements.

**16A. Use of computer system.**

Notwithstanding this Act or any other enactment, the Comptroller may allow -

(a) the import or export of goods under this Act or an entry in relation to excisable goods under the Excise Act; and

(b) the payment of duty, excise duty and taxes,

to be made through such computer system as may be approved by the Comptroller.

**16B. Facilities to qualified TradeNet users.**

(1) Subject to this section, where in respect of any period of 12 months, a TradeNet user satisfies the prescribed conditions, he shall be a qualified TradeNet user.

(2) A qualified TradeNet user -

(a) may not, after the period specified in subsection (1), with the entry of any goods, deliver to the Comptroller the hard copy of the electronic declaration and the documents referred to in section 16 in respect of those goods; but

(b) shall, in respect of those goods, keep, at his business premises, in such manner and in such form as may be prescribed, the documents referred to in paragraph (a).

(3) Subsection (1) shall not apply where in respect of an electronic declaration, the goods are subject to examination before delivery.

(4) Subject to this section, where in respect of the entry of any goods, a permit or authorisation is required under any enactment for health, phytosanitary or security reasons, a qualified TradeNet user shall deliver to the Comptroller with the entry of those goods, the hard copy of the electronic declaration together with the required permit or authorisation.

(5) Every qualified TradeNet user shall, at all reasonable times, allow a proper officer to have access to his business premises for the purpose of examining the documents referred to in subsection (2).

(6) Where a qualified TradeNet user fails -

(a) to satisfy the prescribed conditions pursuant to subsection (1); or

(b) to comply with subsection (5),

the facilities under subsection (2) shall, without prejudice to any action which the Comptroller may take under the customs laws, be withdrawn with effect from such date as may be specified in a written notification by the Comptroller.

(7) Where the facilities have been withdrawn pursuant to subsection (6), such facilities shall not again be given to the TradeNet user before the expiry of a period of 12 months as from the date specified in the written notification by the Comptroller.

(8) In this section -

"TradeNet user" has the same meaning as in the Customs (Use of Computer) Regulations 1997.

## **17. Powers of the Comptroller over Documents.**

(1) Where information has been received by the Comptroller or the Comptroller has reason to believe that goods have been smuggled, under-declared, unlawfully entered or illegally dealt with, or that it is intended to smuggle, under-declare, unlawfully enter or deal illegally with any goods, or where any goods have been seized or detained, the importer or exporter shall, immediately upon being requested so to do by the Comptroller, produce and hand over to the Comptroller all books,

invoices and documents relating to those goods or to any other goods imported or exported by him at any time within the three years immediately preceding the date of such request. The importer or exporter shall also produce for the inspection of the Comptroller, and permit him to make copies of, or take extracts from, all books or documents of any kind including price lists, bank drafts, orders, letters of credit, invoices, wherein any entry or memorandum appears, in any way, to relate to any such goods.

(2) Any person, not being the importer or exporter, who has in his possession or custody any books, invoices or documents mentioned in subsection (1) shall produce such books, invoices or documents to the Comptroller on demand.

(3) Notwithstanding any other enactment, subsection (2) shall apply to brokers, commission agents, manufacturers' representatives, commodity syndicates, and to other commercial enterprises and parastatal bodies, as the case may be.

(4) Any person who refuses or neglects to comply with a request of the Comptroller under this section, and any person who produces any false book, invoice or document or makes any false representation in regard to the country in which goods were grown, produced or manufactured or processed, or makes any false representation with the intent to contravene this section, shall commit an offence and shall on conviction, be liable to a fine not exceeding Rs. 200,000 and to imprisonment for a term not exceeding 4 years..

(5) For the purposes of subsection (4) an invoice which is drawn in a fictitious name or in the name of a person other than the importer of the goods specified shall be deemed to be a false invoice.

## **18. Mode of Ascertaining Ad-Valorem Duties**

(1) where duty is leviable on by reference to their value, the value of those goods shall be the transaction value of the goods as determined in accordance with section 18A

(2) Subject to subsections (3) and (4) where the value of the goods cannot be determined in accordance with section 18A, the value of those goods shall be determined in accordance with any of the paragraphs (a), (b), (c) or (d) in the sequential order in which they appear -

- (a) the transaction value of identical goods accordance with section 18B;
- (b) the transaction value of similar goods in accordance with section 18C;

(c) the deductive method of valuation in accordance with section 18D; or

(d) the computed method of valuation in accordance with section 18E.

(3) The importer may, by notice in writing to the Comptroller, opt for the sequence of subsection (2)(c) and (d) to be reversed.

(4) Where the value of the goods cannot be determined in accordance with any of the sections 18A, 18B, 18C, 18D or 18E, the value of the goods shall be determined in accordance with the fall back method of the valuation under section 18F.

#### **18A. Transaction value of goods**

(1) The transaction value of goods shall be the price actually paid or payable for the goods when sold for export to an importer in Mauritius, adjusted where appropriate in circumstances as may be prescribed, and shall in addition include -

(a) all costs, charges and expenses incidental to the sale contract and delivery of those goods; and

(b) the loading charges, freight, insurance and other charges and expenses in respect of those goods as may be prescribed,

provided that the prescribed conditions are satisfied.

#### **18B. Transaction value of identical goods**

(1) Where the value of the goods cannot be determined under section 18A, the value of those goods shall be the transaction value of goods which are identical to the goods being valued when sold for export to an importer in Mauritius and exported at the same time or subsequently the same time as the goods being valued, provided that the prescribed conditions are satisfied.

(2) For the purposes of this section, "identical goods"-

(a) means goods which -

(i) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except the value of the goods;

- (ii) are produced in the country in which the goods being valued are produced; and
  - (iii) are produced by, or in behalf of, the person who produces the goods being valued; but
- (b) does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, the importer of those goods, free of charge or at a reduced cost, for use in connection with the production and sale for export of those goods.

**18C. Transaction value of similar goods**

(1) Where the value of the goods cannot be determined under section 18B, the value of those goods shall be the transaction which are similar to the goods being valued when sold for export to an importer in Mauritius and exported at the same time or substantially the same time as the goods being valued, provided that the prescribed conditions are satisfied.

(2) For the purpose of this section, "similar goods"

- (a) means goods which -
- (i) closely resemble the goods being valued in respect of component materials, parts and characteristics and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods and the goods being valued;
  - (ii) are produced in the country in which the goods being valued are produced; and
  - (iii) are produced by the person who produces the goods being valued; but
- (b) does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, the importer of those goods, free of charge or at a reduced cost, for use in connection

(3) Where the person who produces the goods being valued does not produce the goods, the goods produced by a different person shall be taken into consideration for the purposes of subsection (2).

#### **18D. Deductive method of valuation**

(1) Where the value of the goods cannot be determined under section 18C, the value of those goods shall be determined in accordance with the deductive method of valuation specified in subsection (2).

(2) The deductive method of valuation shall be based on the sale value in Mauritius of the goods being valued or of identical or similar goods less such expenses in respect of the importation and sale of those goods, as may be prescribed.

#### **18E. Computed method of valuation**

(1) Where the value of the goods cannot be determined under section 18D, the value of those goods shall be determined in accordance with the computed method of valuation specified in subsection (2)

(2) The computed method of valuation shall be based on the total sum of the cost of production and of materials used in producing the goods being valued together with the profit and general expenses usually reflected in the sale for export to an importer in Mauritius, as may be prescribed.

#### **18F. Fall back method of valuation**

(1) Where the value of the goods cannot be determined under section 18E, the value of those goods shall be determined in accordance with the fall back method of valuation specified in the subsection (2)

(2) Subject to subsection (3), the fall back method of valuation shall be determined on the basis of the value derived from the methods of valuation specified in sections 18A to 18E, applied in a reasonable manner and adjusted to the extent necessary to arrive at the value of the goods being valued.

(3) The value of the goods being valued under subsection (2) shall not be determined on the basis of -

- (a) the selling price in Mauritius of those goods produced in Mauritius;
- (b) a system which provides for the acceptance for duty purposes of the higher of two alternative values;



- (c) the price of those goods on the domestic market of the country of export;
- (d) the cost of production, other than the computed method of valuation under the section 18E;
- (e) the price of the goods for export to a country other than Mauritius; or
- (f) arbitrary or fictitious values.

#### **19. Under or Over Valuation of Goods.**

(1) Where the Comptroller finds that goods have been declared at a value different from their true value at the time and place of export he may, on such information as is available to him, determine the value of those goods and the importer shall pay duty, excise duty and taxes, if any, on the value so determined.

(2) On determination of the value of any goods under subsection (1), the Comptroller shall give notice in writing of the basis of the valuation.

(3) Where the importer disputes the value of the goods determined by the Comptroller, the importer may ask for the review of the notice under subsection (2), within 28 days of the date of the notice and shall for that purpose lodge with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act, written representations specifying precisely the reasons thereof.

(4) Any dispute on valuation of goods pending immediately before the commencement of subsection (3) shall, on the commencement of that subsection, be deemed to have satisfied the requirements for the lodging of a review before the Assessment Review Committee under that subsection.

#### **19A. Confidentiality**

(1) Except for the purposes of administering customs laws or for the purposes of any judicial proceedings, no officer shall communicate to any person any matter relating to the valuation of goods.

(2) Any officer who, without lawful excuse contravenes this section shall commit an offence and shall on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

## **20. Disputes relating to classification or origin of goods.**

(1) Where in respect of an entry of any goods, the Comptroller is not satisfied with the classification or origin of the goods, he shall, on the basis of such information as is available to him and on such information as is provided by the importer or exporter, determine the classification or origin of those goods.

(2) On a determination under subsection (1), the Comptroller shall give to the importer or exporter notice in writing thereof.

(3) Where the importer or exporter disputes the classification or origin of the goods as determined by the Comptroller under subsection (1), the importer or exporter may ask for the review of the notice under subsection (2), within 28 days of the date of the notice and shall for that purpose lodge with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue act, written representations specifying precisely the reasons thereof.

(4) Any dispute on classification or origin of goods, pending immediately before the commencement of this section shall, on the commencement of this section be deemed to have satisfied the requirements for the lodging of a review before the Assessment Review Committee under subsection (3).

### *Sub-Part III - Temporary Admission, Duty-Free Shops and Refunds*

## **21. Conditions for Temporary Admission of Goods.**

(1) Subject to the provisions of this section, the Comptroller may, for a period of six months, which may be extended by another period of six months, authorise the temporary admission of goods where the importer furnishes adequate security to cover the duty, excise duty and taxes which would otherwise be payable.

(2) The Comptroller may exempt an importer of any goods from furnishing security if the goods are covered by documents for temporary admission issued under any international convention and if so approved by the Minister.

(3) The Comptroller may, for the purpose of identifying the goods for temporary admission, affix Customs marks, seals, stamps, perforations or other devices to such goods or may take a sample of such goods or such other steps as he thinks necessary.

(4) Subject to the provision of any law in force relating to the import of goods or the protection of revenue, the Comptroller may allow goods imported under subsection (1) to remain in Mauritius on payment of duty, excise duty and taxes, and interest computed on the basis of duty and taxes payable on such goods, at the rate of twelve percent *per annum* or such other rate as may be prescribed, for the period for which payment of duty, excise duty and taxes has been deferred.

(5) The Comptroller may terminate temporary admission at the request of the importer, if the goods are abandoned, destroyed or rendered commercially valueless under his supervision.

(6) Where the Comptroller is satisfied that any goods imported under subsection (1) have been destroyed or lost by accident or force majeure, no duty shall be payable on such goods.

(7) Any waste or scrap remaining after the destruction of any goods under subsection (5) or (6) shall, if put to any use in Mauritius, be liable to any applicable duty, excise duty and taxes.

(8) Except where goods have been allowed to remain in Mauritius under subsection (4)-

(a) any importer who fails to export temporarily admitted goods at the end of the period specified under subsection(1);

(b) any person who sells or purchases temporarily admitted goods; and

(c) any person who alters, replaces or otherwise modifies any such goods or any parts thereof,

shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than treble the value of the goods, and any goods which are the subject-matter of the offence shall be seized by the Comptroller and shall be forfeited by the Court, or where no proceedings can be instituted by reason of the death or absence from Mauritius of the offender, by the Comptroller.

(9) Notwithstanding the rules of temporary admission as described under this Act, the Comptroller may authorise for such period as he may determine, the temporary admission of goods for the purpose of processing and re-exporting such goods.

## **22. Goods for Sale in Duty-Free Shops.**

(1) Any goods which are intended for sale in a duty-free shop shall be exempted from payment of any duty, excise duty and taxes.

(2) The conditions under which such goods may be imported, exported or otherwise dealt with shall be as prescribed.

### **23. Refunds.**

(1) Where goods have been damaged, pilfered, lost or destroyed during the voyage or where duty or excise duty has been paid through an error of fact or an erroneous construction of the law or where any goods have been ordered to be destroyed as being unfit for human consumption, the Comptroller, upon request, may refund or adjust the amount of duty or excise duty payable accordingly.

(2) Where, in the case of a provisional entry, any sum paid under Section 37 of this Act by the importer is in excess of the correct amount of duty or excise duty, a refund shall be made.

(3) Where any duty excise duty or charge have been paid and repayment of such duty or of any portion thereof, is claimed by the importer on the ground that the duty, excise duty or charge were paid under an erroneous construction of the law or from other error, no repayment of such duty, excise duty or charge, or of any portion thereof, shall be made by the Comptroller where such claim is made after three years from the date of the payment.

(4) Where a claim for refund of duty is made and the Comptroller is not satisfied that the importer is entitled to a refund, he shall give written notice to the importer of his decision.

(5) Where the importer is dissatisfied with the decision of the Comptroller under subsection (4), he may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.

### **24. Erroneous Refund, Remission or Reduction.**

Where the importer has benefitted through an error from a refund, remission or reduction of duty, excise duty or taxes, he shall be liable to pay the amount of duty, excise duty or taxes which has been erroneously refunded, remitted or reduced on a demand being made by the Comptroller within three years from

the date of the duty, excise duty or taxes having been erroneously refunded, remitted or reduced.

#### **PART IV**

#### **CONTROL, EXAMINATION, ENTRIES AND SECURITIES**

#### **25. Customs Control of Goods.**

- (1) Goods shall be subject to the control of Customs-
  - (a) in case of goods imported, from the time of import until removal for home consumption, or until the time of export, whichever shall first happen;
  - (b) in the case of goods under drawback, from the time of the claim for drawback until the time of export;
  - (c) in the case of goods for export, from the time when the goods are brought to an approved place of loading for export until the time of export.
- (2)
  - (a) Except as otherwise provided by this Act, no goods subject to Customs control shall be moved, altered or interfered with.
  - (b) Except with the written authorisation of the Comptroller, no goods subject to Customs control shall be removed from Customs or delivered to any person.

#### **26. Minimum Size of Ships.**

Except with the permission in writing of the Comptroller, no goods shall be imported into or exported from Mauritius in any ship of less than fifty tons net tonnage.

#### **27. Rights of Examination and Cost.**

- (1) The control of goods by Customs shall include the right of Customs to examine all goods subject to such Control.
- (2) The loading, unloading, carrying and landing of all goods, including passengers' baggage, and the bringing of the goods to the place of examination and the measuring, weighing,

counting, unpacking and repacking, and the opening and closing of the packages, shall be performed by and at the expense and risk of the importer or exporter.

**28. No Customs Liability.**

Customs shall not be liable for the loss of, or damage to, any goods subject to their control unless such loss or damage has been caused by the wilful act or negligence of any officer.

**29. Goods Imported or Exported by Post.**

Goods imported or exported in any form or packaging through the Post Office shall be subject to Customs control.

**30. Entries for Import.**

(1) All entries in respect of imported goods shall be made on the form prescribed in respect of goods -

- (a) for home consumption;
- (b) for warehousing;
- (c) for transshipment; or
- (d) for processing, export or re-export in accordance with the Industrial Expansion Act 1993 and the Export Service Zones Act, as the case may be.

(2) Notwithstanding subsection (1), newspapers and magazines for sale in Mauritius imported by airfreight and airmail may, subject to any prescribed conditions, be delivered at the time of arrival to importers without previous entry being made.

**31. Form prescribed for Export.**

All entries in respect of exported goods shall be made on the form prescribed in respect of goods exported.

**32. Passengers' and Crew's Luggage.**

Notwithstanding sections 30 and 31, the *bona fide* personal goods which are luggage of passengers, master and crew in any aircraft or ship may, subject to any prescribed conditions, be imported or exported without entry having been made.

**33. Holder of a Draft.**

(1) The holder of a draft with a bill of lading in guarantee of the payment thereof may give notice in writing to the Comptroller that he holds those documents and, thereupon, the Comptroller shall not allow the passing of entry of such goods without the written consent of the holder of those documents.

(2) Where goods have been entered but have not been taken delivery of by the importer, the Comptroller may, at any time before such goods are disposed of as unclaimed, deliver such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods as described under subsection (2) shall be dealt with in accordance with the Bill of entry presented and the importer shall have no claim against the Comptroller for any expenses or other costs incurred by him in connection with the entering of the goods.

#### **34. Particulars of Bill of Entry.**

(1) The person entering any goods, whether for himself or on behalf of any importer or exporter, shall deliver to the Comptroller the bill of entry in the prescribed form in respect of such goods and such copies as may be required.

(2) The particulars required to be given on such bill of entry shall be written and arranged in such form and manner as the Comptroller shall require.

#### **35. Making of Entries.**

Any person making an entry shall, if so required by the Comptroller, answer questions relating to the goods referred to in the entry.

#### **36. Passing of Entries.**

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

#### **37. Provisional Entry.**

Where the importer of any goods is unable immediately to supply the full particulars required for making an entry and makes a declaration to that effect before the Comptroller, he may be authorised to make a provisional entry as prescribed. In such case, such importer shall pay an estimated duty, excise duty and taxes, and shall make a deposit as may be required by the Comptroller.

**38. Perfect Entry.**

(1) Within three months from the passing of the provisional entry, or within such further period not exceeding three months as the Comptroller thinks fit to allow, the importer of the goods shall make complete entry, failing which the deposit described under section 39 shall be forfeited.

(2) A complete entry of the goods included in a provisional entry shall be made in such manner as if the provisional entry had not been made.

(3) Where an importer is in possession of all particulars required by the Comptroller, the importer shall complete such perfect entry immediately. Failure to complete perfect entry in this case shall constitute an offence and the importer shall, on conviction, be liable to a fine not exceeding three times the amount of duty, excise duty and taxes involved.

**39. Power to require Security.**

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

(2) Every security in the nature of a bond which is issued by a company or a partnership shall, in the absence of fraud, be binding on the company and on the partners of the partnership, as the case may be.

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

(4) The forms of security specified by the Comptroller shall be sufficient for all purposes of a bond or guarantee under this Act and shall bind the subscribers thereto jointly and severally for the full amount.

(5) Every security shall be valid for such period as may be specified in the bond or guarantee and, subject to section 41, may be reviewed.

**40. Production of security.**

Where any security is issued upon by the Comptroller, its production on its due date or thereafter, without further



proof, shall entitle the Comptroller to judgement for its stated liability against the persons who have subscribed such security unless release or satisfaction of such security is established.

**41. Fresh Security.**

Where the Comptroller is dissatisfied with the sufficiency of any security previously given, he may require a fresh security.

**42. General Bonds.**

Where security is required for any particular purpose, the security may, by authority of the Comptroller, be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

**43. Cancellation of Security.**

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

**43A. Record**

(1) Every person who, in the course of his business, imports or exports goods shall, for purposes of any customs laws, keep a full and true written record, whether on computer or otherwise, in English or French language of every transaction he makes.

(2) Every person referred to in subsection (1) shall, in respect of any goods keep in chronological order, a copy of the entry he makes, either electronically through the TradeNet or otherwise, together with a copy of the documents delivered to the Comptroller with that entry.

(3) Every record under subsection (1) and (2), shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and shall be made available on demand by the proper officer.

(4) For the purposes of subsection (2), "TradeNet" has the same meaning as in the Customs (Use of Computer) Regulations 1997.

(5) Any person who fails to keep, or to make available to the proper officer, any record required to be kept under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years.

**PART V**  
**REPORT OF AIRCRAFT AND SHIPS AND IMPORT OF GOODS**  
***Sub-Part I - Boarding of Aircraft and ships***

**44. Ships to Enter Ports.**

(1) The master of a ship from parts beyond the seas shall not permit his ship to enter any place in Mauritius other than a port unless from stress of weather or other reasonable cause.

(2) Subject to Section 48, the Comptroller may authorise pleasure boats to proceed to any place other than a port in Mauritius.

**45. Ship to Bring to on Being Signalled.**

The master of every ship arriving within the territorial waters of Mauritius shall bring his ship to for boarding when approached by or hailed or signalled from any vessel in the service of Customs, or from any vessel in the service of the Government of Mauritius flying the proper ensign.

**46. Ship or Aircraft to Bring to at Boarding Station.**

The master of every aircraft or ship from parts beyond the seas, bound for or calling at any port in Mauritius, shall bring his aircraft or ship to, for boarding, at the boarding station appointed for that port or airport and shall provide the means to facilitate the boarding by the proper officer.

**47. Unauthorised Boarding.**

No person other than the Port Pilot, the officer from the Ministry of Health, or any person duly authorised by the Ministry of Health, shall board any ship or aircraft before the proper officer.

**48. Declaration by Owner of Pleasure Boats.**

(1) Where foreign pleasure boats enter Mauritius, the owner or master of such boats shall provide the Comptroller with a written declaration in prescribed form on the purpose of the boat's presence in Mauritius and the duration of its stay.

(2) The owner or master of such pleasure boat shall notify the Comptroller immediately of any change in the content of the declaration required under subsection (1).

(3) Subsection (1) shall be without prejudice to any duty, excise duty or taxes which may be payable in respect of the boat or any cargo or stores in the boat.

## ***Sub-Part II - Report of Cargo***

### **49. Cargo Report.**

(1) The master, owner or duly authorised agent of every aircraft or ship arriving from ports or airports beyond the seas shall report to the Comptroller by delivering a full and complete inward manifest, both in electronic form and hard copy or in any other manner acceptable to the Comptroller, in respect of the ship or aircraft, its cargo and passengers -

(a) in the case of a ship -

(i) arriving from Reunion Island, not later than 5 hours before arrival; or

(ii) arriving from any other port, not later than 24 hours before arrival;

(b) in the case of an aircraft -

(i) arriving from Reunion Island, upon arrival; or

(ii) arriving from any other airport, not later than one hour before arrival.

(2) (a) Except where otherwise especially allowed by the Comptroller, every report under be made before bulk is broken.

(b) The Comptroller may permit the master, owner or his agent to amend obvious errors in the report after its submission.

### **50. Manifest for Other Ports.**

(1) The master of every laden ship or aircraft arriving in Mauritius without having on board any goods for any port therein shall, when reporting the ship or aircraft, deposit the manifest from the loading port.

(2) The manifest shall be returned to the master on the clearing of his ship or aircraft outwards.

### **51. Master of Wrecked Ships to Report.**

Where any ship is lost or wrecked on the coast of Mauritius, the master or owner or the duly authorised agent of the ship shall, without any unnecessary delay, make report of the ship and cargo by delivering to the Comptroller a manifest so far as it may be possible for him to do so.

**52. Tonnage of Ships.**

The tonnage of a ship for the purposes of this Act shall be the tonnage specified in the certificate of registry of such ship.

**53. Master's Name on Ship's Register.**

The Director of Shipping may refuse to admit any person to do any act as master of a ship unless his name is inserted in or endorsed upon the certificate of registry, if any, of such ship as being the master thereof, or until his name has been so endorsed.

**Sub-Part III - Landing, Entry and Examination of Goods**

**54. Landing of Goods.**

All goods unloaded from an aircraft or ship shall be either-

- (a) landed at such place as the Comptroller may direct; or
- (b) transhipped or removed direct to the ship or aircraft into which they are to be transhipped or removed, as the case may be, or after conveyance thereto.

**55. Loading and Unloading of Goods.**

(1) Except with the written authorisation of the Comptroller, no person shall load goods on to, or unload goods from, a ship or aircraft except at a port or at a quay or wharf or airport.

(2) The Comptroller may, for the purpose of ensuring compliance with this Act, by written direction to the master of a ship or aircraft, prohibit the loading and unloading or delivery of goods to or from the ship or aircraft, as the case may be.

**56. Accommodation on Ports and Airports.**

The owner or lessee of any port or airport shall provide, to the satisfaction of the Comptroller, suitable office accommodation for the exclusive use of the officers employed at that port or airport.

**57. Return by the Mauritius Marine Authority.**

Where a ship enters a port which is under the management of the Mauritius Marine Authority or any other duly authorised authority, the Mauritius Marine Authority shall submit to the Comptroller a return showing the cargo which has -

- (a) been manifested and unloaded;
- (b) been manifested but not unloaded;
- (c) been unloaded but not manifested.

**58. Return for Landing Aircraft.**

(1) Subject to subsection (2), where an aircraft lands at an airport the agent shall submit to the Comptroller a return showing the cargo which has -

- (a) been manifested and unloaded;
- (b) been manifested but not unloaded; or
- (c) been unloaded but not manifested.

(2) Where an aircraft lands in an airport which is under the management of any competent authority, such authority shall submit to the Comptroller a return as described under subsection (1).

**59. Removal of Goods landed from Aircraft.**

(1) Where the importer of goods landed from an aircraft has not taken delivery of the goods, the agent of the aircraft shall, not later than the day following the day of the report inwards of the aircraft, cause the goods to be stored in such place as the Comptroller may approve.

(2) The Comptroller shall not incur liability for any loss or damage to goods stored in accordance with subsection (1).

**60. Repacking of Goods.**

Except with the written authorisation of the Comptroller, no person other than the Mauritius Port Authority or any other competent authority, as the case may be, shall repack or rearrange the contents of any packages landed from an aircraft or ship.

**61. Disposal of goods.**

(1) Where any goods are landed and are not claimed or removed within two months of being landed, the Comptroller may cause the goods to be sold by public auction or public tender, as the Comptroller may determine, after giving public notice of the sale.

(2) Subsection (1) shall apply to goods which are dealt with in accordance with section 69(2).

(3) Deleted 28/04.

(4) The proceeds of any sale of goods under subsection (1) shall be applied to the payment of-

- (a) duty on the goods;
- (b) excise duty and taxes;
- (c) penalties and charges incurred; and
- (d) freight and other charges.

(5) (a) Subject to paragraph (b), the balance of the proceeds of any sale under subsection (1) shall be paid into the Consolidated Fund.

(b) Where the balance of the proceeds of a sale has been paid into the Consolidated Fund, any person who is entitled to it may, not later than one year after the day of the sale, apply to the Comptroller for a refund.

(6) Where goods cannot be sold for a sufficient price to cover duty, excise duty and taxes, the Comptroller may authorise the goods to be disposed of as he thinks fit.

(7) Where the duty, excise duty and taxes on any goods on sale at any Customs sale is *ad valorem*, the value of such goods shall, if approved by the Comptroller, be taken to be the price that may be fetched by the sale.

(8) Notwithstanding any other provisions of this Act, where the Comptroller is of opinion that any goods specified in subsection (1) are of a perishable nature or that it is otherwise desirable to do so, he may direct that the goods be sold forthwith.

## PART VI

### PROHIBITED GOODS

#### **62. Prohibition of Certain Imports and Exports.**

The Minister may, by regulations and for the purposes of this Act, prohibit the import or export of any goods.

#### **63. Prohibited Goods.**

The import of-

- (a) base or counterfeit coins;
- (b) manufactured articles bearing the name, address or trade mark of any manufacturer or dealer or the name of any place, calculated to impart to those articles a special character of manufacture which they do not actually possess; and
- (c) any other goods the import of which is for the time being prohibited by any other enactment

is prohibited.

**64. Export Subject to Restriction.**

The power to prohibit the export of any goods shall include the power to prohibit export subject to any specified condition or restriction, and goods exported contrary to any such condition or restriction shall, for the purposes of this Act, be deemed to be prohibited exports.

**65. Prohibited Imports Consigned to Other Places.**

Prohibited goods on board a ship or aircraft calling at any port or airport in Mauritius, but intended for or consigned to some port or place outside Mauritius, shall not be deemed to be unlawfully imported into Mauritius, if the goods are specified on the manifest of the ship or aircraft and are not transhipped or landed into Mauritius or are transhipped or landed by authority.

**66. Restricted Imports.**

The power to prohibit the import of goods shall include the power to prohibit import subject to any specified condition or restriction, and goods imported contrary to any such condition or restriction shall be deemed to be prohibited imports.

**PART VIA - INFRINGEMENT OF COLLECTIVE MARK, MARK OR COPYRIGHT**

**66A. Application for suspension of clearance of goods**

(1) Any owner or authorised user of a collective mark or mark or copyright may apply in writing to the Comptroller to suspend the clearance of any goods imported or being exported on the grounds that his collective mark or mark or copyright is being or is likely to be infringed.

(2) An application made under subsection (1) shall specify a period not exceeding 2 years during which the Comptroller may suspend the clearance of such goods.

(3) An application under subsection (1) shall be accompanied by -

- (a) any evidence that the applicant is the owner or the authorised user of the collective mark or mark, or of the copyright;
- (b) a statement of the grounds for the application, and in particular, the prima facie evidence showing that his right has been or is likely to be infringed; and
- (c) particulars relating to the description of the goods making them readily recognisable by Customs, and the place where such goods are to be found.

(4) The applicant shall furnish adequate security to protect the Comptroller for any loss or damage that may result from the suspension of the clearance of the goods and to cover any reasonable expenses likely to be incurred as a result of such suspension.

#### **66B. Decision in respect of application**

(1) On receipt of an application under section 66A the Comptroller shall within 7 days of the date of receipt of the application -

- (a) grant or reject the application; and
- (b) notify the applicant in writing of his decision.

(2) The Comptroller shall reject an application where the applicant fails to comply with section 66A(4).

(3) Where the application is granted, the Comptroller shall notify in writing the importer, exporter, or his agent of the suspension of the clearance of the goods.

#### **66C. Duration of suspension**

(1) Where, within a period of not more than 10 working days after the applicant has been served notice of the suspension under section 66B(3), the Comptroller has not been informed in writing that legal proceedings have been initiated by the applicant, the goods shall be released, provided that all other conditions for importation or exportation have been complied with.

(2) The Comptroller may, in appropriate cases and on the applicant's request, extend the time limit referred to in subsection (1) by another period of not more than 10 working days.



(3) The Comptroller shall release the goods forthwith where he is informed by the registered owner or authorised user referred to in section 66A that the collective mark, mark or copyright registered in the name of the owner has ceased to be valid provided that all other conditions for importation or exportation have been complied with.

**66D. Inspection and taking of samples**

Without prejudice to the protection of confidential information, the Comptroller may authorise the owner of a collective mark or mark, or copyright owner, or importer, exporter or agent, to -

- (a) inspect the goods of which the clearance has been suspended;
- (b) remove samples for examination, testing and analysis.

**66E. Interpretation of this Part**

In this Part -

"owner" means the registered owner of a collective mark or mark under the Patents, Industrial Designs and Trademarks Act 2002 or the copyright owner under the Copyright Act and includes the owner of a collective mark or mark or copyright, registered with a competent authority outside Mauritius as approved by the Comptroller.

**PART VII  
BONDED WAREHOUSES**

**67. Appointment of Warehouses by Comptroller.**

(1) On application, the Comptroller may, by notice in writing, appoint any buildings, places or surfaces as may be approved by him for the warehousing and securing of goods therein without payment of duty, excise duty and taxes upon first entry thereof.

(2) The Comptroller may direct in what different parts or divisions of such warehouses, and in what manner, any goods or any species of goods may be warehoused, kept and secured without payment of duty, excise duty and taxes upon the first entry thereof.

(2A) Where the applicant or the proprietor or occupier of a bonded warehouse satisfies the prescribed conditions, his warehouse shall be appointed a specified bonded warehouse as from the date specified in a written notification issued by the Comptroller.

(3) The Comptroller may, by notice in writing under his hand, revoke or alter any such appointment.

(4) Any notice pertaining to the appointment or the revocation of a warehouse shall be published in the Government Gazette.

#### **67A. Specified bonded warehouses**

(1) Subject to this section, the proprietor or occupier of a specified bonded warehouse may -

- (a) without Customs locks, manage the operations of the specified bonded warehouse; and
- (b) without the presence of a Customs officer, enter into or remove from the specified bonded warehouse, goods, on payment of duty, excise duty and taxes, if any, in compliance with any applicable enactment, other than goods for re-export.

(2) The security to be given by the proprietor or occupier of every specified bonded warehouse shall, for the purposes of section 70, be in the form of a bank guarantee.

(3) Where the proprietor or occupier of a specified bonded warehouse fails to satisfy the conditions prescribed pursuant to section 67(2A), this section shall, without prejudice to any action which the Comptroller may take under the customs laws, cease to apply to the proprietor or occupier with effect from such date as may be specified by the Comptroller in a written notification to the proprietor or occupier.

(4) Section 73 shall not apply to a specified bonded warehouse.

#### **68. Appointment of Central Bonded Warehouse.**

The Minister may direct the Comptroller to appoint any location for the purpose of establishing a central bonded warehouse.

#### **69. Goods to be Cleared on Revocation.**

(1) Where the Comptroller, by notice in writing, revokes any order approving any warehouse -

- (a) the proprietor or occupier of the warehouse shall pay the duty, excise duty and taxes on all the warehoused goods, including those

which are not accounted for to the satisfaction of the Comptroller;

- (b) the owner of the goods shall remove the goods to another approved warehouse or export the goods within one month of the date of revocation.

(2) Where goods are not dealt with in accordance with subsection (1), the Comptroller may cause them to be transferred to Customs Warehouse or a warehouse approved by the Comptroller for the purpose of auction sales and sold in accordance with section 61.

(3) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

#### **70. Bond by Proprietor or Occupier.**

The proprietor or occupier of every approved warehouse, other than the Mauritius Marine Authority shall, before any goods are warehoused, give general security by bond, with two sufficient sureties, in such sum as the Comptroller may direct, for the payment of the full duty, excise duty and taxes due on any goods which may, at any time, be warehoused therein or for export.

#### **71. Account of Goods to be warehoused.**

(1) Upon entry of any goods to be warehoused, or as soon as practicable thereafter, the proper officer shall take a particular account of the goods and such account shall be entered in a ledger book.

(2) Except where otherwise provided, such account shall be that upon which the duty, excise duty and taxes shall be ascertained and paid.

#### **72. Duty of proprietor or Occupier.**

The proprietor or occupier of every warehouse shall-

- (a) stack and arrange the goods in the warehouse in such manner that reasonable access to the goods for the purpose of examination of the packages may be provided at all times;
- (b) provide sufficient lights and accurate scales and weights for use by Customs;

- (c) find and provide all labour and materials required for the storing, examining, packing, marking, coopering, weighing and taking stock of the warehoused goods whenever the Comptroller so desires;
- (d) pay the duty, excise duty and taxes due on all warehoused goods removed from his warehouse, except on goods removed by authority of the Comptroller, and on all warehoused goods not produced to the officer on demand unless such goods are otherwise accounted for to the satisfaction of the Comptroller.

**73. Opening Warehouse.**

No person shall, except by the authority of the Comptroller, open any warehouse or obtain access to any such warehouse or any goods warehoused therein.

**74. Entry of Warehoused Goods.**

Warehoused goods may be entered-

- (1) for home consumption;
- (2) for export;
- (3) for rewarehousing;
- (4) for export as ship's stores;
- (5) for supply to enterprises operating under the Industrial Expansion Act 1993, and the Export Services Zones Act, as the case may be.

**75. Export of Goods from Warehouse.**

Upon the entry outwards of any goods to be exported from a bonded warehouse, the exporter shall give security acceptable to the Comptroller, for treble the amount of the duty due on such goods, for ensuring that the goods shall be landed at the place for which they have been entered outwards.

**76. Clearing of Warehoused Goods.**

(1) Where any warehoused goods are not cleared within 12 months of the date of the entry for warehousing, the Comptroller may, on application, allow the importer to rewarehouse the goods for one further period of 6 months, provided security by bank guarantee to cover the amount of duty,

excise duty and taxes involved at the time of rewarehousing is produced to the satisfaction of the Comptroller.

(2) Where any rewarehoused goods are not cleared within the further period of 6 months as specified in subsection (1), the Comptroller shall, upon giving fifteen days notice in writing to the owner of the goods, cause such bank guarantee to be realised.

**77. Failure to Clear Warehoused Goods.**

(1) Where, upon expiry of the period of 12 months specified in section 76(1), the owner of the goods fails to clear the goods or fails to apply for rewarehousing as provided for under that section, the Comptroller may, upon giving the owner 15 days' notice in writing, cause the goods to be transferred to a customs warehouse or a warehouse approved by the Comptroller for the purpose of auction sales and to be sold in accordance with section 61.

(2) Where rewarehoused goods are abandoned for any reason, the Comptroller shall cause the goods to be transferred to Customs Warehouse and to be sold in accordance with section 61.

**78. Rewarehousing.**

The procedure for the rewarehousing of goods shall be-

- (a) an application for rewarehousing shall be made by the owner of the goods to the Comptroller;
- (b) The goods shall be examined by the proper officer at the expense of the owner;
- (c) Duty, excise duty and taxes shall be paid upon any disallowed deficiency;
- (d) a rewarehousing entry shall be made by the owner of the goods according to the result of the examination;
- (e) on the passing of the entry, a fresh account shall be substituted in the ledger book for the last account.

**79. Comptroller to Have Access to Warehouse.**

(1) The Comptroller shall have access, at all hours of the day and night, to every part of any warehouse and shall have power to examine the goods therein and, for that purpose, may break open the warehouse.

(2) No liability of the Comptroller shall result from any action described under subsection (1).

#### **80. Re-examination of Goods.**

(1) Warehoused goods may be re-gauged, re-measured, re-weighed or examined by an officer either by direction of the Comptroller or at the request and expense of the owner and duty, excise duty and taxes on the goods shall be payable according to the result, unless the Comptroller is of opinion that any loss shown is excessive, in which case the duty, excise duty and taxes shall be paid on the original entry with any reduction which the Comptroller thinks fit to allow.

(2) No allowance shall be made for any deficiency on wines or spirits in bottles.

#### **81. Revaluation.**

Where any warehoused goods which are subject to an *ad valorem* duty have deteriorated in value, they may be revalued on the application and at the expense of the owner and duty, excise duty and taxes shall be paid according to the result where the Comptroller is satisfied that the deterioration is due to accidental causes.

#### **82. Goods may be Sorted and Repacked.**

(1) The Comptroller may authorise any person having control over any warehoused goods to sort, separate, pack and repack any goods in the warehouse and to make any such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation, sale, shipment, or legal disposal of those goods.

(2) After they have been so sorted, separated or repacked in proper or approved packages, the Comptroller may-

(a) at the request of the owner of such goods, cause or permit any refuse, or damaged or surplus goods, (being the result of such sorting, separation, packing and repacking) or any goods which may not be worth the duty, excise duty and taxes to be destroyed; and

- (b) remit the duty, excise duty and taxes payable thereon.

**83. Goods Not Worth the Duty May be Destroyed.**

(1) The Comptroller may, after giving the owner a one-month written notice, cause any warehoused goods which are not to his satisfaction worth the duty, excise duty and taxes payable to be destroyed, and he may also remit the duty, excise duty and taxes thereon.

(2) The destruction of warehoused goods under subsection (1) does not affect any liability of the owner of the goods to pay any rent or other charges due in respect of such goods.

(3) Notwithstanding subsections (1) and (2), any person who-

- (a) removes any goods from any bonded warehouse without paying the duty, excise duty and taxes; or
- (b) wilfully destroys any goods duly warehoused,

shall commit an offence.

**84. Constructive Warehousing.**

Where goods which have been entered for warehousing on import, or for rewarehousing, are entered for home consumption, export or removal before they have been actually warehoused or rewarehoused, such goods shall be deemed to have been warehoused or rewarehoused and shall be delivered as such for home consumption, export or removal, as the case may be.

**PART VIII  
CUSTOMS WAREHOUSES**

**85. Appointment of Customs Warehouse.**

The customs warehouse shall be appointed by the Comptroller and such appointment shall be published in the *Government Gazette*.

**86. Goods lodged in Customs Warehouse.**

The following goods shall be deposited in a Customs Warehouse-

- (1) abandoned goods, other than goods under the

control of the Mauritius Port Authority;

- (2) seized goods pending investigation, the decision of the Comptroller or the decision of the court;
- (3) goods forfeited by the Comptroller's decision in a compounding or the court's decision, until the disposal of such goods;
- (4) passengers' dutiable goods pending payment of duty, excise duty and taxes or pending reshipment; and
- (5) such other goods as the Comptroller may authorise.

#### **87. Rent to be Charged.**

Where any goods are deposited in the Customs Warehouse or other place of deposit approved by the Comptroller for the security of the duty, excise duty and taxes thereon, or until regulation relating to the import have been complied with, the Comptroller may charge, demand and receive warehouse rent for such period as such goods remain therein and at such rate and subject to such conditions as may be prescribed.

#### **88. Combustible or Inflammable Goods.**

(1) No goods of a combustible or inflammable nature shall be deposited in the Customs Warehouse except with the authorisation of the Comptroller.

(2) Where any goods described under subsection (1) are landed, they may be deposited in any other available place approved by the Comptroller.

(3) Whilst deposited in any such other place the goods shall be deemed to be in Customs Warehouse, unless duly cleared or warehoused in some approved place in the meantime, and such charges shall be made for securing, watching and guarding the goods until sold, cleared or warehoused as the Comptroller thinks reasonable.

(4) The Government shall not be responsible for any damage which such goods may sustain by reason of, or during the time of their being deposited in any place other than Customs Warehouse and dealt with under this section.

#### **89. Control of Customs Warehouse.**



The Customs Warehouse shall be wholly under the control of Customs and all the provisions of this Act relating to bonded warehouses shall so far as is practicable, apply to Customs Warehouse.

**90. Compensation.**

No compensation shall be paid by Government to any importer or owner of any goods by reason of any damage occasioned to the goods in the Customs Warehouse by fire or other inevitable accident.

**PART IX**

**EXPORT OF GOODS AND CLEARANCE OF AIRCRAFT AND SHIPS**

**91. Landing Place of Goods for Export.**

No goods in any ship or aircraft for export shall be unshipped or reloaded in Mauritius without the prior authorisation of the Comptroller.

**92. Conditions of Export.**

(1) No goods other than passengers' baggage shall be taken on board an aircraft or ship for export unless the exporter or his agent has previously delivered to the Comptroller a bill of entry and such copies thereof as may be required, in the prescribed form, and has paid all duty, excise duty and taxes, if any, upon the goods.

(2) Notwithstanding subsection (1), with the authorisation of the Comptroller, goods produced in Mauritius and liable to export duty, may be shipped previous to the delivery by the exporter or his agent of a perfect entry for the same.

(3) Notwithstanding section 8(1) of this Act and subsections (1) and (2), with the authorisation of the Minister, sugar produced in Mauritius and liable to export duty may be shipped prior to the delivery by the exporter or his agent of a perfect entry.

**93. Short-Shipped Goods.**

Where any goods entered for export are not thereafter shipped according to the entry, the exporter shall immediately report the fact to the Comptroller and shall amend the entry for the goods not later than seven working days after the clearance of such aircraft or ship.

**94. Clearance Certificate.**

The master of any aircraft or ship, other than an aircraft or ship calling for bunkers, provisions and stores, shall not depart with his aircraft or ship from Mauritius without receiving from the Director of Shipping, or the Comptroller, as the case may be, immediately before leaving Mauritius, a certificate of clearance, provided that, in the case of clearance of ships, the Director of Shipping shall grant such clearance only with the consent of the Comptroller.

**95. Requisites for obtaining Clearance.**

No certificate of clearance shall be issued under section 94 unless the master of the aircraft or ship has made due report outwards in the prescribed manner and has -

- (a) delivered to the Comptroller any outward manifest and such copies as may be required in the prescribed form;
- (b) furnished such information and documents relating to the aircraft or ship, the voyage and the cargo as may be required by the Comptroller; and
- (c) complied with all legal requirements in regard to such aircraft or ship and the inward and outward cargo.

**96. Missing Goods to be Accounted For.**

Where required by the Comptroller, the master of every aircraft or ship shall, after clearance-

- (a) produce the certificate of clearance when required to do so by the proper officer; and
- (b) account, to the satisfaction of the Comptroller, for any goods specified or referred to in the outward manifest and not on board his aircraft or ship, as the case may be.

**PART X  
SHIP'S STORES**

**97. Stores subject to Seal.**

(1) The proper officer may, on boarding an aircraft or ship, seal up any dutiable goods on board the aircraft or ship being either-

- (a) unconsumed stores of the aircraft or ship;  
or

(b) personal property in the possession of the master or any member of the crew or of any passenger in transit for another port outside Mauritius.

(2) Any seal placed in accordance with subsection (1) shall not be broken, disturbed or tampered with except with the permission of the Comptroller while the aircraft or ship remains in port or airport.

(3) (a) On boarding of the proper officer, the master of any ship or aircraft shall make a full disclosure of any dutiable goods being unconsumed stores on board the aircraft or ship.

(b) Any member of the crew or the master of any aircraft or ship shall make a full disclosure of any dutiable goods being unconsumed stores of the aircraft or ship in his possession.

(4) Where the master or any member of the crew of any aircraft or ship fails to disclose, when required by an officer, any dutiable goods being the property of, or in the possession of, the master or such member of the crew, as the case may be, such master or member of the crew shall commit an offence and shall on conviction, be liable to a fine which shall-

(a) where the value of the goods does not exceed 1500 rupees, be 4000 rupees;

(b) where the value of the goods exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees, whichever is the higher;

and the goods, the subject-matter of the offence, shall be liable to forfeiture.

#### **98. Use of Ship's Stores.**

Subject to section 101 and any regulations, ship's stores (whether shipped in parts beyond the seas or in Mauritius) shall only be used by the passengers and crew for the service of the aircraft or ship and no such stores shall be unshipped except by permission of the Comptroller.

#### **99. Surplus Stores.**

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

#### **100. Shipment of Stores.**

(1) (a) Upon an application made in that behalf in the prescribed form by the master of an aircraft or ship bound for a port beyond the seas, the Comptroller may allow, for the use of the aircraft or ship, such stores as may appear to him necessary for the voyage upon which the aircraft or ship is about to depart.

(b) No goods taken on any aircraft or ship shall be deemed to be stores unless duly shipped as such and duly listed in the prescribed form.

(2) Stores shipped, otherwise than in accordance with this section, shall be deemed to be goods not entered and shall be liable to forfeiture.

#### **101. Duty on Stores**

(1) Where stores are *bona fide* required for the master, crew or passengers of any aircraft or ship leaving Mauritius, they shall if taken from any bonded warehouse, be allowed to be exported free of duty, excise duty and taxes.

(2) Notwithstanding subsection (1), Where stores are *bona fide* required for the master, crew or passengers of an aircraft or ship leaving Mauritius, such stores shall, whether taken from any bonded warehouse for export or not, be liable to export duty, if any, as prescribed in the Customs Tariff Act.

#### **102. Amount of Stores may be Restricted.**

Where the amount of goods from a bonded warehouse applied for by the master or agent of any aircraft or ship under section 101 of this Act is, in the opinion of the Comptroller, in excess of the amount which should be normally required for the purpose of the application, the Comptroller may restrict the amount to be taken free of duty, excise duty and taxes to such quantity as he shall consider fair and reasonable in the circumstances.

#### **103. Bond To be Given.**

The master or agent of any aircraft or ship applying to be allowed to take stores out of any bonded warehouse and free of duty, excise duty and taxes shall give to the Comptroller a bond with one sufficient surety residing in Mauritius for three times

the amount of duty, excise duty and taxes on those stores, the condition of which bond being that those stores shall not be landed again in any part of Mauritius without the prior authorisation of the Comptroller.

#### **104. Stores Under Seal.**

All stores taken on board any aircraft or ship free of duty, excise duty and taxes shall be placed under seal by an officer and shall remain under such seal until the aircraft or ship has departed from Mauritius on the outward voyage.

#### **105. Penalty for Breaking the Seal.**

(1) Where such lock, mark or seal is unlawfully opened, altered or broken, the master shall commit an offence and shall, on conviction, be liable to a fine which shall-

- (a) where the value of the goods does not exceed 1,500 rupees, be Rs 4,000;
- (b) where the value of the goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.

(2) where stores are secretly conveyed away before the departure of such aircraft or ship on the outward voyage, the master shall commit an offence and shall, on conviction, be liable to a fine which shall-

- (a) where the value of the goods does not exceed 1,500 rupees, be Rs 4,000;
- (b) where the value of the goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.

## **PART XI DRAWBACK**

#### **106. Drawback Allowed on Re-Export.**

(1) Where goods have been imported for the purpose of undergoing processing (including repacking, sorting and grading), manufacturing or repair and are thereafter exported, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.

(2) Where goods have been imported and subsequently re-exported without having undergone any processing and without having been put to use, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.

(3) No payment of drawback shall be made until the aircraft or ship carrying such goods has left Mauritius.

(4) Notwithstanding subsection (3) payment of drawback shall be made at the time the goods are admitted into a freeport zone exclusively for export.

#### **107. Application by Actual Exporters.**

Actual exporters demanding payment of drawback on any goods duly exported shall make and subscribe an application in such form and manner as may be prescribed.

#### **108. When no Drawback Allowed.**

Where any goods upon which drawback is claimed or allowed are shipped or brought to any quay, wharf or other place to be shipped for export and are, upon examination by the proper officer, found not to be of the description borne on the bill of entry or other document for the allowance of drawback or shipment, all such goods and the packages containing them with all other contents therein shall be liable to forfeiture and the person entering such goods and claiming the drawback thereon shall in every case commit an offence and shall, on conviction, be liable to a fine which shall-

- (a) where the value of such goods does not exceed 1,500 rupees, an amount of Rs 4,000;
- (b) where the value of such goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.

#### **109. Standard Drawback Rates.**

In case of goods manufactured in and exported from Mauritius a drawback on the duty and excise duty may be allowed in respect of any imported raw material used in the manufacture of such goods at such standard drawback rates and subject to such conditions as may be prescribed.

**PART XII**  
**GOODS FOR TRANSIT OR TRANS-SHIPMENT**

**110. Transit or trans-shipment**

(1) On the entry inwards of any aircraft or ship, the Comptroller may, on the application of the owner of any imported goods which have been specifically manifested at the time of import as being for transit or trans-shipment, permit the transit or trans-shipment of such goods without payment of duty, excise duty and taxes, if any, leviable thereon.

(2) Any transit or trans-shipment shall take place after the passing of the appropriate entry in respect of the goods.

(3) Where goods under subsection (1) for any reason have to leave the Customs area prior to their transit or trans-shipment, the Comptroller may -

- (a) require and take appropriate security to cover the duty, excise duty and taxes payable;
- (b) require that the goods be placed or transported under seal affixed by Customs.

(4) Any person who, without the prior authorisation of the Comptroller -

- (a) trans-ships or attempts to trans-ship any goods from an aircraft or ship to another aircraft or ship; or
- (b) attempts to take out of Customs control any goods entered for transit or trans-shipment,

shall commit an offence, and the goods, the subject-matter of the offence shall be liable to forfeiture.

**PART XIII**  
**COASTING TRADE**

**111. Coasting Aircraft or Ship.**

(1) No goods, being carried coastwise, shall be taken into or put out of any coasting aircraft or ship at sea or in parts beyond the seas, and no coasting aircraft or ship shall touch at any port beyond the seas, or deviate from its flight or voyage, unless forced so to do by unavoidable circumstances.

(2) Where the master (or his agent) of any coasting aircraft or ship, which has touched at any port beyond the seas or deviated from its flight or voyage does not declare such fact in writing to the Comptroller on the arrival of the aircraft or ship in Mauritius, he shall commit an offence under this Act and upon conviction shall be liable to a fine not exceeding 2 million rupees.

#### **112. Foreign Aircraft or Ships in Coasting Trade.**

Every foreign aircraft or ship proceeding either with cargo or passengers or in ballast on any voyage from one part of Mauritius to another part shall be subject, as to stores for the use of the crew and in all other respects, to the same laws and regulations to which Mauritian aircrafts or ships, when so employed, are subject.

#### **113. Officers May Board.**

The proper officer may go on board any aircraft or ship in Mauritius and search such aircraft or ship engaged in coasting trade and examine all goods and all goods being laden or unladen and may require the production of all documents which ought to be on board such aircraft or ship.

#### **114. Goods Entered Outwards Without Landing.**

Where the master of any aircraft or ship has brought any goods not liable to duty, excise duty and taxes coastwise, and wishes to proceed with such goods or any of them to parts beyond the seas, he may, with the authorisation of the Comptroller, enter outwards the aircraft or ship, as well as such goods for the intended voyage without first landing the same.

#### **115. Bond for Stores**

(1) The master of any aircraft or ship bound for any island (other than the island of Mauritius) which is under the jurisdiction of the State of Mauritius, shall furnish bond that only such stores as the Comptroller may consider necessary for the use of the master, crew and passengers of the said aircraft or ship during its flight or voyage to that island and back again, shall be carried for the purpose to and from the island.

(2) Where it is found on the return of the aircraft or ship to a port in the island of Mauritius that there is a deficiency in the quantity of stores remaining on board on its arrival at the port in excess of such deficiency as the Comptroller considers reasonable, the master shall be liable to pay treble the duty, excise duty and taxes on such excess.



**116. Goods to be Carried Coastwise.**

No goods shall be carried coastwise except goods produced in Mauritius and goods which have been legally imported into Mauritius and upon which duty, excise duty and taxes, if any, have been paid.

**PART XIII A  
RODRIGUES DEVELOPMENT ZONE**

**116A Application of PART XIII A**

(1) This Part shall apply to specified goods entering the Island of Rodrigues or leaving the Island of Rodrigues for the Island of Mauritius.

(2) Any specified goods shall be transported from the Island of Mauritius to the Island of Rodrigues under customs control.

(3) For the purposes of this Part -

(a) "**export processing zone**" has the same meaning as in the Industrial Expansion Act 1993;

(b) "**export service zone**" has the same meaning as in the Export Service Zones Act 1981;

(c) "**freeport zone**" has the same meaning as in the Act 1992;

(d) "**specified goods**" means any goods subject to duty, other than those specified in the First Schedule, destined for the Island of Rodrigues, which are -

(i) imported;

(ii) removed from a bonded warehouse;

(iii) removed from an export processing zone or an export service zone; or

(iv) removed from a freeport zone.

#### **116B Specification goods entering the Island of Rodrigues**

Any specified goods entering the Island of Rodrigues shall be deemed to goods imported into the Island of Rodrigues and shall be entered free of duty.

#### **116C Specified goods leaving the Island of Rodrigues**

(1) Subject to the provisions of this section, any specified goods which have entered the Island of Rodrigues free of duty shall, when entering the island of Mauritius as merchandise for sale or as accompanied or unaccompanied luggage, be deemed to be goods imported into the Island of MAuritius and shall be entered on payment of duty and value added tax.

(2) The value added referred to in subsection (1) shall be calculated on the amount of duty payable on those goods.

(3) Subject to subsection (4), where a passenger travels from the Island of Rodrigues to the Island of Mauritius, he shall, upon presentation to a proper officer, of the passport, nationality card, travel document, as the case may be, be entitled to -

- (a) where he is under the age of 12 years, a duty free allowance of 5,000 rupees; or
- (b) in any other case, a duty free allowance of 10,000 rupees; or
- (c) such other amounts as may be prescribed,

on any specified goods in the Island of Rodrigues and which are accompanied luggage of the passenger.

(4) Where the value of the specified goods exceeds the allowance referred to in subsection (3), duty on the excess value of those goods and value added tax calculated on the amount of that duty shall be leviable.

#### **116D Report of ship or aircraft**

The master of every ship or aircraft transporting specified goods from the Island of Mauritius to the Island of Rodrigues shall submit to the Comptroller a report, in such manner as may be approved by the Comptroller, of the ship or aircraft, its cargo of specified goods and its departure from the Island of Mauritius and its arrival in the Island of Rodrigues.

#### **116E Offences and penalties**

The offences and penalties for under customs laws shall apply to any specified goods leaving the Island of Mauritius and entering the Island of Rodrigues or leaving the Island of

Rodrigues and entering the Island of Mauritius as if those goods were exported from, or imported into, the Island of Mauritius.

## **PART XIV**

### **AGENTS AND BROKERS**

#### **117. Authorised persons.**

The Minister may, on the recommendation of the Comptroller, authorise such persons as he thinks fit to act as agents or brokers for transacting business relating to the entry or clearance of any aircraft or ship or any goods or baggage other than the accompanied non-manifested personal baggage of persons travelling by air or sea.

#### **118. Execution of Bond.**

(1) Every broker and agent shall subscribe and execute a bond with two sufficient sureties for the proper compliance by such broker and agent, and their customs clerks, with the customs laws.

(2) In the case of brokers, the bond shall be in the amount of Rs 25,000.

(3) In the case of clearing and freight forwarding agents the bond shall be in the amount of not less than Rs 500,000.

(4) The Comptroller may at any time call for the renewal of a bond for any valid reason, including the replacement of sureties who have ceased to be acceptable as sureties.

#### **119. Requisites for Agents and Brokers.**

(1) No person shall be authorised by the Minister to act as agent or broker unless, on the recommendation of the Comptroller, the Minister is satisfied that such person has the necessary ability or, as the case may be, the necessary equipment and storage facilities for the handling and safe custody of cargo to effectively transact his business.

(2) The storage facilities of an agent or broker shall be deemed to form part of a quay or wharf for the purposes of section 55 of this Act.

(3) The Minister may prescribe the maximum number of persons to be authorised under subsection (1).

(4) The Minister may, on the recommendation of the Comptroller and by order in writing, revoke the authority given to any person to act as agent or broker-

- (a) where that person has been guilty of an offence involving fraud or other dishonesty or been guilty of any crime or misconduct;
- (b) where findings of fraud or misconduct in the exercise of such person's function as broker or agent, have been established;
- (c) where that person is unable efficiently to act as agent or broker by reason of mental or physical incapacity;
- (d) where that person fails to execute or renew the bond required by section 118, or fails to take out or renew the licence of broker under the Licences Act; or
- (e) where that person has not, on a continual basis, practised as agent or broker for a period of one year.

(5) Where an order in writing made under subsection (3) specifying the reason or reasons for which the authority is revoked has been given to that person or to his clerk or at his usual place of abode or business, such authority shall cease to have effect.

(6) For the purposes of this Part, "agents or Brokers" does not include shipping or aircraft agents entering or clearing the aircraft or ship, or their principals, in the discharge of their duties as agents or proxies.

#### **120. Appointment and Revocation of customs clerks**

(1) Any person authorised to act as agent or broker under this Part may, with the written approval of the Comptroller, designate clerks to assist him in transacting his business.

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

(3) Where any such clerk commits any fraud or misconduct the Comptroller may, by notice in writing to such clerk and to the agent or broker employing him, withdraw his approval of the designation of that clerk and the designation shall thereupon cease to have effect.

(4) Importers, exporters and consignees shall register their clerks with the Comptroller.

**121. No Entry of Goods by Unauthorised Persons.**

(1) Where-

- (a) any person not authorised to act as agent or broker for transacting business relative to the clearance of any aircraft or ship, goods or baggage;
- (b) any person not being the designated clerk to any duly authorised agent, broker, importer, exporter or consignee;
- (c) any person, whether so authorised or designated or not,

makes or causes to be made entry of any goods without being duly authorised for the purpose by the importer, exporter or consignee of these goods, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 20,000 rupees.

**122. Authority May be Required.**

(1) Where any person makes an application to the Comptroller to transact business on behalf of any the person, the Comptroller may require the person so applying to produce a written authority from the person on whose behalf the application is made and, in default of the production of such authority, reject such application.

(2) The Comptroller may require the authority to specify the business and such other reasonable information as he may determine.

**123. Liability of Agents and Brokers.**

(1) Subject to subsection (2), an agent, broker or person who performs any act on behalf of the owner of any goods shall, for the purposes of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duty, excise duty and taxes to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under the provisions of this Act.

(2) The liability of the agent, broker or other person under this section shall not extend to the payment of any such duty, excise duty and taxes which become payable, or the performance of any such act which falls to be performed, after the agent, broker or other has ceased, in respect of such goods,

to be the agent of the owner unless he has undertaken a personal liability.

(3) Nothing contained in this section shall relieve the owner of such goods from any such liability.

**124. Liability of Owner for Acts of Agent or his Own Employee.**

(1) Unless otherwise established to the satisfaction of the Comptroller, an owner of goods shall be liable for the acts and declarations of his duly authorised agent or designated clerk and may accordingly be prosecuted for an offence committed by such agent or designated clerk in relation to any such goods as if such owner had himself committed the offence.

(2) An owner shall not be sentenced to imprisonment for any offence committed by his duly authorised agent or designated clerk unless such owner actually consented to the commission of the offence.

(3) Nothing herein contained shall relieve the duly authorised agent or designated clerk from any liability to prosecution in respect of any such offence.

**PART XV  
POWERS OF OFFICERS  
Sub-Part I - General**

**125. Power of Comptroller to Enforce Customs Laws.**

(1) The Comptroller has, within the customs area, exclusive power to enforce customs laws and any other enactment in so far as import or export of goods is concerned, including the power to question, detain and search passengers and to search their luggage and goods.

(2) The Comptroller has power to enforce anywhere in Mauritius, customs laws and any other enactment in so far as import or export of goods is concerned.

(3) The Comptroller may request the assistance of the police in enforcing customs laws within the customs area.

**126. Power of Officers to Enforce Laws Relating to Customs.**

Every Officer is hereby empowered to enforce the provisions of the present Act and the Customs Tariff Act and any other enactment in so far as import or export is concerned and in so far as the assistance of Customs is required for the implementation of such enactments.

**127. Power to Examine All Goods.**

(1) Any officer may, at the risk of the owner, open packages and examine, weigh, mark and seal any goods subject to the control of Customs.

(2) The expenses of the examination including the cost of removal to and from the place of examination shall be borne by the owner.

#### **127A. Production of Books and Records**

(1) The Comptroller or a proper officer may, in respect of the entry of any goods, require the importer or exporter of those goods

(a) to produce for

(i) Examination, books, records, invoices or other documents of any kind relating to those goods, whether on computer or otherwise, which the Comptroller or the proper officer considers necessary and which are in the possession or custody or under the control of that importer or exporter;

(ii) Retention, for a period not exceeding 2 months by the Comptroller, of any record or document specified in subparagraph (i) or for taking copies of or extracts therefrom;

(b) to give all reasonable assistance and to answer all proper questions either orally or in writing.

(2) Any person who, when so required, fails to comply with the provisions of subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

#### **128. Power to Board and Search Aircraft or Ship.**

(1) Any proper officer may, within the borders of Mauritius including its territorial waters and airspace-

(a) board any aircraft or ship;

(b) search any aircraft or ship; and

(c) secure any goods on any aircraft or ship.

(2) (a) The power of an officer to board extends to staying on board any aircraft or ship in or for the performance of his duties.

(b) The Comptroller may station an officer on board any ship and the master shall provide suitable accommodation and suitable and sufficient food for that officer.

(3) The power of an officer to search extends to every part of any aircraft or ship and includes the power to open any package, locker or place and to examine all goods.

(4) The power of an officer to secure any goods includes the power to fasten down hatchways and other openings into the hold and to lock up, seal, mark or otherwise secure any goods and to remove any goods to Customs Warehouse.

(5) No person shall open, alter, break or erase any fastening, mark, lock or seal placed by an officer upon any goods or upon any door, hatchway, opening or place upon any aircraft or ship except by authority of the Comptroller, so long as the goods upon which the fastening, lock, mark or seal is placed, or which are intended to be secured, remain subject to the control of Customs.

#### **129. Patrol of Coasts.**

Any officer in the course of his duty, and any person or persons assisting him, may patrol upon and pass freely along and over any part of the coast or of the shores, banks or beaches of any port, bay or harbour.

#### **130. Boats to be Moored in any Place.**

The officer in charge for the time being of any vessel or boat employed in the service of Customs may haul that vessel or boat upon any part of the coast or upon the shores, banks, or beaches of any port, bay or harbour and may moor that vessel or boat there and keep her so moored for such time as he thinks necessary.

#### **131. Power to Question.**

(1) Any person on board any aircraft or ship or who has landed from or got out of any aircraft or ship may be questioned by any officer as to whether he has any dutiable or other goods or any prohibited goods in his possession. The power to question passengers shall include the power to question passengers leaving Mauritius.

(2) In the course of any questioning as described under subsection (1), such officer may inspect such persons' travel documents including passport or *laissez-passer* and tickets.



**132. Detention and search of Suspected Persons.**

(1) Where any officer has reasonable cause to believe that any person is unlawfully carrying, whether concealed or secreted about his person or not, any goods subject to the control of Customs or any prohibited goods, that officer may detain and search the suspected person.

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

**133. Power to Stop Vehicles Within Customs Area.**

(1) Any officer may, upon reasonable suspicion, stop and search any vehicle within the customs area for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.

(2) The driver of any vehicle who fails to stop or who fails to permit such search whenever required by any such officer shall commit an offence.

**134. Power to Stop Vehicles Outside Customs Area.**

(1) Any officer or police officer may, upon reasonable suspicion, stop and search any vehicle for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.

(2) The driver of any vehicle who fails to stop or who fails to permit that search whenever required by any such officer shall commit an offence.

**135. Search warrant.**

(1) Where the Comptroller reasonably suspects that an offence against this Act has been, is being or is likely to be committed, he may issue to an officer a warrant in the form set out in the Second Schedule to this Act for the search of any premises.

(2) Notwithstanding subsection (1), licensed premises may be searched without warrant.

(3) For the purposes of subsections (1) and (2), an officer may -

(a) question the owner of, or any person found on, the premises;

(b) inspect and take copies of any material documents, or of any material information stored in a computer or other electronic device found on the premises;

(c) detain and remove any suspected goods or place them under Customs locks and seals at the premises, pending their removal to a customs warehouse.

(4) The Comptroller may, at the request of the owner or custodian of detained goods, allow the release of the goods, other than prohibited goods, subject to -

(a) the submission of a bank guarantee covering the duty paid value of the goods which shall be liable to forfeiture on a final conviction by a competent Court;

(b) the retention of appropriate samples as exhibits.

#### **136. Power to take Assistance.**

Any officer acting under a warrant issued under section 135 of this Act may be assisted by any police officer and such other persons as he thinks necessary.

#### **137. Arrest of Persons.**

(1) Any officer may, without warrant, arrest any person whom he has reasonable ground to believe is involved in the commission or attempted commission of any of the following offences-

(a) smuggling;

(b) importing any prohibited goods;

(c) exporting any prohibited goods;

(d) unlawfully conveying or having in his possession any smuggled goods or prohibited goods; or

(e) striking, obstructing, molesting or assaulting any officer in the execution of his duty.

(2) Every person so arrested shall, as soon as practicable and at any rate not later than within 24 hours of his arrest, be referred to the Police.

(3) The police shall make an appropriate entry of the referrant in the occurrence book of the Police Station where an arrested person is brought by an officer.

(4) Any such officer may use reasonable force to make the arrest.

**138. Impounding of Documents.**

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

**139. Further proof of Proper Entry.**

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

**140. Translation of Foreign Documents.**

Where any document in a language other than English is presented to any officer for any purpose connected with the business of Customs, the Comptroller may require a translation in the English language to be made at the expense of the owner by such person as the Comptroller may approve.

**141. Customs Samples.**

Samples of any goods under the control of Customs may, for any purpose deemed necessary by the Comptroller, be taken, utilised and disposed of by him in the prescribed manner.

**142. Officers may Board Ships Hovering on Coast.**

(1) Any officer, in the course of his duty, may require the master of any ship hovering within the territorial waters of Mauritius to depart and, if the ship fails to depart accordingly within 24 hours thereafter, any officer may, in the course of his duty, board such ship and have her brought into port and searched.

(2) Any officer, in the course of his duty, may examine all persons on board that ship and they shall each thereupon answer question relative to the ship and her cargo, crew, passengers, stores and voyage and produce documents relative to the ship and her cargo.

(3) For the purposes of subsections (1) and (2) such officer may request the assistance of the National Coast Guard.

*Sub-Part II - Legal Proceedings*

**143. Notice of Seizure to be Given.**

(1) Where any goods have been seized under this Act, the Comptroller shall serve notice in writing of the seizure and the cause thereof to the owner of the goods or his agent.

(2) All goods which have been seized shall be deemed to be condemned by the Comptroller and may be sold as provided in section 144 unless the person from whom such goods were seized, or the owner thereof, gives notice in writing to the Comptroller within one month from the date of seizure or service of the notice of such seizure as the case may be, that he claims such goods and enters an action claiming the goods before the competent court within three months from the date of his notice to the Comptroller.

(3) Where any goods so seized are of a perishable nature or are living animals, they may forthwith be sold by the Comptroller in accordance with section 144 of this Act and the proceeds of the sale shall be retained by the Comptroller and be subject to the same conditions as other seized goods.

**144. Seized Goods to be Sold By Public Auction or Public Tender.**

(1) All goods which are seized under this Act shall be delivered into the custody of the Comptroller who shall subject to section 143 (2) or to the order of a court, cause them to be sold by public auction or by public tender, as he may determine.

(2) Notwithstanding subsection (1), the Minister may direct that *in lieu* of being sold, such goods shall be destroyed or shall be reserved for the public service.

**145. Value of Goods Seized.**

(1) The value of goods seized shall be the value at the time of seizure.

(2) Notwithstanding subsection (1), where any penalty or fine, the amount of which is to be determined in relation to the value of any goods, is incurred under any customs laws, the goods shall not be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with them by any person.

**146. Security may be Given for Goods Seized.**

(1) Where any goods have been seized under this Act, the Judge may, unless the Comptroller objects to a delivery,

order the delivery thereof on the provision of security and with two sufficient sureties approved by the Comptroller.

(2) The security mentioned in subsection (1) shall be given for double the value of the goods and delivered to the Comptroller.

**147. Burden of Proof.**

In any action or proceedings arising out of the seizure of any goods on the ground that the duty, excise duty and taxes thereon have not been paid or on any other ground, the burden of proving that the seizure was illegal shall lie on the person making the allegation.

**148. Proceedings How Instituted.**

(1) Subject to subsection (2), proceedings for the recovery of duty, excise duty, taxes and penalties imposed under this Act or for the forfeiture of goods under this Act shall be instituted in the name of the Comptroller and shall be commenced within a period of 5 years from the date of commission of the offence by reason of which the duty, excise duty and taxes have not been paid or the penalty has been incurred or the forfeiture made.

(2) Proceedings for any offence under section 156 or 158 may be instituted at any time.

**149. Security to Abide by Decree of Court.**

(1) Wherein any proceedings, the court delivers judgement ordering the return of any goods to the owner or claimant, the execution of the judgement shall not be stayed pending the appeal where the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the Court for the restitution of the goods, or the payment of the full value thereof in case the judgement is reversed on appeal.

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

***Sub-Part III - Protection To Officers***

**150. Reasonable Cause for Seizure - A Bar to Action.**

Notwithstanding the Public Officers Protection Act, where any action has been entered before a court on account of the seizure of any goods, aircraft or ship, or pursuant to any act done by any officer in the execution of his duty under any customs laws and it appears to the Court that there was a probable cause for such seizure or act, the court shall so declare and thereafter the person who effected the seizure or performed the act shall be immune from all proceedings, whether civil or criminal, on account of such seizure or act.

**PART XVI**  
**PENAL PROVISIONS**  
***Sub-Part I - Seizures and Forfeitures***

**151. Seizure of Goods.**

- (1) The following goods may be seized by an officer -
  - (a) all goods imported into Mauritius, including but not limited to those listed below, in relation to which an offence under the Customs laws is reasonably suspected to have been committed by any person;
  - (b) all goods which have been smuggled into Mauritius;
  - (c) all goods which are not claimed by any person or which are disclaimed by any person on any ground;
  - (d) all goods which are imported while being prohibited or restricted;
  - (e) all prohibited or restricted goods put on any aircraft or ship or brought to any wharf, port or place for export;
  - (f) all goods in respect of which bulk is unlawfully broken;
  - (g) all dutiable goods concealed in any manner in respect of which applicable duty, excise duty and taxes have not been paid;
  - (h) all dangerous drugs specified in the Dangerous Drugs Act 1986, which are unlawfully imported or unlawfully in the possession of any person;
  - (i) all goods which are not properly classified or described in an import entry or which are

classified or described in a manner likely to deceive an officer in the discharge of his duties, unless the same does not appear to have been done wilfully or deliberately;

- (j) all goods which are imported in a name, including a purported trade name, which is fictitious, false or misleading;
- (k) all goods which are consigned to an address which is fictitious, false or misleading or an address which is designed to conceal the true name or identity of the importer or consignee;
- (l) all goods which are imported in the name of a corporate body which is not registered or not registered under that name;
- (m) all goods which being required under this Act to be removed or dealt with in any particular way, are not removed or dealt with accordingly;
- (n) all goods, other than baggage belonging to any crew, master or passenger, which are found in any aircraft or ship after reporting inward or outward, as the case may be, in a port or airport and which are not specified in the inward or outward manifest or parcel list;
- (o) All dutiable goods found in the possession or in the baggage of any person who has landed from any aircraft or ship and who has denied that he has any such goods in his possession or in his baggage or who, when questioned by an officer, does not fully disclose such goods;
- (p) All dutiable, prohibited or restricted goods, which are found to be unlawfully in any aircraft or ship;
- (q) All goods, which are falsely or incorrectly

described in the manifest of an aircraft or ship or in any document relating to the import thereof;

- (r) the cargo of any aircraft or ship which hovers in the vicinity of the coast and does not depart within 24 hours after being

required to depart in accordance with section 142 of this Act.

(2) All goods seized by an officer under subsection (1) shall be liable to forfeiture,

#### **152. Seizure of Modes of Transport.**

The power to seize goods as described under section 151 of this Act shall extend to any vehicle, aircraft or ship knowingly used or permitted to be used by the owner thereof in the conveyance of such goods.

#### **153. Seizure of Goods and Packages.**

(1) The seizure of any goods shall extend to the seizure of the packages in which such goods are contained.

(2) Where a ship, aircraft, vehicle or container, or any part thereof, has been specially constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft, vehicle or container may be seized and shall be liable to forfeiture.

### ***Sub-Part II - Various Offences and Penalties***

#### **154. Penalties applying to Owner of Aircraft or Ship.**

- (1) The owner of -
- (a) any aircraft or ship used in smuggling or used in the unlawful import, export, or conveyance of any prohibited or restricted goods;
  - (b) any aircraft or ship found within the territorial waters or air space of Mauritius, as the case may be, and failing to bring to for boarding upon being lawfully requested to do so;
  - (c) any aircraft or ship hovering within the territorial waters or airspace of Mauritius, as the case may be, and not departing within 24 hours after being requested to depart by an officer;
  - (d) any aircraft or ship from which any goods are thrown overboard, staved or destroyed, to prevent seizure by Customs;
  - (e) any aircraft or ship found within any port or airport with cargo on board, and afterwards found light or in ballast or with the cargo deficient, and the master of which is unable lawfully to



account for the deficiency to the satisfaction of the Comptroller;

- (f) any aircraft or ship found within Mauritius including its territorial waters or the airspace, as the case may be, having false bulk-heads, false bows, sides or bottoms, or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of smuggling goods;
- (g) any aircraft or ship found within any port or airport having on board or in any manner attached thereto, or conveying or having conveyed any goods in a manner such as to be in contravention of customs laws or any other laws of Mauritius, whenever a responsible officer of such aircraft or ship is involved, even by neglect;
- (h) any aircraft or ship engaged in coasting trade in violation of section 116,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2 million rupees and the aircraft or ship may be detained until the penalty is paid or until security, to the satisfaction of the Court, is given for payment of such penalty.

(2) For the purposes of subsection (1)(g) -

**"responsible officers"** shall be the master, mates and engineers of any aircraft or ship, and in the case of an aircraft or ship carrying passengers, the purser or chief steward;

**"neglect"** includes cases where goods not claimed, or owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised care at the time of the loading of the aircraft or ship or of the coming on board the aircraft or ship of the crew or subsequently.

#### **155. Collusion.**

Any person who, being an officer or police officer -

- (a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any aircraft or ship or goods liable to forfeiture;

- (b) conspires or connives with any person to import or export or is in any way concerned in the import or export, of any goods for the purpose of seizing or causing the seizure of any aircraft or ship or goods and obtaining any reward for such seizure;
- (c) rescues any goods which have been seized;
- (d) before, at or after any seizure, staves in or destroys any such goods or destroys any documents relating thereto to prevent the seizure thereof,

shall commit an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years.

**156. Smuggling and Other Prohibited Activities.**

- (1) Any person who-
  - (a) smuggles into Mauritius any goods;
  - (b) imports any prohibited or restricted goods;
  - (c) unlawfully conveys or has in his possession
    - (i) any goods on which duty, excise duty and taxes payable have not been paid; or
    - (ii) any goods, whether dutiable or not, which cannot be accounted for to the satisfaction of the Comptroller; or
    - (iii) any smuggled goods, prohibited goods or restricted goods,

shall commit an offence.

(2) Any person who commits an offence under subsection (1) shall, on conviction, be liable -

- (a) to a fine which shall-
  - (i) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;
  - (ii) where the value of the goods exceeds 1,500 rupees, be 3 times the value of the goods or Rs. 20,000, whichever is the higher; and
  - (iii) to imprisonment for a term not exceeding 8 years,

and the goods, the subject-matter of the offence, shall be liable to forfeiture.

**157. Shooting Offences.**

Any person who-

- (a) Shoots at any ship in the services of Customs;
- (b) shoots at any officer;
- (c) wounds or maims any officer,

shall commit an offence and shall, on conviction, be liable to penal servitude.

**158. Customs Offences.**

(1) Every person who -

- (a) evades or attempts to evade payment of any duty, excise duty or taxes which are payable;
- (b) in relation to the entry of any goods, declares a value which he knows to be false or below their true value;
- (c) obtains or attempts to obtain any drawback which is not payable;
- (d) smuggles out of Mauritius any goods or exports any prohibited or restricted goods; or
- (e) unlawfully removes any goods from, or who cannot satisfactorily account for goods in, a bonded warehouse or duty free shop,

shall commit an offence.

(2) Every person who, on board any aircraft or ship in a port or airport, as the case may be, has in his possession for sale or for any other commercial dealing or sells or attempts to sell any goods without the prior authorisation in writing of the Comptroller shall commit an offence.

(3) Every person who, for any purpose under this Act

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- (a) prepares, passes or presents any document purporting to be a genuine invoice which is not, in fact a genuine invoice;
- (b) makes an entry which is false in any particular;
- (c) makes, produces or delivers to any officer any certificate, document or declaration which is false in any particular;
- (d) misleads any officer in any particular likely to affect the discharge of his duty;
- (e) refuses or fails to answer any question or to produce any document; or
- (f) unlawfully opens, alters or breaks any lock or seal on any premises,

shall commit an offence.

(4) For the purposes of subsection (3) a certificate, document, invoice, declaration entry, statement or a statement contained in a document produced by a computer in accordance with section 16A and subject to Section 158A shall be deemed to be false if it is incorrect or misleading in any material particular.

- (5) (a) For the avoidance of doubt and notwithstanding any other provision of this Act, the expression "every person" in subsection (3) shall be construed as including an agent or a broker acting as such on behalf of an importer or exporter,
- (b) Where an agent or a broker is prosecuted for an offence under subsection (3), he shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

#### **158A. Admissibility of Documents produced by Computers**

(1) In any legal proceedings under this Act, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.

(2) In any proceedings the court may for special cause require oral evidence to be given of any matter under this section.

(3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 3 years and to a fine not exceeding 20,000 rupees.

#### **159. Joint and Several Liability to Penalties.**

Where a pecuniary penalty is jointly and severally incurred by any number of persons, each and every one of them shall be liable to pay such penalty in full.

#### **160. Other Penalties.**

(1) Any person who, in relation to any import, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine which shall -

(a) where the value of the goods which are the subject-matter of the offence does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of the goods which are the subject-matter of the offence exceeds 1,500 rupees, be three times the value of the goods or Rs 20,000, whichever is the higher.

and the goods shall be liable to forfeiture.

(2) Without prejudice to any other enactment, any person who, in relation to any export, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine which shall not exceed 100,000 rupees.

#### **161. Jurisdiction.**

Notwithstanding -

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences under this Act other than section 157, and may impose any penalty provided under this Act.

### **PART XVII SETTLEMENT OF CASES BY THE COMPTROLLER**

## **162. Compounding of Cases by Comptroller.**

(1) The Comptroller may compound any offence or act committed by any person against the customs laws where such person agrees in writing to pay such amount acceptable to the Comptroller, with the concurrence of the Revenue Authority established under the Revenue Authority, not exceeding the maximum pecuniary penalty imposable under such customs laws for such offence or act.

(2) Any vessel, means or conveyance, goods or other articles liable to forfeiture under the customs laws under which an offence or act so compounded has been committed may be seized by the Comptroller.

(3) Every agreement to compound shall be in writing and signed by the Comptroller and such person as described under subsection (1), and witnessed by an officer, and a copy shall be delivered to such person.

(4) Every agreement to compound shall be final and conclusive.

(5) Where the amount agreed upon under this section or any part of such amount is not paid in accordance with the compounding agreement, the Comptroller shall send a certified copy of such compounding agreement to the District Court of Port Louis which shall thereupon proceed to enforce such agreement in the same manner as if it had imposed such agreed amount by way of fine.

(6) The compounding of an offence under the Customs or of any act committed against any such customs laws shall take into account the excise duty and taxes payable on the goods which are the subject-matter of such offence or act.

(7) On payment of the agreed amount in accordance with the compounding agreement, no further proceedings in regard to such particular offence or act shall be taken against the person who has so agreed to the compounding.

(8) The authority of the Comptroller to compound as described under this section shall extend to compounding of any offence or act committed by any person against the Health Development Certificate Act 1992, Industrial Expansion Act 1993, the Export Service Zones Act and the Freeport Act 2001 and the Export to the United States of America (AGOA) Regulations 2000 in relation to Customs.

## **PART XVIII POWERS OF MINISTER**

### **163. Regulations.**

- (1) The Minister may -
- (a) make such regulations as he thinks fit for -
    - (i) the purpose of this Act and generally for the better carrying out of the objects and purposes of this Act;
    - (ii) the proper implementation of any International Convention, Treaty or Agreement to which Mauritius is a contracting party;
  - (b) by regulations, amend the Schedules.

(2) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall on conviction, be liable to a fine not exceeding Rs 200,000 and that goods which are the subject-matter of the contravention shall be liable to forfeiture.

(3) Regulations made under subsection (1) may provide for the method of assessing *ad valorem* duty on exported sugar.

#### **164. General Directions.**

The Minister may give to the Comptroller any general directions which are not inconsistent with the provisions of customs laws.

### **PART XIX**

#### **MISCELLANEOUS**

#### **165. Commissioned Aircraft or Ships.**

(1) The person in command of any aircraft or ship holding commission from any foreign state and having on board any goods, other than aircraft or ship's stores, laden in parts beyond the seas shall -

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

(2) Aircraft or ship under commission from any foreign state having on board any goods other than ship's stores laden in parts beyond the seas, may be boarded and searched by

any proper officer in the same manner as other aircraft or ships, and such officer may bring any such goods ashore and place them in a customs warehouse.

**166. Rewards.**

(1) The Minister may, on the seizure of any goods or on the recovery of any penalties under any customs law, direct that a reward shall be given or paid to any person through whose information or means the seizure of such goods had been made or the penalty recovered, and whom he deems to be entitled to a reward.

(2) No reward shall be given or paid under subsection (1) unless the Minister is satisfied that there has been no collusive activity planned to secure the reward.

**167. Application of Penalties.**

All penalties recovered under this Act shall, after deduction of all costs and expenses, be paid into the Consolidated Fund.

**168. Repeal, Savings, Transitional and Other Provisions.**

(1) The Customs Act is hereby repealed.

(2) Section 6 of the Customs Tariff Act is hereby repealed.

(3) Notwithstanding the repeal of the Customs Act, any instrument made or any other thing done under the provisions of that Act, shall continue in force and shall, so far as it could have been made or done under the present Act, have force and effect as if made or done under the corresponding provision, if any, of the present Act.

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

**169. Consequential Amendments.**

(1) The Customs Tariff Act is amended in section 2 (3) by deleting the words "35 to 37" and replacing them by the words "34 to 36".

(2) The Unified Revenue Act 1983 is amended in section 5 (1) :-

(a) in paragraph (e) by deleting the words "evasion" and replacing them by the words "evasion; and;"



(b) add immediately after paragraph (e) the following new paragraph-

"(f) notwithstanding the provisions of the foregoing paragraphs, assist the Comptroller of Customs in compounding an offence under the Customs Act 1988 ".

**170. Commencement.**

This Act shall come into force on 1st January 1989.

Passed by the Legislative Assembly on the twentieth day of December one thousand nine hundred and eighty-eight.

**L. RIVALTZ QUENETTE**  
*Clerk of the Legislative Assembly*

**FIRST SCHEDULE**  
**(Section 116A (3) (d))**

**Goods**

For the purpose of this Schedule -

(1) The heading numbers specified in the first column refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act.

(2) Any goods specified in the second column shall mean the goods which fall under the corresponding heading number specified in the first column.

<b>Heading No.</b>	<b>Description</b>
22.03	Beer made from malt.
22.04	Wine of fresh grapes, including fortified wines; grape must other than that of heading No. 20.09.
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.
22.06	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.
22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength.
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages.
24.01	Unmanufactured tobacco; tobacco refuse.

- 24.02 Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.
- 24.03 Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.
- 36.01 Propellent powders.
- 36.02 Prepared explosives, other than propellent powders.
- 36.03 Safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators.
- 71.13 Articles or jewellery and parts thereof, of precious metal or of metal clad with precious metal.
- 71.14 Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal.
- 71.15 Other articles of precious metal or of metal clad with precious metal.
- 71.16 Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed).
- 89.03 Yachts and other vessels for pleasure or sports; rowing boats and canoes.
- 89.06 Other vessels, including warships and life-boats other than rowing boats.
- 91.13 Watch straps, watch bands and watch bracelets, and parts thereof.  
- Of precious metal or of metal clad with precious metal
- 93.01 Military weapons, other than revolvers, pistols and the arms of heading No. 93.07.
- 93.02 Revolvers and pistols, other than those of heading No. 93.03 or 93.04.
- 93.04 Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading No. 93.07.

- 93.05                   Parts and accessories of articles of headings  
Nos. 93.01 to 93.04
- 93.06                   Bombs, grenades, torpedoes, mines, missiles, and  
similar munitions of war and parts thereof;  
cartridges and other ammunition and projectiles  
and parts thereof, including shot and cartridge  
wads.
- 93.07                   Swords, cutlasses, bayonets, lances and similar  
arms and parts thereof and scabbards and sheaths  
therefor.
- 94.01                   Seats (other than those of heading No. 94.02),  
whether or not convertible into beds, and parts  
thereof.
- 94.03                   Other furniture and parts thereof.

SECOND SCHEDULE

(Section 135 of the Customs Act )  
**Search Warrant**

In the discharge of my functions under the Customs Act 1988,  
I hereby authorise you, the officers named

hereunder, to enter the premises occupied by

.....  
.....

.....  
.....

..... and

situated at

.....  
.....

..... and to search any goods and documents found  
therein and to seize such of those goods and documents as  
you may reasonably require for any examination,  
investigation or trial under that Act.

Name of Officers

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.....

Comptroller of Customs

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